

Vetting Policy (updated May 2020)

Introduction

Vetting is mandatory for members of Swim Ireland, the regions, or clubs wishing to take up specified positions and for any individual applying for certain accredited courses through Swim Ireland. Vetting is one part of the recruitment process for specific roles and must be in place before the position is taken up. There are legislative differences in each jurisdiction, and this policy covers Ireland and Northern Ireland.

Vetting in Swim Ireland

There are two types of vetting checks available to Swim Ireland – through the National Vetting Bureau (NVB) and Access NI (ANI); both checks are applicable to members of Swim Ireland or for individuals attending certain courses.

Swim Ireland is a Registered Organisation with the NVB with appointed Liaison Persons and Clerical Officers. The NVB's address is: National Vetting Bureau, Racecourse Road, Thurles, Co Tipperary.

Swim Ulster, as a regional body of Swim Ireland, is a Registered Body with ANI with one appointed Lead signatory and one Counter signatory. ANI's registered address: Access NI, PO Box 1085, Belfast, BT5 9BD.

Legislation and Information relating to Republic of Ireland

The National Vetting Bureau (Children and Vulnerable Persons) Act 2012 to 2016 together with the Criminal Justice (Spent Convictions and Certain Disclosures) Act 2016 Part 3 provides the legal framework for persons working in relevant work or activity to undergo a vetting check prior to working with young people.

Relevant legislation

Civil Service Commissioners Act 1956
Child Care Act 1991 – Sections 5; 61; 65
Children's Act 2001 – Section 258
Children First Act 2015
Criminal Justice (Spent Convictions and Certain Disclosures) Act 2016 Part 3
Data Protection Act 2018
General Data Protection Regulation (EU) 2016/679 (GDPR)
National Vetting Bureau (Children and Vulnerable Persons) Act 2012 to 2016
Private Security Authority Act 2004

Legislation and Information relating to Northern Ireland

Safeguarding Vulnerable Groups (NI) Order 2007 contains the legislation that makes it a legal requirement to not recruit a person barred from regulated activities. This is undertaken by obtaining an Access NI enhanced disclosure which is checked via the Disclosure and Barring Service (DBS). The DBS maintains a list of individuals who are barred from working with children and/or vulnerable adults. It is an offence in Northern Ireland to knowingly offer employment (paid or voluntary) to or allow someone to continue working who is on the DBS barred list.

Relevant legislation and information

Access NI Code of Practice
Disclosure and Barring Service
General Data Protection Regulation (EU) 2016/679 (GDPR)
Part V of the Police Act 1997
Protection of Freedoms Act 2012
Rehabilitation of Offenders (Exceptions) (Northern Ireland) Order 1979 (as amended 2014)
Safeguarding Vulnerable Groups (NI) Order 2007
Sexual Offences (NI) Order 2008 (NI)

General Information

Why is vetting required?

Vetting is part of the Swim Ireland recruitment and selection procedure for personnel with access to or working with children within Swim Ireland at local, regional and national level.

The vetting process does not provide clearance for people but provides information that may be relevant for an organisation in deciding the suitability of an individual to carry out a certain role working with or having access to children and young people. Vetting is one of the measures to protect children and young people in Swim Ireland and affiliated clubs against people who may be a risk to children by being a barrier for those unsuitable to work with children or young people.

Who is responsible?

Swim Ireland is responsible for processing applications in through ANI or NVB and for making decisions regarding an applicant's suitability to be appointed to the applied for role.

Club and regional management committees are responsible for ensuring recruited and appointed individuals are vetted in accordance with this policy.

Swim Ireland is responsible for ensuring individuals recruited and appointed at national level and Associate members are vetted in accordance with this policy.

Who is required to be vetted?

All persons aged sixteen or over applying for a role that provides an opportunity for unsupervised access to children must undergo the vetting process. These positions are referred to as regulated positions defined within the Safeguarding Vulnerable Groups (Northern Ireland) Order 2007 (NI) or as undertaking relevant work or activity defined in the National Vetting Bureau (Children and Vulnerable Adults) Act 2012 to 2016 (ROI).

Individuals who must be vetted are those applying for training courses or positions including but not limited to the following:

- Committee member U18 Club
- Children's Officer
- Parent duty where the same individual parent provides duty for two or more sessions in any week
- Coach
- Teacher
- Tutor
- Team Manager/Chaperone
- Official (except timekeepers)
- National Committee
- Regional Committee
- Swim Ireland employee (where relevant)
- Attendee at certain courses (where specified)
- Other personnel as may be considered

Within the structure of Swim Ireland these positions will have unsupervised access to young people and/or information that may be deemed sensitive or personal regarding young people. Final decisions on roles requiring vetting are made by Swim Ireland's Youth Development Director and the CEO in accordance with the relevant legislation.

When is an individual required to be vetted?

All the above required positions must be successfully vetted before an individual is legally allowed to take up their chosen position(s) or attend the relevant course. The requirement for vetting must be included in any job description where it is mandatory. The terms within this policy may affect an employment or volunteer position and therefore this policy must be available to prospective employees/volunteers at the time of application. Once an individual intends to apply for any vetted position a vetting application must be submitted for processing. An appointment to a vetted position is subject to a successful vetting outcome.

Vetting course attendees

An individual who attends an educational or training course and does not have any further involvement with Swim Ireland, is not regarded as a Swim Ireland member. However, their vetting record remains on the Swim Ireland database system according to Data Retention policy.

Vetting children and young people under eighteen

Any person aged sixteen or seventeen who is completing a vetting application must have the permission of their parent/carer in writing submitted on the specified Parental Consent Form for vetting.

Young people aged fifteen may obtain a Level 1 teacher or coach qualification allowing them to work in a role that, if sixteen, would require them to be vetted. However, any young person under sixteen cannot legally be vetted. When a young person reaches their sixteenth birthday, they require a valid vetting disclosure if working in a role that requires vetting. The vetting application form must be signed on or after their sixteenth birthday, it cannot be submitted in advance. A reference should be obtained for young people under 15, from their school or similar establishment, in the absence of vetting.

NB: If a young person turns sixteen whilst on a course or working in a position that requires vetting, they must stop any involvement until their vetting application is returned and accepted.

Previous Residence

Any individual who has been resident in Ireland and/or Northern Ireland for less than one year (taken from the date of the initial vetting application) will be asked to provide a police check from their previous country of residence/country of origin and will be required to undergo a vetting recheck after 12 months. Where ANI or NVB carry out checks in the country of origin or previous residence a police check from this jurisdiction will not be required. The member will be required to undergo a vetting recheck after 12 months. Information received from another country will be subject to the same risk assessment for suitability as set out in this policy.

Re-vetting individuals

All individuals will undergo re-vetting after three years or as determined by Swim Ireland where required by circumstances, i.e. a shorter interval may be agreed with an applicant where disclosures are of concern but not prohibitive to membership.

The changeover from the previous five year re-vetting requirement to a three year re-vetting programme took place during 2016/2017 on a phased basis. Any applicant with a previous vetting disclosure stipulating a re-vetting period of five years was given a grace period of 6 months to complete a new application. Any vetting applications is deemed to have expired following this.

Any existing Swim Ireland member may be re-vetted if information concerning an individual's suitability to work with children comes to the attention of a club, region or Swim Ireland. Where such an issue arises a risk assessment will be carried out in accordance to the Membership Risk Assessment Policy.

Vetting as part of an investigative process

Vetting or re-vetting an individual, with their permission, may be considered necessary as part of an investigation following allegations of abuse or poor practice or a requirement within the Swim Ireland Complaints and Disciplinary process.

Vetting charges

At present there is no cost to volunteers undergoing vetting in Ireland or Northern Ireland. ANI makes a charge for individuals undergoing the vetting process for employment purposes. These charges are detailed on the ANI website or through contacting the ANI signatories.

Processing time

The time taken to complete the vetting process is dependent on the prompt submission of accurately completed forms. Applicants should contact the relevant Swim Ireland department for estimates on processing time or to enquire if their application may be processed in time for a specific requirement, e.g. attendance at a course, or appointment to a position.

National Vetting Bureau - Ireland

Swim Ireland have two Liaison Persons (LP) registered with the NVB.

There are two Clerical Officers who assist with the administration of the vetting process.

The LP is responsible for ensuring the application forms are up to date and available, for processing online applications and dealing with information/disclosures as returned from the NVB. The LP is also responsible for maintaining the confidentiality of disclosed information and for using such in the best interests of young people and in accordance with this vetting policy.

All applications to the NVB are processed through the NVB on-line application system on receipt of consent and identification verification from an individual seeking to be vetted. This is done by the completion of an E-Vet ID Form. The processing of an E-Vet ID Form may be carried out by an LP or by a Clerical Officer.

Application documents

The relevant documents for NVB vetting are:

E-Vet ID Form: this is the application form with instructions for completing the forms

Parental Consent Form: where applicant is aged 16/17 years this must be completed by parents/carers and accompany the E-Vet ID Form

Applicants can obtain the documents from the Swim Ireland website, through their club or directly from Swim Ireland when applying for a position/membership where vetting is required. The specified documents are required, fully and correctly completed, for any vetting application to proceed.

Record keeping and storage

The E-Vet ID Form and associated documents are kept for the validity of the vetting undertaken, i.e. three years from the time the application was made as per the Swim Ireland Data Retention Policy.

Once a decision is made regarding the suitability of an applicant the vetting record is entered on applicant's profile on the membership database. The vetting record shows the date of application and the date of expiry. Where an applicant has been deemed ineligible for the role applied for in Swim Ireland or where an applicant has withdrawn their request for vetting there will be no vetting record entered. Where an applicant is deemed ineligible to be a member of Swim Ireland their profile will show 'suspended'. No information regarding the content of any disclosure is recorded on the membership database. The disclosure document, decision process and outcome are kept securely in a locked cabinet with access only by an LP.

Vetting applications and disclosures are kept in accordance with GDPR by LP on behalf of Swim Ireland. All information is kept in a secure cabinet in Swim Ireland Head Office, Irish Sport HQ, National Sports Campus, Blanchardstown, Dublin 15. The LPs are the only key holders for the secure cabinet.

Access NI – Northern Ireland

Swim Ireland, through Swim Ulster as the registered body, has two registered signatories (signatory). Each signatory is registered with Access NI (ANI) and acts as liaison between ANI and Swim Ireland

The signatory is responsible for ensuring the application forms are up to date and available, for processing online applications and dealing with information/disclosures as returned from ANI. The signatory is also responsible for maintaining the confidentiality of disclosed information and for using such in the best interests of young people and in accordance with this vetting policy.

Documents

The relevant documents for ANI vetting are:

ANI Application ID Form: this is the application form with instructions for completing the forms

Parental Consent Form: where applicant is aged 16/17 years this must be completed by parents/carers and accompany the E-Vet ID Form

Applicants can obtain the documents from the Swim Ireland or Swim Ulster website, through their club or directly from Swim Ireland when applying for a position/membership where vetting is required. The specified documents are required, fully and correctly completed, for any vetting application to proceed.

Return of information

Disclosure certificates are only received by the applicant for ANI. The applicant may obtain a digital certificate which can be shared directly from the applicant's NI direct account. If there is no disclosure the applicant is not usually required to submit their certificate. Applicants with disclosed information will be posted a paper certificate. In this case, the applicant is responsible for supplying their original certificate to the signatory, and a copy may be made for decision-making purposes only which will be destroyed when an outcome is reached. Until a decision is made the applicant is not eligible to undertake their role within Swim Ireland.

Record keeping and storage

The signatories on behalf of Swim Ulster and Swim Ireland ensure that disclosed information is stored in line with the ANI Code of Practice and sections 123 and 124 of the Police Act 1997:

Disclosure information is not passed to persons who are not authorised to receive it

Disclosure information is available only to those in the organisation who need to have access in the course of their duties

Once a decision is made regarding the suitability of an applicant the vetting record showing the date of application and the date of expiry is entered on applicant's profile on the membership database. Where an applicant has been deemed ineligible for the role or where an applicant has withdrawn from the process there will be no vetting record entered. Where an applicant is deemed ineligible to be a member of Swim Ireland their profile will show 'suspended'. No information regarding the content of any disclosure is recorded on the database. The disclosure document, decision process and outcome are kept securely in a locked cabinet with access only by the signatory.

Swim Ulster/Swim Ireland co-operate with ANI to undertake assurance checks as to the proper use and safekeeping of information and will report to ANI any suspected malpractice in relation to this policy or any suspected offence concerning the handling or storage of disclosure information.

All data is kept in accordance with GDPR by the signatory on behalf of Swim Ireland. All sensitive and personal disclosure information, including ANI Application ID Forms and copies of identification are stored in a locked cabinet in the Swim Ulster office where the signatory is the only key holder. Documentation is destroyed in accordance with the ANI Code of Practice for Registered Bodies.

Processing disclosed information from NVB and ANI

Any assessment of suitability depends on the relevance of any conviction/disclosed information to the position or role applied for, the self-disclosure of such information, the seriousness of the offence/disclosed information, the timing of the offence and any possible pattern of offences. The integrity of the applicant with regard to self-disclosure or lack of disclosure on the initial application form is considered important. The information disclosed is used for only the specific purpose for which it was obtained as part of a recruitment or appointment process within Swim Ireland.

On receiving information that may potentially result in exclusion from taking up the regulated position any original documentation is checked to ensure it is correct and that the disclosed information refers to the applicant.

If the applicant has self-disclosed the information and this agrees with the disclosure from the vetting body a decision will be made depending on the type and nature of the offences or report disclosed. If the applicant has not self-disclosed and information is received from the vetting body this will be checked with the applicant.

Communication methods

If an LP or signatory is required to communicate with the applicant for any reason a strict protocol applies. Communication may be by phone, email, letter (marked 'Private and Confidential') or in person if convenient.

- The LP/signatory verifies the identity of the applicant (especially via email where the applicant will be asked to verify details contained on their application)
- No messages containing information about the vetting disclosure are left; the individual will be requested to call back
- No discussion takes place with any other person, spouse or partner
- The LP/signatory gives an assurance of confidentiality

Disclosed information

Disclosure of certain types of convictions/prosecutions/reports or specified information can automatically disqualify the applicant from a position working with children in Swim Ireland. The decision on the suitability of an applicant is a matter for Swim Ireland. The NVB and ANI are not involved in such decisions.

Examples of offences that automatically disqualify an applicant are:

- An offence of a sexual nature
- An offence against a child or relating to child abuse images
- An offence of murder or manslaughter
- An offence of kidnapping

Other offences will automatically require a risk assessment to be conducted. This will allow an applicant an opportunity to submit mitigating factors and consideration to be given to the recruitment of ex-offenders. Examples of more serious offences of concern include:

- An offence that causes serious harm or grievous bodily harm
- A series of offending that is of concern for the well-being of children
- Where a charge or report is brought to the Director of Public Prosecutions (for Ireland and Northern Ireland) concerning harm to a child

Dealing with Disclosures – Case Management

All decisions are made on an individual basis. Consideration is given to the nature of the disclosed information received from the respective vetting bodies and the initial self-disclosure, if any, by the individual. Decisions will only be made on disclosed information that is verified and confirmed, preferably in writing. In reaching a decision consideration is given to the recruitment of ex-offenders plus any information provided by the applicant in reaching an outcome. Where the guidance in this policy is not specific to an offence, or where applicants provide further information concerning recorded offences advice is sought through a case management group

Case Management Group

A case management group will be convened according to need. The composition of the case management group will be chosen by the NCO with the approval of the CEO and may consist of the following:

CEO

NCO

Youth Development Director (if different)

Youth Development Officer

External individuals with relevant experience and knowledge of safeguarding standards and legislation

The case management group will set terms of reference depending on the type of case or cases being considered e.g. vetting disclosures or a risk assessment. All information will be anonymised, and details will only be shared that are needed to reach a fair and reasonable outcome.

Obtaining information from an applicant

If the LP/ signatory needs to verify or obtain further details about a disclosure received, the applicant is asked to provide information that will assist in reaching a decision. If the applicant has failed to disclose offences given on the disclosure, the LP/signatory will need to explore reasons for this and to confirm the disclosure. In some cases, the disclosed information is not relevant to the position applied for, however consideration is given to why the information was not disclosed.

The following questions may be asked:

- What does the applicant remember concerning the time of the offence?
- Has the applicant ever been to court?
- What is the reason(s) for not disclosing the information received on the disclosure?
- Is there further information relevant to the disclosed information?
- Does the applicant understand the relevance of the disclosure to the position/role applied for?

The LP/signatory must record the responses for the case management group to consider where required. If any of the information is disputed the disputes procedure in this policy must be followed.

If the applicant prefers or on request, an LP/signatory may meet with the applicant to gather further information. If a meeting is arranged the following should be considered:

- Additional parties involved in any meeting must be agreed by the applicant and LP/signatory
- The LP or signatory may only be accompanied, if necessary, by another LP or signatory respectively
- The venue should be discreet, quiet and comfortable
- Both the LP/signatory and the applicant must feel safe to meet and conduct the discussion
- A record of the meeting should be taken by the LP/signatory and agreed at the end of the meeting with the applicant

The follow up actions from the meeting must be clearly explained to the applicant with a time line for any decision.

Recording outcomes

Where the applicant is deemed suitable for the position applied for, the vetting record is uploaded to the individual profile of the applicant on the Swim Ireland database system. A letter is available for each applicant to download from their individual profile on the database system accepting suitability to work within Swim Ireland. No correspondence will be sent to the applicant.

Where the information disclosed by the vetting organisation and/or self-disclosed by the applicant deems the individual to be unsuitable for the position the applicant will be informed, preferably in person. Where an individual cannot be informed in person, they will be requested to contact the LP/signatory as a matter of urgency. Any individual found to be unsuitable based on their criminal record, disclosure or through other means is recorded on the membership system as 'suspended'. A vetting applicant is allowed the opportunity to withdraw from seeking any role or position.

Examples of decision-making

Example 1: An individual applies for a position in a Club; it is noted that the individual does not possess a driving licence. On the vetting return the individual declares a conviction for driving under the influence of alcohol, this information is duly disclosed showing a ban for one year. The details are confirmed with the individual by the LP/signatory, and if there is no responsibility for the transport of children involved in the position it is probable this individual would be suitable to work with children in Swim Ireland.

Example 2: An individual is prosecuted at the age of 19 for taking part in a rally where the individual, along with others, is charged with disorderly conduct and prosecuted. The individual, now in their forties, has no further disclosures on record and fully disclosed all information concerning the prosecution. It is probable that this individual would be suitable to work with children in Swim Ireland.

Example 3: An individual has two parking offences disclosed on the return from the vetting organisation. These were not declared by the applicant. The LP/ signatory makes contact to check if the offences related to the individual. It is clear during the conversation that the individual was not aware that these offences are shown as prosecutions or convictions and therefore did not think about disclosing them. It is probable that this individual would be suitable to work with children in Swim Ireland.

Example 4: An individual applies to become a Club Children's Officer. The return of the information from the vetting organisation shows a conviction of fraud, resulting in a suspended sentence. This information was not disclosed and is consistently denied by the individual. The recheck of the information identifies the information and the individual as being correct – this individual would probably be refused appointment to a regulated position.

Data Security

The data submitted by the applicant and any responses from the vetting organisations is subject to GDPR and data security.

Swim Ireland will only release information concerning the suitability of an individual to a person who needs to know. If an applicant withdraws their application any information obtained concerning their suitability for working with children will not be shared, unless this is required by law e.g. report to the Disclosure and Barring Service.

In accordance with the rules laid down in legislation the LP/signatory on behalf of Swim Ireland will:

- Obtain and process information fairly with permission
- Keep this information only for one or more specified, explicit and lawful purposes
- Use and disclose information only in ways compatible with these purposes
- Keep information safe and secure
- Keep information accurate, complete and up to date
- Ensure that any information is adequate, relevant and not excessive
- Retain information for no longer than is necessary for the purpose or purposes
- Give a copy of his/her personal information to an individual, on request

Disputes

Swim Ireland cannot dispute the information disclosed by ANI or NVB. Any individual disputing disclosed information should follow the procedure for the relevant vetting body. The applicant will not be permitted to take up a position requiring vetting during any dispute about a disclosure.

Any errors in the completion of the form, leading to disputed information, can only be rectified by the applicant completing a new application. This application will be submitted according to the relevant process and will require the validation of identification as if a fresh application.

Disputing the Decision of Swim Ireland

All decisions on the suitability of an applicant are based on the information released by the relevant vetting body and, subject to the direction of this policy, with due attention to the fair and lawful treatment of applicants whilst also considering the paramountcy principle in the protection of children and young people within sport.

The LPs and signatories have a responsibility to observe professional standards and will be cautious to recognise their own values and personal ethics in evaluating the seriousness and the relevance of any offence. Any dispute concerning the decision of an LP or signatory should be submitted in writing to Swim Ireland. Advice from independent advisors according to the jurisdiction will be taken in the event of a dispute with due respect to this vetting policy. This outcome will be communicated to the individual in accordance with the protocol and this decision will be final.

Policy on the recruitment of ex-offenders (NI)

A criminal record will not necessarily debar you from working with Swim Ireland. The decision to accept an individual will depend on the nature of the position, together with the circumstances and background of the offences or other information contained on a disclosure certificate.

1. Swim Ireland complies fully with the Code of Practice, issued by the Department of Justice (NI), in connection with the use of information provided to registered persons, their nominees and other recipients of information by Access NI under Part V of the Police Act 1997, for the purposes of assessing Applicant's suitability for employment purposes, voluntary positions, licensing and other relevant purposes. We undertake to treat all applicants for positions fairly and not to discriminate unfairly or unlawfully against the subject of a Disclosure on the basis of conviction or other information revealed.
2. This policy is made available to all disclosure applicants at the outset of the recruitment process.
3. Swim Ireland are committed to equality of opportunity to following practices, and to providing a service which is free from unfair and unlawful discrimination. We ensure that no applicant or member of staff is subject to less favourable treatment on the grounds of gender, marital status, race colour, nationality, ethnic or national origins, age, sexual orientation, responsibilities for dependants, physical or mental disability political opinion or offending background, or is disadvantaged by any condition which cannot be shown to be relevant to performance.
4. Swim Ireland actively promotes equality of opportunity for all with the right mix of talent, skills and potential, and welcomes applications from a wide range of candidates, including those with criminal records. The selection of candidates for interview will be based on those who meet the required standard of skills, qualifications and experience as outlined in the essential and desirable criteria.
5. We will request an Access NI check only where this is considered proportionate and relevant to the particular position. This will be based on a thorough risk assessment of that position and having considered the relevant legislation which determines whether or not a Standard or Enhanced Disclosure is available to the position in question. Where an Access NI check is deemed necessary for a post or position as set out in the Swim Ireland Vetting Policy, all applicants will be made aware at the initial recruitment stage that the position will be subject to a vetting check. Swim Ireland will request the individual being offered the position to undergo an appropriate Access NI check before commencing in that position.
6. In line with the Rehabilitation of Offenders (Exceptions) (Northern Ireland) Order 1979 (as amended in 2014), Swim Ireland will only ask about convictions which are defined as "not protected" for the purposes of obtaining a Standard or Enhanced disclosure.
7. We undertake to ensure an open and measured and recorded discussion on the subject of any offences or other matters that might be considered relevant for the position concerned e.g. the individual is applying for a driving job but has a criminal history of driving offences. Failure to reveal information that is directly relevant to the position sought could lead to withdrawal of the conditional offer of employment.
8. Swim Ireland may consider discussing any matter revealed in the ANI Certificate in accordance with the procedure set out in the Swim Ireland Vetting Policy.
9. We ensure that all those in Swim Ireland who are involved in the vetting process have been suitably trained to identify and assess the relevance and circumstances of any disclosed information. We also ensure that they have received appropriate guidance and training in the relevant legislation relating to employment of ex-offenders (e.g. the Rehabilitation of Offenders (Northern Ireland) Order 1978).
10. We undertake to make every subject of an Access NI vetting aware of the existence of the Code of Practice, and to make a copy available on request.