

LANZAROTE COMMITTEE

Committee of the Parties to the Council of Europe
Convention on the protection of children against sexual
exploitation and sexual abuse

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Replies to the thematic questionnaire

“Screening of professionals, volunteers and other
persons in contact with children”

IRELAND

Replies received by the Secretariat on 30 June 2026

Main relevant provisions of the Lanzarote Convention and previous recommendations

Article 5 paragraph 3 of the Lanzarote Convention requires Parties to take the necessary legislative or other measures, in conformity with their internal law, to ensure that the conditions to accede to those professions whose exercise implies regular contacts with children ensure that the candidates to these professions have not been convicted of acts of sexual exploitation or sexual abuse of children. The Explanatory Report to the Lanzarote Convention indicates that this obligation can be also applied to voluntary activities (see paragraph 57).

In the 2nd implementation report of the 1st monitoring round (2018), the Lanzarote Committee urged those Parties that limited mandatory screening to certain professionals to extend it to the recruitment of all professionals (public or private) in regular contact with children (R19) and invited Parties to encourage continuous screening of all professionals (R20) and volunteers (R21) in regular contact with children.

Article 27 paragraph 3.b of the Lanzarote Convention requires Parties to take the necessary legislative or other measures to deny the perpetrator, temporarily or permanently, the exercise of professional or voluntary activity involving contact with children in the course of which the offence was committed.

Article 37 paragraph 3 of the Lanzarote Convention requires Parties to take the necessary legislative or other measures to ensure that the information referred to in paragraph 1 (i.e. data related to the identity and to the genetic profile (DNA) of persons convicted of the offences established in accordance with the Convention) can be transmitted to the competent authority of another Party, in conformity with the conditions established in its internal law and the relevant international instruments.

Whenever the term “screening” is used in this questionnaire, this should be understood as “verification of criminal convictions for sexual offences against children”.

In all your answers, please provide details to the extent possible and refer to specific laws, policies, programmes, measures, etc.

Please describe the legislation, policy and practice which are in force on 27 March 2026 or are in the process of adoption (in this case, please specify the planned date of entry into force).

Please indicate:

- a. State Party in respect of which the questionnaire is submitted:
Ireland
- b. Entities and bodies which have been involved in responding to this questionnaire:
 1. An Garda Síochána/ The National Vetting Bureau
 2. Tusla – The Child and Family Agency
 3. Department of Education and Skills
 4. Department of Culture, Communications and Sport
 5. The Charities Regulator
 6. The Health Service Executive
 7. Cuan – the Domestic, Sexual and Gender-Based Violence Agency
 8. Department of Children, Disability and Equality/ Oberstown Children Detention Campus
 9. Department of Justice, Home Affairs and Migration/ International Protection Accommodation Service
 10. The Judicial Appointments Commission

Persons concerned by screening requirements

1. Is the absence of criminal convictions for sexual offences against children required as a pre-condition in order to accede to professions, employment or volunteer positions whose exercise implies regular contacts with children? Please specify whether such restrictions apply to professions, employment or volunteer positions in the following sectors or areas of activities (additional details to be inserted below the table):

		Criminal conviction check for employment in public sector?	Criminal conviction check for voluntary activity?	Criminal conviction check for employment in private sector?	Criminal conviction check for self-employed professionals?	Please specify the professionals to whom this requirement applies
Education – Pre-school	–	Yes	Yes	Yes	Yes	All those working in early education are required to undergo vetting by the National Vetting Bureau
Education – Primary	–	Yes	Yes	Yes	Yes	All employees and volunteers are required to undergo vetting by the National Vetting Bureau
Education – Secondary	–	Yes	Yes	Yes	Yes	All employees and volunteers are required to undergo vetting by the National Vetting Bureau
Education – Tertiary	–	Yes	Yes	Yes	Yes	All students on courses who will be involved in relevant work with children and/or vulnerable adults are legally required to be vetted by the National Vetting Bureau. All staff and volunteers who are likely to have more than incidental contact with children

					and vulnerable adults are also required to submit to undergo vetting by the National Vetting Bureau
Education – Extracurricular (e.g. language schools)	Yes	Yes	Yes	Yes	All staff and volunteers who are likely to have more than incidental contact with children and vulnerable adults are also required to submit to undergo vetting by the National Vetting Bureau
Childcare (e.g. kindergartens, crèches, childminders)	Yes	Yes	Yes	Yes	Child minders are largely in the private sector, regulated by Tusla and all staff and volunteers must undergo vetting by the National Vetting Bureau
Institutional or residential care (e.g. foster homes, orphanages, closed residential facilities)	Yes	Yes	Yes	Yes	All those involved with children must undergo vetting by the National Vetting Bureau
Detention	Yes	Yes	Yes	Yes	All staff and volunteers who are likely to have more than incidental contact with children and vulnerable adults are required to submit to undergo vetting by the National Vetting Bureau

Migration facilities (e.g. reception centres)	Yes	Yes	Yes	Yes	Staff who are conducting relevant work in sites where children are accommodated must be vetted on their appointment to a role and every three years after that.
Sport	Yes	Yes	Yes	Yes – through a registered organisation with the National Vetting Bureau.	All staff and volunteers who are likely to have more than incidental contact with children are required to submit to undergo vetting by the National Vetting Bureau
Culture and leisure activities	Yes	Yes	Yes	Yes	All staff and volunteers who are likely to have more than incidental contact with children are required to submit to undergo vetting by the National Vetting Bureau
Entertainment sector	Yes	Yes	Yes	Yes	All staff and volunteers who are likely to have more than incidental contact with children are required to submit to undergo vetting by the National Vetting Bureau
Faith and religion	Yes	Yes	Yes	Yes	All staff and volunteers who are likely to have more than incidental contact with children

					are required to submit to undergo vetting by the National Vetting Bureau
Healthcare (including psychological and psychiatric services)	Yes	Yes	Yes	Yes	All staff and volunteers who are likely to have more than incidental contact with children are required to submit to undergo vetting by the National Vetting Bureau
Social protection services	Yes	Yes	Yes	Yes	All staff and volunteers who are likely to have more than incidental contact with children are required to submit to undergo vetting by the National Vetting Bureau
Law enforcement	Yes	Yes	Not applicable	Yes	As part of the recruitment process applications for positions with An Garda Síochána undergo rigorous background and criminal record checks.
Judicial	Yes – Required to make declaration before the Judicial Appointments Commission	Not applicable	Not applicable	Not applicable	In the selection processes of the Judicial Appointments Commission, applicants for judicial vacancies are required to make a declaration as to whether or not (1) they have ever been convicted of

					any criminal offence (other than a minor road traffic offence carrying a maximum sentence on conviction of a fine of €1000 or less) and (2) they have any criminal proceedings pending against them.
Civil society organisations	Yes	Yes	Yes	Yes	All staff and volunteers who are likely to have more than incidental contact with children are required to submit to undergo vetting by the National Vetting Bureau
Victim services (including Barnahus, domestic violence services)	Yes	Yes	Yes	Yes	All relevant staff and volunteers are subject to Garda vetting prior to commencing work with children
Any other sectors (please specify)					As per Schedule 1, Part 1 of the National Vetting Bureau Act 2012 – 2016, vetting applies to 'Any work or activity which consists of the provision of educational, training, cultural, recreational, leisure, social or physical activities (whether or not for commercial or any other consideration)

					to children unless the provision of educational, training, cultural, recreational, leisure, social or physical activities is merely incidental to the provision of educational, training, cultural, recreational, leisure, social or physical activities to persons who are not children.'
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Here you can insert additional details or specify any exceptions.

The National Vetting Bureau Acts

The National Vetting Bureau (Children and Vulnerable Persons) Acts 2012 to 2016, provide a statutory basis for the vetting of persons carrying out relevant work with children or vulnerable persons. The Act also creates offences and penalties for persons who fail to comply with its provisions.

The Act stipulates that a relevant organisation cannot employ, enter into a contract with, or permit a person to undertake relevant work with children or vulnerable persons on behalf of the organisation unless the organisation has received a vetting disclosure from the National Vetting Bureau in respect of that person.

The Act defines a "relevant organisation" as one that employs or permits a person to carry out relevant work or activities which mainly consist of them having access to, or contact with, children or vulnerable persons. Garda vetting disclosures include details of all prosecutions, successful or not, pending or completed, and/or convictions.

The Act also provides for the use of "soft" information on vetting or "specified information" as it's called in the Act. Specified information is information other than a court determined criminal record. For example, it includes conclusions from investigations of child abuse or neglect by the Health Service Executive, where such investigations have concluded that a person poses a threat to children or vulnerable persons. Specified information will also include similar conclusions arising from fitness to practice inquiries by statutory bodies such as the Medical Council, the Nursing Council or the Teaching Council.

Under the Children First Act providers of relevant services have an obligation to keep children safe from harm, to carry out a risk assessment and to develop a Child Safeguarding Statement (CSS) that outlines the policies and procedures that are in place to manage any risks

identified, including in relation to the selection and recruitment of staff who are suitable to work with children.

The Child Safeguarding Statement must be displayed publicly and made available to parents and guardians, Tusla and members of the public upon request. The Act also provides for Tusla to establish and maintain a register of non-compliance for providers who fail to provide a copy of the CSS to Tusla when requested to do so. Tusla has established a Child Safeguarding Statement Compliance Unit (CSSCU) to support implementation of these provisions of the Act. The register of non-compliance is available on the Tusla website www.tusla.ie.

Under Criminal Justice (Spent Convictions and Certain Disclosures) Act 2016, a range of minor offences become spent after 7 years. This means that an adult convicted of an offence covered by the Act does not have to disclose the conviction after 7 years, except in certain circumstances. The Act does not apply to any conviction for a sexual offence or an offence which was tried in the Central Criminal Court. These offences cannot become spent convictions.

Education

Separate to the requirements of the Vetting Act, school authorities must also be cognisant of their civil law duty of care to their students and the need for prudent practice from a child protection perspective.

Garda vetting does not provide clearance for persons to work with children. It simply provides to the registered organisation particulars of any criminal record and/or specified information in respect of the person concerned or where there is no criminal record or specified information shall state this fact. The Vetting Act provides that a school authority may consider and take into account all the information in a vetting disclosure when assessing the suitability of the person who is the subject of the disclosure to do relevant work or activities.

A key issue for a school authority is to determine whether any information in a vetting disclosure would render a person unsuitable for employment/engagement by the school. It should be borne in mind by the school authority that the fact that a person has a conviction does not automatically render that person unsuitable to work with children or vulnerable adults. The primary criterion in assessing the significance of the information in the disclosure is its relevance to child protection. An objective and balanced approach is critical in this regard. It is for the school authority to make the judgement as to the person's suitability.

Any person who is required to be vetted but refuses to do so cannot be appointed or engaged by the school in any capacity including in a voluntary role.

As part of its employment practices, schools should always seek references and in particular keep records of the steps that have been taken to obtain a reference from the most recent employer.

School authorities must also ensure compliance with the department's requirements in relation to the provision of a child protection related statutory declaration and associated form of undertaking by all persons being appointed to teaching and nonteaching positions.

The Form of Undertaking is a self-declaration by the individual to confirm that, to the best of their knowledge and belief there is nothing, from a child protection perspective, in relation to their conduct, character or personal background of any nature that would adversely affect the

position of trust in relation to children or vulnerable persons in which they would be placed by virtue of their appointment to a teaching or non-teaching post in a school. The Statutory Declaration requires a similar self-declaration but requires that the statement is signed before a notary public/commissioner for oaths/peace commissioner/practicing solicitor.

The form of undertaking must be completed as close as possible to, and in any case before, the commencement of employment in the school. This includes emergency and substitute positions. The school authority must obtain and view the original statutory declaration and associated form of undertaking and retain a copy of it for its own records. The requirement to hold a valid statutory declaration and to complete the form of undertaking should be made clear in the advertising of any position.

The Teaching Council is an independent body that regulates the teaching profession in Ireland. Its role is to protect the public by promoting and regulating professional standards in teaching. The Council does this through the statutory registration of teachers, ensuring a highly qualified teaching profession, whose members meet and uphold high standards of professional competence and conduct. All teachers must be vetted by the National Vetting Bureau (NVB). The Teaching Council is the "authorised body" that administers vetting for teachers. The Council processes vetting applications and forwards them to the NVB. It receives the vetting disclosure (including criminal record information, if any). The Council assesses the vetting disclosure to determine whether a person can be registered.

Health Services

All those engaged in relevant work are required, statutorily, to be Garda Vetted. Irish law prohibits the commencement of such employment without such vetting being satisfactorily attained, by the employer in advance of employment commencing.

For any individual for whom a 'positive' finding is returned i.e. a criminal/similar record is found, they will have said finding notified to the hiring service, who are in turn obligated to conduct a risk assessment to determine the relevance and impact of such a finding. The process is to adjudicate whether the findings represent an acceptable or unacceptable risk i.e. whether the applicant is deemed suitable to commence the intended employment? To note, the final decision around suitability resides with each Regional Health Authority.

Exceptions:

Under Section 3 of the National Vetting Bureau (Children and Vulnerable Persons) Act 2012 there are specific, legal exceptions where a person interacting with children does not require Garda vetting.

Vetting is only legally required if the contact with children is a necessary and regular part of the role. If a role does not meet this threshold, it is a breach of data protection laws to request vetting.

The main exemptions include:

Occasional Assistance (The "School/Sports Event" Rule)

An individual does not need vetting if they are helping out on an occasional, casual basis for no financial payment (e.g., helping at a school sports day, setting up chairs for a youth group event, or driving a minibus for a one-off trip).

The Exception to the Exemption: This exemption completely disappears if the occasional work involves coaching, mentoring, counselling, teaching, or training children. A parent doing a one-off guest coaching session for a soccer team does need vetting.

Incidental Contact: If you provide services (like education, training, or leisure activities) mainly to adults, and children happen to be present, this is considered "incidental contact" and does not require vetting. For example, a gym instructor teaching an adult fitness class where a teenager also joins the class does not require vetting for that reason alone.

Family and Personal Relationships

The legislation does not apply to personal, private arrangements.

Family: Activities undertaken in the course of a family relationship (e.g., an aunt looking after her nephew) are exempt, even if money changes hands.

Personal: Arrangements made in the course of a personal friendship are exempt, provided there is no commercial consideration (e.g., minding a neighbour's children for free). Note: Paid childminders working in their own homes or a client's home generally do require vetting.

Work Outside Operating Hours & General Visitors

Out of Hours: Maintenance staff, cleaners, or IT contractors who work entirely outside of operational hours when no children are present on the premises are exempt.

Visitors: General visitors, inspectors, or university supervisors checking on a student placement do not require vetting, provided they do not have unsupervised access or direct engagement with the children.

2. In requiring the verification of criminal convictions for sexual offences against children in order to accede to the positions listed in question 1, does your State:
 - a. define the level or threshold of contact with children (one-off, regular, etc.) which necessitates such a verification

Schedule 1, Part 1 of the National Vetting Bureau (Children and Vulnerable Persons) Acts 2012 to 2016 outlines the categories of work that constitute "relevant work or activities" relating to children. Any role that falls within this definition requires Garda vetting, which includes a full criminal record check.

Within Schedule 1, certain settings such as pre-schools, crèches, schools, hospitals, healthcare facilities, residential services for children, children detention centres, and accommodation centres providing residential services to child asylum applicants, the work is considered to necessarily and regularly consist of access to, or contact with, children as a main and integral part of the role.

- b. distinguish between direct, indirect or online contact with children?

If yes, please provide details.

Yes, certain settings such as pre-schools, crèches, schools, hospitals, healthcare facilities, residential services for children, children detention centres, and accommodation centres providing residential services to child asylum applicants,

where the work is considered to necessarily and regularly consist of access to, or contact with, children as a main and integral part of the role.

State legislation sets the threshold of a criminal background check for persons engaged where a necessary and regular part of which consists mainly of the person having access to, or contact with children. Accordingly, occasional or incidental access does not meet the state threshold.

3. Is the absence of criminal convictions for sexual offences against children required to become:

a. an adoptive parent

Yes

b. a foster parent

Yes

c. a child's legal guardian (including for unaccompanied children)?

Vetting and disclosures of criminal convictions are required by Tusla for those seeking to engage in adoption and fostering.

Guardianship

Guardianship is in general determined by the operation of law and so status as a guardian of a child results from parentage (in the case of mothers) and parentage and/or cohabitation with the mother and/or caring for the child in the case of unmarried fathers. This results in vetting not being a factor as they are automatic legal guardians of the child.

However, where guardianship is subject to a judicial determination, judges have considerable powers to enquire into the totality of the circumstances to make a determination as to who should be a guardian of the child. The Guardianship of Infants Act 1964 sets out in Section 3 that the paramount consideration for the court in any proceedings where guardianship is in question is the best interests of the child.

The Child and Family Agency (Tusla) are put on notice of those applying under Section 6C (appointment of a person other than a parent as a guardian) of the Guardianship of Infants Act 1964. In these applications, Tusla check to see if they have had involvement with the family and if they have an opinion on whether or not the courts would have a concern about them becoming a guardian.

Section 6E of the Act outlines the power of the court to appoint temporary guardians. This section states that an application for such temporary guardianship shall be on notice to the Child and Family Agency. In its determination, the court must have regard to the views of Child and Family Agency and also be satisfied that the nominated person is fit to exercise the rights and responsibilities specified in subsection (8) and that the best interests of the child are considered.

Additionally, the court may use its powers under Section 32 of the Guardianship of Infants Act 1964 to direct that an expert report be obtained on any question affecting the welfare of the

child. The court may also procure a report under Section 47 of the Family Law Act 1995 on any question affecting the welfare of a party to the proceedings or any other person related to the proceedings.

The court therefore has the ability to conduct checks on the suitability of a guardian and the environment the child may be exposed to prior to appointing them. However, there is no statutory bar on a person with any particular conviction being appointed as a guardian by operation of law or by the court, what is at issue for the court is a determination of the best interests of the child.

4. Is the absence of criminal convictions for sexual offences against children required for the household members of:
 - a. persons carrying out professional activity in their home who are in contact with children - Yes
 - b. persons carrying out volunteering activity in their home who are in contact with children - Yes
 - c. persons wishing to become an adoptive parent, a foster parent, or a child's legal guardian? – Yes for adoption and fostering. See detail below regarding guardianship.

Please provide details.

4a/4b: Under the National Vetting Bureau (Children and Vulnerable Persons) Acts 2012 to 2016 all staff and volunteers who are likely to have more than incidental contact with children are required to submit to undergo vetting by the National Vetting Bureau.

4c: As stated in Q3, vetting and disclosures of criminal convictions are required by Tusla, the Child and Family Agency, to assess suitability of those seeking to engage in adoption and fostering. This assessment includes those living with the applicants for adoption or fostering.

Where guardianship is subject to a judicial determination, judges have considerable powers to enquire into the totality of the circumstances to make a determination as to who should be a guardian of the child. The Guardianship of Infants Act 1964 sets out in Section 3 that the paramount consideration for the court in any proceedings where guardianship is in question is the best interests of the child.

Tusla are put on notice of those applying under Section 6C (appointment of a person other than a parent as a guardian) of the Guardianship of Infants Act 1964. In these applications, Tusla check to see if they have had involvement with the family and if they have an opinion on whether or not the courts would have a concern about them becoming a guardian.

Section 6E of the Act outlines the power of the court to appoint temporary guardians. This section states that an application for such temporary guardianship shall be on notice to Tusla. In its determination, the Court must have regard to the views of Tusla and also be

satisfied that the nominated person is fit to exercise the rights and responsibilities specified in subsection (8) and that the best interests of the child are considered.

Additionally, the court may use its powers under Section 32 of the Guardianship of Infants Act 1964 to direct that an expert report be obtained on any question affecting the welfare of the child. The court may also procure a report under Section 47 of the Family Law Act 1995 on any question affecting the welfare of a party to the proceedings or any other person related to the proceedings.

The court therefore has the ability to conduct checks on the suitability of a guardian and the environment the child may be exposed to prior to appointing them. However, there is no statutory bar on a person with any particular conviction being appointed as a guardian by operation of law or by the court, what is at issue for the court is a determination of the best interests of the child.

5. Does the requirement to verify the absence of criminal convictions for sexual offences against children also apply to:
 - a. children applying for professional or volunteer positions - Yes
 - b. adults in respect of criminal convictions received before the age of 18? - Yes

Please provide details.

The National Vetting Bureau permits the vetting of those over the age of 16 years old. Where an application is being made for a 16/17 year old, consent of the parent/guardian must also be obtained.

6. If a person legally changes their name, how does your State ensure that their criminal record remains linked to their new name?

Please provide details.

Criminal records are point-in-time records and reflect the biographical details a person held on the date of each conviction. When a criminal record check is conducted after an individual has changed their name, the individual is legally required to disclose all previous names to ensure the check is accurate and complete.

7. Is access to public funds for projects implying contact with children conditional on the absence of criminal convictions for sexual offences against children for persons employed in or volunteering for such projects?

Yes

Information included in screening

8. Does the criminal record check include criminal convictions for:

- a. sexual abuse of a child (Article 18 of the Lanzarote Convention) - Yes
- b. sexual exploitation of a child ("child prostitution" Article 19 of the Lanzarote Convention) - Yes
- c. acts involving child sexual abuse material ("child pornography" Article 20 of the Lanzarote Convention) - Yes
- d. offences related to the participation of children in pornographic performances (Article 21 of the Lanzarote Convention) - Yes
- e. corruption of a child (causing a child to witness sexual activities) (Article 22 of the Lanzarote Convention) - Yes
- f. solicitation of a child for sexual purposes ("grooming"), including online (Article 23 of the Lanzarote Convention) - Yes
- g. aiding and abetting or attempting the above offences (Article 24 of the Lanzarote Convention) - Yes
- h. any other convictions (please specify)?

Please provide details.

Criminal record checks include criminal record information which is defined as follows
"criminal record", in relation to a person, means—

"(a) a record of the person's convictions, whether within or outside the State, for any criminal offences, together with any ancillary or consequential orders made pursuant to the convictions concerned, or

(b) a record of any prosecutions pending against the person, whether within or outside the State, for any criminal offence,

Or both"

"criminal offence" includes an offence under the law of a state other than the State that corresponds to an offence under the law of the State, where the act or omission constituting the offence under the law of the other state would, if committed in the State, constitute an offence under the law of the State;"

(National Vetting Bureau (Children and Vulnerable Persons) Act 2012)

9. Does the screening of persons applying for roles or positions specified in questions 1 and 3 above extend beyond criminal convictions for sexual offences against children to:
 - a. relevant administrative or disciplinary sanctions - Yes, these are routinely examined in the determination of persons suitable to be in charge of or the carrying on of a regulated children's services, e.g. a residential care centre, or an early years' service.
 - b. other information available to the authorities (e.g. judicial decisions in civil proceedings)? - Yes

Please provide details.

Information defined as specified information is considered. Specified Information is defined as –

“specified information”, in relation to a person who is the subject of an application for vetting disclosure, means information concerning a finding or allegation of harm to another person that is received by the Bureau from—

(a) the Garda Síochána pursuant to an investigation of an offence or pursuant to any other function conferred on the Garda Síochána by or under any enactment or the common law, or

(b) a scheduled organisation pursuant to subsection (1) or (2) of section 19,

in respect of the person and which is of such a nature as to reasonably give rise to a bona fide concern that the person may—

(i) harm any child or vulnerable person,

(ii) cause any child or vulnerable person to be harmed,

(iii) put any child or vulnerable person at risk of harm,

(iv) attempt to harm any child or vulnerable person, or

(v) incite another person to harm any child or vulnerable person; - National Vetting Bureau (Children and Vulnerable Persons) Act 2012: Section 2

10. If restrictions on the exercise of the relevant activities apply as a result of a criminal conviction for sexual offences against children, in line with Article 27 paragraph 3.b:

a. are they life-long? - Yes

b. if they are not life-long, please specify the time-limits applicable

c. are they applied only to activities in the public sector? - No

Please provide details.

Denying the perpetrator the exercise of the activity involving contact with children-

Under the European Union (Combating the Sexual Abuse and Sexual Exploitation of Children and Child Pornography) Regulations 2015, a court may, when sentencing a person for a sexual offence, prohibit the offender from engaging in work or a service a necessary and regular part of which consists, mainly, of the offender having access to, or contact with, a child or children.

Under section 12 of the National Vetting Bureau (Children and Vulnerable Persons) Act 2012, it is a legal requirement to obtain vetting disclosure in respect of certain work and activities. This includes those which involve children. Under section 15 of the Act, disclosures must be made by the Chief Bureau Officer in respect of criminal records where it is believed that the information is of such a nature as to give rise to a genuine

concern that the person may harm any child, cause them to be harmed, put any child at risk or harm, or incite another person to harm any child.

11. Does the criminal record check verify the existence of an expunged or spent criminal conviction for sexual offences against children for persons applying for roles or positions specified in questions 1 and 3?

Please provide details.

For the purpose of criminal record checks to work with children the following offences are disclosed in all circumstances regardless of whether they are spent or not.

Revised Criminal Justice (Spent Convictions and Certain Disclosures) Act 2016

1. Each of the offences referred to in Part 2 of this Schedule shall, subject to paragraphs 2, 3 and 4 of this Part be a sexual offence for the purposes of Part 2 of this Act.

2. An offence referred to in—

(a) paragraph 2 of Part 2 (sexual assault or indecent assault), other than an offence of sexual assault or indecent assault of a person who, at the time of the commission of the offence, was mentally impaired within the meaning of section 5 of the Criminal Law (Sexual Offences) Act 1993,

(b) paragraph 5 of Part 2 (incest by males),

(c) paragraph 6 of Part 2 (incest by females of or over 17 years of age), or

(d) paragraph 23, 24 or 25 of Part 2 in so far as it relates to an offence referred to in sub paragraph (a), (b) or (c),

shall not be a sexual offence for the purposes of Part 2 of this Act if—

(i) the victim of or, as the case may be, the other party to the offence was aged, at the date of the commission of the offence, 17 years or older, and

(ii) the person guilty of the offence has not, in respect of the offence, been sentenced to any punishment involving deprivation of liberty for a limited or unlimited period of time or been made subject to any measure involving such deprivation of liberty.

3. An offence referred to in—

(a) paragraph 10 of Part 2 (defilement of girl between 15 and 17 years of age),

(b) paragraph 12 of Part 2 (buggery of persons under 17 years of age),

(c) paragraph 13 of Part 2 (gross indecency with males under 17 years of age), or

(d) paragraph 23, 24 or 25 of Part 2 in so far as it relates to an offence referred to in sub paragraph (a), (b) or (c),

shall not be a sexual offence for the purposes of Part 2 of this Act if—

(i) the victim of or, as the case may be, the other party to the offence was aged, at the date of the commission of the offence, 15 years or older but less than 17 years, and

(ii) the person guilty of the offence was aged, at that date, not more than 3 years older than that victim or other party.

4. An offence referred to in—

(a) paragraph 8 of Part 2 (defilement of child under the age of 17 years), or

(b) paragraph 23, 24 or 25 of Part 2 in so far as it relates to an offence referred to in subparagraph (a), committed prior to the commencement of section 17 of the Criminal Law (Sexual Offences) Act 2017 shall not be a sexual offence for the purposes of Part 2 of this Act if the person who is convicted of the offence was at the date of the commission of the offence, not more than 24 months older than the child with whom he or she engaged or attempted to engage in a sexual act within the meaning of section 1 of the Criminal Law (Sexual Offences) Act 2006.

Screening procedure

12. How is the screening procedure set out in your legal framework (in a single piece of legislation, sector-specific legislation, or other)?

Please provide details.

The National Vetting Bureau (Children & Vulnerable Persons) Acts 2012 to 2016 is the legal framework in Ireland that applies.

13. If screening is required, who is required to act?

- a. the employer, volunteer recruiter or child protection authority is expected to obtain the necessary information directly from the authorities
- b. the candidate must provide proof of absence of convictions
- c. another scenario. Please specify

Please provide details.

(B) Any relevant organisation employing a staff member or recruiting a volunteer has a responsibility to carry out the Garda vetting. The individual applies for vetting in line with any and each position they hope to hold and it is not transferrable across functions, roles or employment. Each vetting disclosure is situationally specific.

14. If screening is required, who bears the costs of screening procedures?

Please provide details.

Individual agencies carry the cost of the administration of the vetting process and An Garda Síochána carry the cost of carrying out the vetting.

15. How does your State monitor that employers, volunteer recruiters or child protection authorities comply with the relevant regulations on screening?

Please provide details.

Under Children First Act 2015 each service who provides a service for children has to have a Child Safeguarding Statement setting out the risks for any children and how these are to be mitigated and safety assured. Tusla have a Child Safeguarding Statement Compliance Unit who have a role in monitoring these statements.

Tusla also provide an information and advice service to all organisations on how to be compliant with their responsibilities under Children First Act 2015.

State statutory regulatory bodies and inspectorates for children's service routinely examine compliance with employee and volunteer screening.

The National Vetting Bureau of an Garda also has a compliance team which carries out audits for the purposes of adherence by relevant services to its duty of background checks and it also receives and investigates unsolicited information and complaints concerning alleged non compliances with the requirements.

16. If screening is required, are there sanctions foreseen for failure to comply with it? If yes, what type of sanctions? Yes

Please provide details.

It is an offence to engage individuals in relevant work or activity without having received a vetting disclosure. – Section 12: National Vetting Bureau (Children and Vulnerable Persons) Act 2012 as revised. Falsification of vetting disclosures is also an offence under Section 26 of the same Act. Penalties for these offences include “(a) on summary conviction, to a class A fine or imprisonment for a term not exceeding 12 months or both, or (b) on conviction on indictment, to a fine not exceeding €10,000 or imprisonment for a term not exceeding 5 years or both.”

(<https://revisedacts.lawreform.ie/eli/2012/act/47/revised/en/html>)

17. Is regular screening, beyond the initial recruitment process, required, for:

- a. professionals in contact with children – Yes for Education, social care and healthcare.
- b. volunteers in contact with children - Yes for Education, social care and healthcare.
- c. foster parents and legal guardians? - Yes – See the response to question 3

A Garda Vetting disclosure is valid for 3 years. Re-vetting is legally required where an individual changes roles within a relevant organisation. Re-vetting is established policy for and required every three years for teachers, those working in early childhood education, and healthcare. This renewal timeframe is rigorously enforced by the relevant regulatory bodies to ensure continuous safeguarding for children and vulnerable persons in care settings. This re-vetting is carried out as best practice rather than as a legal obligation.

18. Where a person working or volunteering in contact with children is under investigation for a sexual offence against a child, are law enforcement or other authorities allowed to inform the employer or volunteer organisation about the ongoing investigation? If yes, what is the consequence? - Yes

Please provide details.

Tusla is the Child and Family agency in Ireland, one of Tusla's core duties include assessing and responding to child protection concerns. Tusla may inform a third party if there is a safeguarding risk connected to a workplace and sharing is deemed necessary and proportionate and the protection of children requires it.

In the case where an allegation is made against a person where there is a need to inform a third party a The Child Abuse Substantiation Policy (CASP) assessment is undertaken and if following the formal assessment a 'founded' outcome is reached then an employer or registration body may be notified. This applies to volunteering activity that a person is involved with also. Employers or volunteer organisation will need to make protective arrangements to ensure that the person against whom the 'founded' outcome is made is not posing a risk to children. The Child Abuse Substantiation Policy is available on Tusla.ie at <https://www.tusla.ie/casp/>.

Cross-border screening

19. If the candidate for roles or positions specified in questions 1 and 3 has previously resided or worked in different countries, is it required to verify the absence of criminal convictions for sexual offences against children in each of those countries in respect of:

- a. professionals
- b. volunteers
- c. persons wishing to become an adoptive parent, a foster parent or a child's legal guardian?

Please provide details.

Schedule 1, Part 1 of the National Vetting Bureau (Children and Vulnerable Persons) Acts 2012 to 2016 outlines the categories of work that constitute "relevant work or activities" relating to children. Any role that falls within this definition requires Garda vetting, which includes a full criminal record check. Such checks will include a check with any countries within the EU or the UK where that candidate has resided.

20. Is there a mechanism to:

- a. request data about a person's criminal convictions for sexual offences against children from the competent authority of another State outside the context of criminal proceedings¹ (please specify) - Yes
- b. provide data about a person's criminal convictions for sexual offences against children to the competent authority of another State outside the context of criminal proceedings (please specify)? - Yes

Please provide details.

Requests for a person's criminal convictions for sexual offences against children received from competent authority are responded to through the ECRIS system.

Within the ECRIS Framework each EU state is responsible for establishing a Central Authority for Criminal Records within their state. The National Vetting Bureau (NVB) has been designated as the Central Authority for Ireland. Currently the NVB conducts the hereunder four actions within this framework:

¹ For purposes of recruitment, volunteering, adoption, foster care or guardianship.

- Make requests to the Central Authorities in other Member States for extracts from their National Criminal Record in respect of Nationals of the Member State concerned in instances where the information is required in connection with criminal proceedings in the requesting State.
- Respond to requests from the Central Authorities in other Member States for extracts from the National Criminal Record in respect of Nationals of the requested Member State, in instances where the information is required in connection with criminal proceedings in the requesting Member State.
- Receive, store, and update where necessary, the National Criminal Record, information received from Central Authorities in other Member States in respect of Nationals of the receiving State convicted in those other Member States.
- Transmit information, and any necessary updates, in respect of criminal convictions imposed in the transmitting State on all Nationals of other EU Member States to the Central Authority of the Member State of the convicted person.

21. Is there an obligation to provide data about a person's criminal convictions for sexual offences against children at the request of the competent authority of another State outside the context of criminal proceedings? – Yes in respect of the below.

Please provide details.

If the request for data is made pursuant to Article 10(3) of the Directive 2011/93/EU of the European Parliament and of the Council of 13 December 2011 on combating the sexual abuse and sexual exploitation of children and child pornography, and replacing Council Framework Decision 2004/68/JHA, the Irish State will respond.

Additional details and reflections

22. Please add any further details regarding the modalities of the screening procedures applicable in your State, if relevant.

Please provide details.

23. What challenges related to the screening for criminal convictions for sexual offences against children of professionals, volunteers and persons wishing to become adoptive parents, foster parents or a child's legal guardian exist in your State in practice (e.g. administrative costs, delays, cross-border co-operation)?

Please provide details.

24. What promising practices, if any, would your State like to highlight in the screening of professionals, volunteers and other persons in contact with children?

Please provide details.

Tusla has a role here with the Child Abuse Substantiation Policy (CASP) which is available on Tusla.ie at <https://www.tusla.ie/casp/>. In the case where an allegation is

made against a person where there is a need to inform a third party a CASP assessment is undertaken and if following the formal assessment a 'founded' outcome is reached then an employer or registration body may be notified. This applies to volunteering activity that a person is involved with also. Employers or volunteer organisation will need to make protective arrangements to ensure that the person against whom the 'founded' outcome is made is not posing a risk to children. Assessments are carried out in relation to the risk posed by the person against whom a 'founded' outcome is made also.

Several additional supporting resources have also been developed to help staff across the Agency implement and operate the CASP consistently and in line with our statutory responsibilities. The resources include explanatory leaflets written in Plain English for children, young people and adults, the CASP Data Protection Guidance, and the CASP Data Protection Impact Assessment.