



NEWSLETTER

NEW VETTING LEGISLATION

The National Vetting Bureau (Children and Vulnerable Persons) Act 2012 to 2016 came into effect at the end of April. The former Garda Central Vetting Unit has become the National Vetting Bureau (NVB). The NVB, however, remains an office of An Garda Síochána.

The Act:

- provides a legislative basis for mandatory vetting of persons who undertake certain work or activities relating to children or vulnerable persons,*
 - provides for the disclosure of certain types of information not previously disclosed through the vetting process,*
 - changes the way that people apply for vetting.*
- The new Act requires vetting of any person who is carrying out 'relevant work or activity'. This is defined as work or activity a necessary and regular part of which consists mainly of the person having access to, or contact with, children or vulnerable adults. A relevant organisation, one which carries out relevant work or activity, is not permitted to allow any person to undertake relevant work or activity on its behalf unless the person has been vetted.

A child is a person under the age of 18

A vulnerable person is "a person who is suffering from a disorder of the mind, has an intellectual disability,[or] is suffering from a physical impairment, ... or has a physical disability, which is of such a nature or degree as to restrict the capacity of that person to guard himself or herself against harm by another person, or that results in the person requiring assistance with the activities of daily living...".

The Act came into effect on 29 April. It is now an offence to permit anyone to engage in relevant work until they have been vetted. Those already so engaged who have not been vetted have until the end of next year to complete the vetting process.

There are penalties for breaches of the Act (fines or imprisonment).


- Up to now criminal convictions and cases pending have been disclosed through the vetting process. The Act provides that certain minor offences, such as motoring and some public order offences, will no longer be disclosed.

In certain circumstances, 'specified information' will now also be disclosed. If the person has been the subject of an investigation, inquiry or regulatory process the outcome of which indicates the person may pose a risk to a child or vulnerable adult that may be disclosed. The Chief Bureau Officer must determine whether a bona fide concern exists. She must inform the applicant if she decides to disclose this information and give him an opportunity to appeal her decision before the information is disclosed to the relevant organisation. An example of 'specified information' would be where a person has been to subject of a fitness to practice enquiry by their professional body.

- There is a new application form. The person applying must now produce proof of identity. A single form of identification will not be sufficient. A passport plus a recent item of correspondence, for example, will suffice but not the passport alone.

e-Vetting

Relevant organisations will have the option of moving to a system of e-vetting. The applicant will be required to fill up a very basic 'Invitation Form': name, date of birth, current address, email address, contact number and the role for which they are applying. They will hand this into the parish for signing by the parish priest who will be required to verify their identity and will forward the form to the diocesan vetting administrator. The applicant will then receive an email allowing them to complete the vetting form online. This will be sent to NVB and the outcome will be returned to the diocesan vetting administrator. It will then be shared with the parish priest and the applicant.



E-vetting is being introduced in a number of pilot sites before being rolled out for all relevant organisations. It will be a quicker and more confidential process but those who do not have access to email will require assistance.

Challenges of the new legislation

The administration of the new system will also pose challenges particularly in the areas of establishing proof of identity and e-vetting.

There is provision for sharing of information between organisations which has the potential to cut down on the number of times that people are required to be vetted.

The Chief Bureau Officer, Garda Superintendent Sarah Meyler said recently that it will be six months at least before the new system is up and running smoothly. Ever since we learned that the new legislation was to come into effect at the end of April we have been inundated with queries about it. We have answered as many of these as we can but there are some to which we do not yet have answers.

We are due to meet with representatives of the NVB to clarify a number of issues. We will keep you informed as and when clarifications are forthcoming. In the meantime, we ask for your patience as we try to work out the implications of the changes introduced by the new legislation.

THE CHALLENGING NATURE OF CHILD PROTECTION

In April a 39 year old mother was sentenced to four and a half years in prison for beating, starving and neglecting her children over a five year period. The judge in the case expressed concern that the children had been known to the authorities for some years before they were taken into care.


The concerns expressed by the judge were understandable and the new Child and Family Agency, Tusla, was criticised in an editorial in the Irish Times in relation to this and another case some days after the case was first reported. It stated that there were hopes at the time of the establishment of Tusla in 2014 that it would tackle issues that have been highlighted in enquiries into the State's handling of child abuse cases in the past. These include lapses in communication between state agencies, a lack of emphasis on preventive measures and lack of a standardised approach to dealing with abuse concerns (Irish Times, 15 April). The editorial stated that "the promise of a more cohesive service backed by greater resources has not materialised". In so far as this is a comment on the role of Tusla in this particular case, it is unfair since the actions referred to in the court case preceded the establishment of Tusla.

Since there has been no enquiry into this particular case, we do not know whether these were issues in this particular case. The assumption behind the editorial, however, was that since the family was known to the statutory authorities and given that the children experienced horrendous abuse over a prolonged period of time, the statutory authorities failed these children. A future enquiry may well come to the same conclusion. Such an enquiry will have access to all of

the facts of the case and thus be in a position to make such a judgment. For now, however, it is worth considering what we know (that is, what was reported) of this case before we rush to judgment on the failure or otherwise of the statutory authorities.

The statutory authorities most directly responsible for the protection of children are the Gardai and Tusla, (up to 2014, the HSE was responsible for child protection). In enquiries into the deaths of children known to statutory services both here and in the UK, police and social services have often been heavily criticised for failure to take appropriate action to protect children and for failing to communicate and to cooperate with each other.

The little that we do know about this case indicates that the Gardai and HSE social workers were in contact with each other and were actively involved in the case. In 2006, a young Garda found two of the children wandering near a dangerous stream late at night. She or he took action that resulted in the two children being taken into emergency care. HSE social workers became involved. Appropriate accommodation was found for the family and the two children were returned to the family one month after they were admitted to care. All of the children were taken into care in 2011 following an unannounced visit to the family. Since this was a joint visit by Gardai and social workers we have to assume that there was a good deal of discussion and planning beforehand. It is reasonable to assume also, though this is not reported, that the detail of the abuse and neglect suffered by the children came to light after they



were taken into care in 2011. Children generally need to be in a safe place before they can disclose that level of abuse. The Gardai investigated the abuse and two people were convicted, one of whom, the mother of the children, has been sent to jail. So the issue here is not that the statutory authorities failed to act or failed to take decisive action or that they failed to cooperate, the issue is whether or not they could have acted sooner. We cannot know at this point, but the criticism and the rush to judgment is unhelpful.

Carol Coulter, Director of the Child Care Law Reporting Project, and herself a former Irish Times journalist writing in the paper on 23 April took a more considered approach to the case. "Once again", she wrote, "individual cases prompt spurts of outrage and demands for more accountability. But the issues raised.....require a wider and deeper societal discussion of what we expect of our child protection system, whether it is possible to eliminate all risk to children and what level of risk is acceptable".

We know the risk factors for child abuse and neglect. They include things like domestic violence, drug and alcohol addiction, mental illness and cognitive impairment. No one argues for taking into care all of the children whose parents experience these problems. It would be wrong to do so. Most parents love their children, despite their personal difficulties and they do their best to provide for them. Generally speaking, children do not want to be separated from their parents, even when their family situations are difficult. The alternatives are not always better. Many children do well in foster and residential care but not all of them do. Some children who come from difficult family circumstances thrive and grow into competent and resilient adults.

There are many, many children in vulnerable families who get by with the support of social services, both those provided by Tusla and those provided by voluntary and community organisations. We only rarely hear about these cases. The former British cabinet minister, Alan Johnston, grew up in poor circumstances. His mother was a single parent who died when he was still a child. His older sister, herself only a teenager, fought to look after him rather than let him go into care. She was supported by a sympathetic social worker and Alan Johnston went on to make a significant contribution to public life in Britain.

Our first priority has to be to support vulnerable families. This inevitably means accepting a certain level of risk. Things can and do go wrong. We can say this with certainty.

What we can never say with any certainty is what exactly will go wrong and in what particular family. The decision as to when to intervene and take a child out of a dysfunctional family is never straight forward. Coulter writes that it requires a "combination of empathy, intuition and judgment honed by experience. These judgments are made by human beings and it is unreasonable to expect them to be always right".

All of this is not to suggest that our child protection system is just fine as it is. It is not and changes are needed. We need to take a wider perspective, however, than just child protection services. It starts with ensuring that every family has the basic requirements for a decent life. We don't have to use too much imagination to appreciate how incredibly difficult it must be for parents to raise their children without a proper home. There are lots of community and voluntary groups that support families, including our own Crosscare, and we must continue to support their work. In our parishes and schools we need to be conscious of the needs of children from vulnerable families and look for ways to support them. Agencies like Tusla need to look at how they support their own front time workers. As Coulter argues, there is something wrong with a system where newly qualified and inexperienced professionals are given the most difficult and intractable cases to work with and then often blamed when things go wrong. The result is a demoralised workforce with a very high turnover of staff which, in turn, undermines the capacity of the system to protect children.

One of the things we have learned from the abuse of children within a church context is the importance of listening to children. The children in this case had a lot to say and we should hear it and learn from it.

The father of two of the younger children was also convicted of cruelty and neglect. He was given a suspended sentence in December 2015. Despite this, the children thanked this man for being nice to them. It seems he had often gone to their room and pretended to beat them in order to placate their mother. He apologised to the children and thanked their foster carers for taking good care of them. The court was told that the children have forgiven this man. They chatted to him before his sentence hearing and they hugged him afterwards when they learned that his sentence had been suspended.

The children were separated from each other when they were taken into care. No doubt the social workers tried to place them together but finding a foster family willing and

able to take on the care of five children all at once is well nigh impossible. In her evidence to the court the second eldest girl remembered the pain of separation from her siblings, some whom she had, in effect, reared. "I was very, very lonely and I really missed my brothers and sisters. It wasn't fair".

Protecting children and providing alternatives to those who have been abused in their homes would be relatively straightforward if it was a matter of simply taking children out of bad situations and putting them into good ones. What this case illustrates is that it is never like that. The man who abused and neglected the children also loved them and sometimes tried to protect them and they were able to respond to that with gratitude and forgiveness. The children

were no doubt glad to be removed from an abusive situation but did not want to be separated from each other.

Protecting vulnerable children has to be about identifying and preserving all that is positive in their lives while at the same time ensuring they are not abused and neglected. It is challenging work and it is important that those who do it are accountable. Accountability, however, has to involve consideration of the complexity of the task and the demands it places on practitioners. As a church and as a society we should give our support to those who protect children on our behalf. We should acknowledge the good work they do in helping countless children to continue to live with parents who love them even if they do not always know how best to care for them.

TRAINING SCHEDULE

Please contact the Child Safeguarding and Protection Service Office (tel. 01-836014 or email: cps@dublindiocese.ie) for further information or to reserve a place on one of these courses.

Date	Venue	Time
9 July 2016	Narraghmore or Moone (venue to be confirmed)	9.30 to 3.30
24 September 2016	Wicklow Town (venue to be confirmed)	9.30 to 3.30
8 October 2016	Clonliffe College	9.30 to 3.30
12 November 2016	Clonliffe College	9.30 to 3.30

Apart from the training sessions listed above, which are open to everyone, the diocesan trainers have been providing training on request from parishes and others and this training is provided at locations that suit the groups involved. We are happy to continue to accommodate such requests as best we can.

There is a value in people coming to open training events rather than, for example, training with other people from their parish. One of the key learning points for the trainers has been the value of people working together in small groups and this is now a key part of the training we deliver. We try to

ensure that trainees work in small groups with people they have not previously known. This provides an opportunity for the trainees to learn from each other and for good practice to spread from one parish or group to others.

This spring, in particular, the diocesan trainers have struggled to meet all the requests we have received for training. For this reason, too, we would ask people to consider attending the open training sessions.

Garry Kehoe is available to you to discuss your training needs and those of your parish or group. He is contactable at 01-8360314 or garry.kehoe@dublindiocese.ie

CONTACT DETAILS

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