

## **Swim Ireland Vetting Policy (updated and revised May 2016)**

### **Introduction**

There are two types of vetting checks available to Swim Ireland – through the National Vetting Bureau and Access NI; both checks are applicable to members of Swim Ireland.

Swim Ireland is a Registered Organisation with the National Vetting Bureau (NVB) with two appointed Liaison Persons and one Clerical Officer. The NVB is situated at Racecourse Road, Thurles, Co Tipperary.

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

### **Vetting policy within Swim Ireland**

Vetting is part of the recruitment and selection process and is a requirement for certain roles working with young people who are under the age of eighteen. This is required by law, with certain differences in each jurisdiction and is in line with the best practice within our organisation. The legislation together with this Swim Ireland Vetting Policy (vetting policy) means that vetting is mandatory for all members of Swim Ireland, the regions, clubs and any person seeking to engage with certain Swim Ireland accredited courses.

### **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

Data Protection Act 1988/2003

Children's Act 2001 – Section 258

Private Security Authority Act 2004

National Vetting Bureau (Children and Vulnerable Persons) Act 2012 to 2016

Criminal Justice (Spent Convictions and Certain Disclosures) Act 2016 Part 3

### **Legislation and Information relating to Northern Ireland**

Part V of the Police Act 1997 delivers the legislation that makes it compulsory to check individuals working in a regulated activity with children and/or vulnerable persons with the Independent Safeguarding Authority (ISA). The ISA 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 to or allow someone to continue working who on the ISA barred list.

#### **Relevant legislation**

Access NI Code of Practice

Part V of the Police Act 1997

Rehabilitation of Offenders (Exceptions)(Northern Ireland) Order 1979 (as amended 2014)

Safeguarding Vulnerable Groups (NI) Order 2007

Independent Safeguarding Authority

Protection of Freedoms Act 2012

## General Information

### Why undertake vetting?

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 Swim Ireland and affiliated clubs against possible perpetrators of child abuse by being a barrier to an individual who is unsuitable to work with children.

### Who is responsible?

Swim Ireland is responsible for processing applications in through ANI or NVB and for making the decision regarding an applicant's suitability to be in the 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 Associate members and individuals operating at national level are vetted in accordance with this policy.

### Who is required to be vetted?

All persons 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 (ANI) defined within the Safeguarding Vulnerable Groups (Northern Ireland) Order 2007 or as undertaking relevant work or activity (NVB) defined in the National Vetting Bureau (Children and Vulnerable Adults) Act 2012 to 2016.

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
- 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.

### 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 for a vetted position. The terms within this policy may affect the employment position and therefore this policy must be available to prospective employees/members 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 children and young people under eighteen**

Any individual under eighteen years of age in Ireland or aged sixteen or over in Northern Ireland and applying for any of the required positions must undergo vetting prior to taking up the position(s).

Any person under eighteen years of age completing a vetting application must obtain the permission of their parent/guardian.

## **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 and will be required to undergo a recheck after 12 months.

## **Re-vetting individuals**

All individuals will undergo re-vetting after three years or as determined by Swim Ireland as required by future circumstances.

The changeover from the previous five year re-vetting requirement to a three year re-vetting programme will take place during 2016 on a phased basis. By 31<sup>st</sup> December all vetting over three years old will be issued with a re-vetting requirement.

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 Swim Ireland Risk Assessment Policy 2010 or latest update (available on the Swim Ireland website).

## **Vetting as part of an investigative process**

Vetting or re-vetting an individual, with their permission, may be considered as part of an investigation 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 being vetted 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 LP/signatory for estimates on processing time.

# National Vetting Bureau - Ireland

## Introduction

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

1. National Children's Officer - Kate Hills
2. Chief Executive Officer - Sarah Keane

There is one appointed Clerical Officer providing assistance 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 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 by the LP through the NVB on-line application system on receipt of consent and identification verification from an individual seeking to be vetted through an E-Vet ID Form. The requirements of the process are mandatory by legislation.

The application process is in Appendix 1 and is shown on a separate flow chart.

## Record keeping and storage

The E-Vet ID Form and associated documents are kept for the validity of the vetting undertaken, i.e. currently three years.

Once a decision is made regarding the suitability of an applicant the outcome is recorded on the database record as accepted or withdrawn. The status 'withdrawn' relates to an applicant who has been deemed ineligible for Swim Ireland or where an applicant has withdrawn their request for vetting. No information regarding the content of any disclosure is recorded on the database. The disclosure document, decision process and outcome is securely kept in a locked cabinet with access only by an LP.

All data is kept in accordance with the Data Protection Acts 1988/2003 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

### Introduction

Swim Ireland, through Swim Ulster as the registered body, has two registered signatories (signatory):

1. Club and Coach Development Officer - Ruth McQuillan
2. National Children's Officer - Kate Hills

Each signatory is registered with Access NI (ANI) and acts as liaison between ANI and Swim Ireland. The signatory is responsible for ensuring the identification 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.

### Return of information

Disclosure certificates are only received by the applicant. No certificates are received by the signatory.

Applicants with disclosed information on their certificates are required to contact the signatory in order that a

decision can be made regarding their status. 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.

- Disclosure information is not passed to persons who are not authorised to receive it under section 124 of Part V of the Police Act;
- 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 outcome is recorded on the database record as accepted or withdrawn. The status 'withdrawn' relates to an applicant who has been deemed ineligible for Swim Ireland or where an applicant has withdrawn their request for vetting. No information regarding the content of any disclosure is recorded on the database.

Swim Ulster/Swim Ireland co-operate with ANI to undertake assurance checks as to the proper use and safekeeping of information. Swim Ulster/Swim Ireland 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 the Data Protection Acts 1988/2003 by the signatory on behalf of Swim Ireland. All sensitive and personal disclosure information, including ID validation forms, is stored in a locked cabinet in the Swim Ulster office where the signatory is the only key holder. Any documentation is destroyed in accordance with the ANI Code of Practice for Registered Bodies.

# Processing the disclosed information from NVB and ANI

## Introduction

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 disclosed.

If the applicant has not self-disclosed and information is received from the vetting body this will be checked with the applicant.

## Disclosed information

Disclosure of certain types of convictions/prosecutions or specified information automatically disqualify the applicant from a position working with children.

### *Examples of offences that will automatically disqualify an applicant are:*

Any offence of a sexual nature

Any offence against a child or of child abuse or pornography

An offence that causes gross bodily harm

Any offence of murder or manslaughter

An offence of kidnapping

A series of continuous offending that might cause concern for the well-being of children

Any charge brought by the Director of Public Prosecutions (for Ireland and Northern Ireland) concerning abuse of a child

All decisions on the suitability of an applicant are a matter for Swim Ireland. The NVB and ANI are not involved in such decisions.

### **Examples:**

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 would be 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 deemed suitable to work with children.

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 not be prevented from working with children.

Example 3: An individual has two parking offences disclosed on the return from the vetting organisation. These were not shown on the original application form. 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 would be deemed prosecutions or convictions and therefore did not think about disclosing them. It is probable that this individual would be deemed suitable for a position working with children.

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 engagement in a regulated position.

## Communication of information

If an LP or signatory is required to communicate with the applicant for any reason the following protocol applies:

- Communication may be by phone, letter marked 'Private and Confidential' or in person if convenient
- The LP/signatory verifies the identity of the applicant
- No messages are left
- No discussion takes place with any other person, spouse or partner
- The LP/signatory gives an assurance of confidentiality

If the signatory is required to verify disclosed details the applicant is asked relevant questions, for example:

- Is there anything they remember concerning the time of the offence?
- Have they ever been to court?
- Is there any relevant information concerning the disclosed information?
- Does the applicant have an understanding of the relevance of the disclosure to the position/role applied for?

All responses are noted. If any of the information is disputed the disputes procedure in this policy (see below) must be followed.

## Dealing with Disclosures

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.

If a decision is required that is not clearly dealt with in this vetting policy external advice is sought. In this case any identifying information on the disclosure will be removed. External advice may be sought from other regulatory bodies, e.g. Participation Unit from Sport Ireland or Child Protection in Sport Unit from NSPCC.

Where the applicant is suitable for the position currently held or applied for, this is communicated to the individual by issuing a letter accepting suitability to work within Swim Ireland.

Where the information disclosed by the vetting organisation and/or self-disclosed by the applicant deems the individual to be unsuitable for the regulated position they are informed of such preferably in person, however this is not always possible. In the case where an individual cannot be informed in person they will be requested to contact the LP/signatory as a matter of urgency. The applicant is allowed the opportunity to withdraw from seeking any role or position.

## Data Security

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

Swim Ireland will only release information concerning the suitability of an individual to a person who needs to know. In the event that an applicant withdraws either their application for a position or from their position, information concerning their suitability for working with children will not be released.

In accordance with the rules laid down in the Data Protection Acts 1988/2003 and ANI code of practice the 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 the disclosed information will need to follow the procedure for the relevant vetting body. The applicant will not be permitted to take up a position while any disclosure is under dispute.

If there was an error in the completion of the form this should be rectified by the applicant by completing a new 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 accounting for 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, as guided by this vetting policy. This will be communicated to the individual in accordance with the protocol. The outcome of this decision will be final.

END

Revised May 2016