



## APPENDIX ONE: SUBMISSION FORM FOR CONSULTATION ON 'LEGISLATION FOR THE NEW ZEALAND POLICE VETTING SERVICE'

The closing date for submissions is **13 July 2018**.

Please send your submission to:

Submissions on Legislation for the New Zealand Police Vetting Service  
Policy and Partnerships  
Police National Headquarters  
PO Box 3017  
WELLINGTON 6011

Email: [vettinglegislation@police.govt.nz](mailto:vettinglegislation@police.govt.nz)

This submission was completed by:

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Organisation..... Volunteering New Zealand.....

Position.....Policy Advisor.....

Are you submitting this as:

an individual

on behalf of a group or organisation

other (please specify)

## List of consultation questions

### General

1. Should there be a statutory framework for the Police Vetting Service?

Yes. VNZ supports clarifying the functions of the PVS in law, especially where this may lead to greater efficiency.

### Purpose of the Police Vetting Service

2. What should be the purpose of the Police Vetting Service?

In terms of the basic purpose of the PVS, VNZ supports the status quo.

### Functions of the Police Vetting Service

3. What should be the functions of the Police Vetting Service?

VNZ supports the status quo.

4. Should the functions of the Police Vetting Service be reflected in legislation?

Yes.

### Who can use the Police Vetting Service

5. Should individuals have direct access to the Police Vetting Service?

Yes, only if the purpose of an individual is to gain access to their own complete record that can be then supplied to third party organisations like charities, then yes.

6. In what circumstances, if any, should individuals be able to request a Police vet on others?

We believe there are no likely circumstances that one individual should be able to request a vet on another individual.

7. In what circumstances, if any, should individuals be able to request a Police vet on themselves?

Only for the purposes described above in s5: If the purpose of an individual is to gain access to their own complete record that can be then supplied to third party organisations like charities, then yes.

### Criteria for approval to access the Police Vetting Service

8. With regard to New Zealand vetting requesters, what do you think the criteria should be for approval to access the Police Vetting Service?

VNZ supports the status quo with any refinements such as may be needed for clarification.

9. Should the criteria also allow for access at the discretion of Police?

Yes.

10. Should government agencies be able to access the Police Vetting Service without having to meet any other criteria?

VNZ supports the status quo. That is, government agencies are approved agencies but must meet the same usage guidelines as other approved agencies (cf Q13).

11. What criteria could there be for an offshore vetting requester to gain access to the Police Vetting Service?

VNZ does not have a view on this.

### **Circumstances under which an individual vetting request from an approved vetting requester will be accepted**

12. Should vetting requests only be accepted where the vetting subject's role relates to the purpose of the Police Vetting Service?

Yes. VNZ would support any refinements that would lead to greater clarity and efficiency around this question.

13. Should all vetting requests from government agencies be treated as meeting the purpose of the Police Vetting Service?

No. It should be on a case by case basis.

14. With regard to an individual's role in an organisation that cares for vulnerable people, what factors should be considered by the Police Vetting Service when deciding whether to accept a vetting request (for example, any opportunity to have contact with vulnerable people)?

VNZ supports the status quo.

### **Consent and advance notice of disclosure**

15. Should there be a general requirement for the consent of the vetting subject to be obtained before a Police vet can be undertaken?

Yes.

16. How should the Police Vetting Service treat non-consented requests for information made under statutory authority?

VNZ supports the status quo.

17. Should there be a clear distinction between consent to process the vetting request, and consent to release the Police vet?

The introduction of a two-step process, where consent is required twice, is likely to delay processing time. Without further justification, VNZ would not support two-step processing on these grounds.

18. How should the issues of consent and advance disclosure be addressed? Options include:

	Consent to release Police vet	Advance disclosure of Police vet to vetting subject
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Option (a)	Obtained prior to processing vetting request (in all circumstances)	No advance disclosure
Option (b) Status quo	Obtained prior to processing vetting request (in all circumstances)	Partial advance disclosure (of information the vetting subject will not be expecting to be released only)
Option (c)	Separate consent to release obtained after processing vetting request (for non-conviction information only)	Partial advance disclosure (of non-conviction information only)
Option (d)	Separate consent to release obtained after processing vetting request (for all information)	Full advance disclosure

VNZ has reviewed the options but does not have enough contextual information to make an assessment of the best option.

### Age of vetting subject

19. In what situations should it be possible for children and young people to be vetted by Police, and in what situations should it not be possible?

VNZ does not have a view.

20. If possible, at what age should a child or a young person be able to be vetted by Police (currently children can be vetted at the age of ten as this is the age of criminal responsibility in New Zealand)?

VNZ does not have a view.

21. Who should give consent for a child or a young person to be vetted (for example, the child themselves if they have the ability to do so; or their parent or legal guardian)?

VNZ does not have a view.

### Vetting of family members of vetting subject

22. How should the issue of family members be addressed when it is intended that they be vetted?

VNZ does not have a view.

### Sharing of Police vets

23. With a vetting subject's authorisation, should a vetting requester be able to legitimately share a Police vet with other would-be vetting requesters?

Yes.

24. If so, in what circumstances should the sharing of Police vets be allowed?

To approved agencies.

25. Should the sharing of Police vets by the original vetting requester be subject to an appropriate agreement with other would-be vetting requesters?

Yes.

## **Screening agencies<sup>12</sup>**

26. Is the use of screening agencies desirable?

Yes.

27. What sector or industry groups could benefit from the use of screening agencies?

VNZ does not have a firm view. This would need to be approached on a case-by-case basis.

## **Maintaining the validity of Police vets through ongoing monitoring**

28. Should legislation provide authority for the Police Vetting Service to:

- maintain the validity of Police vets through ongoing monitoring
- disclose new relevant Police vets to vetting requesters, as appropriate?

Yes and yes.

29. Should vetting subjects be allowed to give their authority to the Police Vetting Service to release new Police vets to vetting requesters they nominate?

Yes.

30. With regard to the release of new Police vets, how should the issue of advance disclosure to the vetting subject be addressed?

VNZ does not have a view.

31. How long should monitoring continue if authorisation is not withdrawn?

VNZ does not have a view.

## **What information can be released in a Police vet**

32. Should only Police-held information be considered and released in a Police vet?

Yes.

33. Should there be a general test that information released in a Police vet must be relevant and substantiated?

Yes.

## **Limitations on information released in a Police vet**

34. Should the legislation allow for potential limitations on the information that can be released in a Police vet (which may create safety risks for vulnerable people)?

Yes as already set out in the AAA.

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<sup>12</sup> National bodies responsible for submitting vetting requests of sector workers.

35. Should the legislation provide for Police to release relevant information that is required to be kept confidential and unavailable to the vetting subject (which may be prejudicial and breach natural justice for the vetting subject)?

Yes.

36. In either case, what could be potential considerations in terms of allocating weight to the competing risks and interests?

VNZ would support the release of “highly pertinent” information to approved agencies.

### **Disclosure of suppressed information**

37. In some cases should the Police Vetting Service be able to disclose suppressed information in a Police vet?

Yes.

38. If so, what could be the main features of a test for the disclosure of suppressed information in a Police vet?

VNZ does not have a view.

39. Should a test for the disclosure of suppressed information be included in the legislation?

Yes.

### **Disclosure of youth justice proceedings and outcomes**

40. In some cases should the Police Vetting Service be able to disclose suppressed information concerning youth justice proceedings and outcomes in a Police vet?

Yes.

41. If so, what could be the main features of a test for the disclosure of suppressed information concerning youth justice proceedings and outcomes in a Police vet?

VNZ does not have a view.

42. Should a test for the disclosure of suppressed information concerning youth justice proceedings and outcomes be included in the legislation?

Yes.

### **Disclosure of mental health information**

43. In some cases should the Police Vetting Service be able to disclose mental health information in a Police vet?

Yes, in some narrowly defined cases.

44. If so, what could be the main features of a test for the disclosure of mental health information in a Police vet?

VNZ does not have a view.

45. Should a test for the disclosure of mental health information be included in the legislation?

Yes.

### **Clean slate legislation**

46. Do you agree with how the clean slate scheme is being applied by the Police Vetting Service?

Yes.

47. If not, how should the clean slate scheme be applied by the Police Vetting Service?

N/A

### **Disciplinary information held by professional organisations**

48. Should specified professional organisations in New Zealand who use the Police Vetting Service be legally obligated to disclose to the Police Vetting Service when members are de-registered?

Yes.

49. If so, what sort of organisations should be subject to an obligation to disclose to the Police Vetting Service when members are de-registered?

VNZ does not have a view.

50. If so, what details should be disclosed to the vetting requester?

VNZ does not have a view.

### **Reciprocal information sharing between the vetting requester and Police**

51. What should be the extent of any reciprocal information sharing between the vetting requester and Police?

VNZ supports the obligation to reciprocate.

### **Review process**

52. On what grounds should a vetting subject be able to challenge a Police vet (for example, the Police vet is factually incorrect)?

Any reasonable grounds.

53. Following a review by the Vetting Review Panel in Police, should a vetting subject be able to appeal the decision (regarding what information is released in a Police vet) to a tribunal or court?

VNZ supports the status quo.

## Establishment of an independent vetting body

54. Would the establishment of an independent body to manage all Police vetting be desirable?

Only if it enhances efficiency and effectiveness.

55. In practice, how would an independent vetting body function?

VNZ does not have a view.

## Other feedback

56. With regard to vetting by Police, please provide feedback on any other issues you think are important.

Feedback from VNZ members indicates that volunteer organisations have come to rely on the Police Vetting Service. It is, in the words of one member, “an essential community service.” The difficulties of providing a robust vet are also understood and appreciated by members. Of those who responded, the vast majority favoured moving to a statutory framework. However, at the coalface, practical improvements were the main concern. These fall into three main categories:

### 1. Reducing the number of people captured by current law

Whilst well-intentioned, legislation requiring Police vets for dealing with vulnerable children or other vulnerable people has led to a large proportion of paid or unpaid workers needing to go through the Police vet process. VNZ is aware of examples of workers requiring vets who *do not* have “more than incidental contact” with vulnerable people nor any “responsibility for their care or welfare.” This is, in some cases, a condition of working with or being funded by government agencies such as MSD i.e. it is an internal regulation rather than a law. The high proportion of vets released *without* results suggests the scope of legislation such as the Vulnerable Children Act could be reduced without significantly altering the balance of risk.

### 2. Streamlining or better resourcing the current process

Feedback suggests that many requests are not answered within the 20 working days written into the Service Level Agreement. With the introduction of the cost recovery system in 2017, the expectation is that demand will be better managed by the Police. Comments have suggested that the process is at times unwieldy, out-dated and sluggish (although one member noted that service times have improved in recent years). Long delays in processing can affect the motivation of vetting subjects, which is especially true in the volunteer sector. With the provision that appropriate legal safeguards remain in place, VNZ would like to see greater efficiencies in the service, whether by reducing duplication, sharing of vets between organisations, a more systematic approach to ongoing monitoring, or the use of updated technology. While we have indicated our preferences in the questionnaire, the “how” of creating greater efficiencies is probably best left to the Police.

Here are five specific member suggestions gathered from our feedback



- a. Could vetting subjects use a standardised online form giving authority to approved agencies?  
VNZ Comment: such a form provided by the Police could save the approved agency having to create their own form and may save a small amount of data entry. However, once filled in, the online form would contain personal information and would *not* save the vetting requester having to physically cite identification such as birth certificates, photo IDs or passports. A system where it is the Police who cite identification first may get around that difficulty but, at the same time, it may involve more Police resources and would add an additional step in the process. An alternative may be to have greater use of the RealMe identification system.
- b. Could a designated contact at the Police Vetting Service be established in order to deal with problems?  
VNZ Comment: this seems sensible although FAQs should be easily available if they are not already. Greater clarity in legislation may lead to greater clarity in the FAQs. Also, there still seems to be confusion as to the difference between a criminal check and a Police vet. If the main complaint is the speed of turnaround then the root causes of the delays should be addressed rather than a better explanation for said delays.
- c. More urgent requests allowed?  
VNZ Comment: the consultation document does not cover this area. Again, were service delivery improved in general, the necessity of urgent requests would lessen.
- d. Increasing the time-frame to access historical results?  
VNZ Comment: again, VNZ would like to know more about this aspect of the service in order to be able to form a view.
- e. "If you delete all letters using spacebar, you cannot search again until you return back through the main page – frustrating."  
VNZ Comment: a technical glitch with the website that we draw your attention to.

### 3. Cost Recovery

VNZ has successfully advocated to limit the impact of the Police cost recovery programme upon volunteer organisations. We would of course continue to oppose any changes that would unduly impact the scarce resources available to the volunteer sector. A thorough cost-benefit analysis should be applied to any such changes.