



Annual Report of the Garda Síochána Ombudsman Commission (GSOC) for 2022

(In accordance with section 22 of the Protected Disclosures Act 2014)

Under section 22 of the Protected Disclosures Act 2014 (the Act) each public body is required to publish an annual report outlining the number of protected disclosures received in the preceding year and the action taken. This report must not result in the identification of persons making disclosures.

This is the seventh such annual report from GSOC and it covers the period of 01 January 2022 to 31 December 2022. It should also be noted that this report covers the exit from the COVID-19 pandemic restrictions, and matters progressed as these national emergency restrictions eased.

The Garda Síochána Ombudsman Commissioners as Prescribed Persons under section 7 of the Act can receive disclosures from workers of An Garda Síochána including Garda members, Garda Civilian staff, Garda Reserve, Garda trainees and contractors of An Garda Síochána, in addition to disclosures from the Minister for Justice under section 8 of the Act.

On 01 January 2023 the Protected Disclosures Act 2014 (as amended) commenced, as such this will be the final annual report under this format and subsequent reporting will occur in line with the new requirements as set out in the amended Act which was not in force during this reporting period.

Public Interest Consideration

GSOC, having considered the facts of a disclosure in accordance with section 5(3) of the Protected Disclosures Act 2014 (relevant wrongdoing), must also consider if launching an investigation is in the Public Interest or not. This consideration applies to each disclosure made to GSOC. This is a unique statutory requirement imposed on GSOC stemming from the Garda Síochána Act 2005 (as amended).

1. Previous Caseload

As reported in 2021, 69 disclosures remained on hand at the 31 December 2021 which progressed into 2022. In 2022 a further 18 disclosures were received under section 7 and section 8 of the Act, with 87 matters actionable in the reporting year. In 2022 a total of 34 matters were closed leaving the remaining 53 on hand at the 31 December 2022.

2. 2022 Cases

As outlined above 34 disclosures did not proceed any further in 2022 and were closed. This occurred for a number of reasons, such as;

As set out in previous reporting 2 matters were sent forward for a Board of Inquiry under the Garda Síochána Disciplinary Regulations however the Board upon further review informed GSOC that no disciplinary proceedings would commence in these cases, as such these matters were closed.

A number of disclosers withdrew from the process for various reasons during the reporting period, which could occur for a number of reasons including through disengagement from the process, whereby the person wished to pursue other avenues available to them or failed to engage with GSOC after the initial approach.

A number of reports were submitted to the Garda Commissioner following the decision of the Ombudsman Commission not to recommend disciplinary action in these matters in accordance with section 97 of the Garda Síochána Act 2005. This can occur for a number of reasons including where members of An Garda Síochána retire during the investigation. It was however considered that the findings of the investigations be brought to the attention of the Commissioner to ensure that safeguards were put in place to prevent such issues occurring in the future as GSOC had identified Policy, Practice and Procedural issues.

One case closed in 2022 involved the integrity of the Statutory Declarations completed by members of the Garda Síochána. The Commission considered the investigation into possible criminal behaviour under a section 98 investigation under the Garda Síochána Act 2005, and whilst the Ombudsman Commission did not consider the sending of a file to the DPP necessary, a systemic observation letter was sent to the Garda Commissioner for his consideration.

This matter was also reported to the Minister for Justice in order that Department of Justice governance and policy in relation to Criminal Justice matters could be fully informed.

A number of other cases concluded under section 93 of the Garda Síochána Act 2005, as it was no longer reasonably practicable for GSOC to continue with these investigations. An example of such a case relates to an anonymous disclosure that included allegations that Garda statements had been dishonestly amended. In that case an initial investigation by GSOC established that no such activity occurred as alleged and as such it was no longer reasonably practicable to continue this investigation.

Following a criminal investigation by GSOC officers into a disclosure the Commission may send a file to the DPP in order that she might consider if a prosecution was appropriate. This occurred on one occasion during 2022 and as a result the DPP directed that a prosecution against a serving Garda Member was warranted and criminal proceedings have commenced at District Court level.

During 2022 the Commission as Prescribed Persons under section 8 of the Protected Disclosures Act 2014 received disclosure related cases from the Minister for Justice under both section 102(5) and section 102(7) of the Garda Síochána Act 2005 (as amended).

In a number of cases the Commission as Prescribed Persons under section 7 of the Protected Disclosures Act 2014 reviewed the material submitted by disclosers to them directly. The information was deemed not to have met the threshold of relevant wrongdoing under section 5(3) of the Protected Disclosures Act 2014 or did not meet the Public Interest test under the Garda Síochána Act 2005 and were subsequently closed.

3. Informing Oversight and Garda Síochána Policy and Practice

In addition to communicating systemic recommendations with the Garda Commissioner, the Commission as Prescribed Persons have with the consent of disclosers communicated with other stakeholders alerting them of potential Policy, Practice or Procedural issues that GSOC identified through the investigation of protected disclosures.

4. Unit Resourcing & Training

The Protected Disclosures Unit continued to see a high demand for its services in the reporting period. Training has been delivered in the year 2022 through Maynooth University for the members of staff dealing with disclosures in addition to training already undertaken. This is in line with the requirements set out in EU Directive 2019/1937 and the Protected Disclosures Act 2015 (as amended). Other training was undertaken in 2022 including investigative interviewing, critical incident stress management, human rights in policing, digital media investigations and analysis.

5. Legislative Reform

GSOC continued in 2022 to engage with the Department of Public Expenditure and Reform regarding the transposition of EU Directive 2019/1937 which came into effect on 17 December 2021. GSOC has also continued our attendance and participated in the Government Interdepartmental Protected Disclosures Network, in addition to liaising with other Government departments and An Garda Síochána on disclosure matters and associated processes. The Protected Disclosures Act 2014 (as amended) will bring procedural changes in the next reporting year and bring Ireland in line with the requirements of EU Directive 2019/1937.

6. International Sharing of Best Practice

GSOC have also continued as the Irish representative with the Network of European Integrity and Whistleblowing Authorities (NEIWA) working on shared knowledge and expertise in disclosure matters and the implementation of the EU Directive 2019/1937. GSOC attended meetings virtually and in person for the first time since 2019, declarations from which can be found on our website.

GSOC have engaged with the Project against Economic Crime in Kosovo (PECK III) which is a joint co-operation initiative of the European Union (EU) and Council of Europe funded by the European Union and the Council of Europe following a request for assistance to GSOC in providing practice and procedural review to the Kosovo police in the handling of protected disclosures. The overall objective of PECK III is to enhance anti-corruption and anti-money laundering / countering the financing of terrorism (AML/CFT) practices in Kosovo, in line with applicable European and international standards and good comparative practices.