



GARDA SÍOCHÁNA OMBUDSMAN COMMISSION  
PRESS RELEASE

Wednesday 14 May, 2014.  
13.00hrs

GSOC has today made a submission to the Joint Oireachtas Committee on Justice, Defence and Equality about the effectiveness of legislation relating to oversight of An Garda Síochána.

The proposals in the submission focus on improving the capacity of GSOC to effectively achieve **resolution of issues** and on **strengthening GSOC's independence** - a crucial characteristic of an oversight agency, which has been perceived as compromised under current legislation, not least by the United Nations\*.

Key recommendations made in the submission:

- **New approaches to dealing with minor complaints, to facilitate effective resolution.** Many complaints to GSOC do not allege serious misconduct or criminal behaviour, but breaches of discipline e.g. discourtesy or poor response of a garda member at an incident. The current system favours these being dealt with via lengthy, bureaucratic disciplinary investigations. In addition to the cost to the taxpayer, this approach does not necessarily always address the fundamental issue complained of. GSOC has proposed new approaches in dealing with these kinds of relatively minor complaints, to decrease cost and increase efficiency and satisfaction. These include removing legislative barriers to informal resolution (i.e. enabling GSOC to decide when it is appropriate for this route to be taken), so that more than the current 1% of complaints can be resolved informally. Also included is to create new protocols for dealing with issues around customer service.
- **New approaches to dealing with more serious complaints.** In relation to more serious disciplinary issues, currently the Garda Síochána may undertake investigations into complaints, following referral from GSOC. GSOC believes that the concept of gardaí conducting investigations on our behalf is questionable in terms of its independence and effectiveness and has proposed the discontinuation of that. In the event the practice is retained, GSOC has proposed that all investigation reports should come back to GSOC for decision on appropriate next steps. This would mean that the complainant would be kept informed of progress in the investigation and would have the opportunity to request a review of the findings by GSOC before findings are applied. Furthermore, GSOC is asking for adherence to protocols around investigations to be put on a statutory footing.
- **Making the Garda Commissioner subject to oversight.** Currently the Act states that 'member of the Garda Síochána' does not include the Garda Commissioner, and therefore that office holder is outside the remit of GSOC. GSOC believes that effective oversight of policing, and public

confidence therein, favours the Garda Commissioner being subject to independent oversight by the force's Ombudsman Commission and that legislation should be changed to allow for that.

- **Expanding the definition of serious harm.** The Act provides for investigation by GSOC, following referral by the Garda Commissioner, of any matter that appears “to indicate that the conduct of a member of the Garda Síochána may have resulted in the death of, or serious harm to, a person.” The definition of serious harm does not encompass, for example, sexual offences of a serious nature, so such offences allegedly committed by members of the Garda Síochána do not merit referral to GSOC for independent investigation and can be investigated internally. GSOC believes that such investigations should be conducted by an independent organisation and so provision should be made for the definition of serious harm to be expanded as society's definition of serious harm to a person evolves.
- **Removing limitations to GSOC making recommendations on policy, practice and procedures.** The Act provides for examinations by GSOC into any practice, policy and procedure of the Garda Síochána. In reality, the defined circumstances are so narrow that this has only been done once to date.
- **Nominating GSOC as confidential recipient.** Recent events have suggested that the existing system for issues to be raised by garda members requires significant overhaul. GSOC could be nominated as an external confidential recipient with the capacity to receive complaints from serving garda members of serious corruption, malpractice, or systemic issues.

An over-arching recommendation is that the objectives of GSOC, as set down by the Act, be fundamentally re-set, so that rather than favouring a system of seeking to apportion blame on gardaí (or not) for specific actions, the legislation enables us to actively seek resolution to issues and provide feedback to the Garda Síochána, to help us bring about long term change.

GSOC looks forward to the opportunity to work with the Oireachtas Committee, the legislature, the Garda Síochána and other parties, to improve the effectiveness of oversight of our country's policing.

ENDS

**For further detail or explanation of any of the recommendations, contact Lorna Lee - 086 607 9456.**

**Note to Editors:** The Garda Síochána Ombudsman Commission (GSOC) has been operational since 2007, following conception under the Garda Síochána Act 2005. GSOC's submission is based on its almost seven years of experience of implementing the provisions of this Act, in relation to independent oversight of policing.

\* The United Nations Human Rights Council Report of the Special Rapporteur on the situation of human rights defenders, Margaret Sekaggya, following her mission to Ireland in 19023 November 2012, on page 9, paragraph 40, stated:

*“40. While the Special Rapporteur welcomes the existence of the Ombudsman Commission to ensure the accountability and independent oversight of the police, she expresses concern at the serious constraints faced by the body, including financial and resource limitations, and the reported limited public awareness of its activities and responsibilities. While she takes note of the powers of the Commission to conduct public interest investigations into the behaviour of the police in accordance with section 102(4) of the Garda Síochána Act (2005), she remains concerned at the Commission’s excessive dependence on the Ministry of Justice and Equality when it comes to opening investigations relating to the practices, policies and procedures of the police, which requires permission from the Minister, as laid out in section 106 of the mentioned Act. The Special Rapporteur recommends that this provision be removed from the Garda Síochána Act (2005) in order to grant the Commission independent investigative powers.”*  
(<http://www.ohchr.org/EN/Countries/ENACARRegion/Pages/IEIndex.aspx>)