



Garda
Ombudsman
INQUIRY INDEPENDENCE IMPARTIALITY

Appearance by the Garda Síochána Ombudsman Commission before the Joint Committee on Public Petitions

Thursday, 1 June 2023

Opening Statement by Rory MacCabe, S.C., Chairperson of GSOC

Introduction

Chair, Committee Members,

Thank you for inviting us to appear before you again following our most fruitful engagement last year. I am joined here today by my fellow Commissioner Mr. Hugh Hume, alongside Valerie Woods, GSOC's Deputy Director of Administration, and Peter Whelan, GSOC's Director of Investigations and Operations.

We are appearing before you today having just recently submitted GSOC's 2022 Annual Report to the Minister, which will shortly be laid before the Houses. While the formal focus of today's meeting is our 2021 Annual Report, which we published last summer, we have also included some detail from our 2022 report in the supplementary briefing material we provided. We thought it would be a good opportunity to relate some of this fresher information to you all, not least because, as you will be more than aware, this time next year, GSOC will no longer exist.

Indeed, it is in the context of the significant institutional reforms facing GSOC that we meet you today. Since our last meeting the Policing, Security and Community Safety Bill was published and has recently completed Committee stage in the Dáil. We expect the bill to be enacted in the coming months and its core provisions – including the replacement of GSOC with a new Office of the Police Ombudsman – are expected to be commenced early in 2024. It will be a major change in policing oversight, and this Commission and our executive team have been given a specific objective of transitioning GSOC to the new Office of the Police Ombudsman. We look forward today to speaking to you about this significant task, which is well underway.

Complaints and Investigations – the work of GSOC

GSOC was established in 2007 under the Garda Síochána Act, 2005. Our primary job is to independently investigate complaints from the public concerning the conduct of members of An Garda Síochána. We also conduct investigations into matters referred to us by An Garda Síochána, by the Minister for Justice, by the Policing Authority, as well as matters we ourselves judge to be in the public interest to investigate. In addition, we are one of the designated bodies to which members of An Garda Síochána can make protected disclosures.

Our HQ is here in Dublin, and we have regional offices in Cork and Longford. We operate in 26 counties, 7 days a week, 24 hours a day. The work is challenging and complex and results depend on our staff, whose skill and dedication deserve the highest respect and recognition.

We receive a significant volume of complaints from members of the public – usually in the region of around 2000 per annum. In 2022, for example, we received a total of 1826 complaints, containing 2234 separate allegations.

Complaints range from low level issues to matters of the utmost seriousness. In 2022, for example, the top three circumstances underpinning complaints were matters arising during arrest, poor customer service or complaints relating to the conduct of an investigation. The top three allegations arising from complaints in 2022 were neglect of duty (33%), non-fatal offences such as assault (21%) and abuse of authority (20%). Admissibility rates for complaints range between 50% and 60%. Many complaints and allegations, while made in good faith, arise from circumstances that come hand in hand with Gardaí carrying out their duty. Others clearly relate to circumstances where members have breached their own professional standards, or the law. It is our job to sort through these, and to contribute to a more accountable policing infrastructure in Ireland.

Where we identify systemic issues in our investigative work, we make recommendations to An Garda Síochána, to advise them as to the need to review policing policy and practice. We have recently decided to publish these in full on a periodic basis, including any relevant responses from An Garda Síochána. Since 2018, we have also operated a local intervention initiative. This can facilitate the speedy resolution of some complaints without the need for formal investigation – an innovation that has been extremely successful over the past few years and with considerable potential value in allocation of scarce resources where most needed.

It is also important to be clear about where our role ends.

We do not prosecute Gardai, suspend or discipline them. If our investigations lead us to conclude that an offence may have been committed, we must send a file to the DPP. It is then for the DPP, as

the State's independent prosecuting authority, to decide whether a prosecution is warranted. If our conclusion is that misconduct has occurred, we pass the file to the Garda Commissioner whose responsibility it is to consider whether a disciplinary sanction should apply.

By their very nature, some investigations are straightforward and some are not. Some can be dealt with quickly and some require a more significant commitment in terms of staff, resources and time. The duration of investigations can cause frustration. This is understandable. However, we, as with all investigative agencies, are duty-bound by the principle of due process, and the need to respect Human Rights principles. We cannot and will not prioritise speed at the expense of rigour in completing our investigations. GSOC has no interest in keeping any investigation open any longer than is strictly necessary.

Transition

Last year, I said that organisational transition was the Commission's primary strategic focus, in the context of the drafting and eventual publication and passage of the Policing, Security and Community Safety Bill, currently making its way through these houses.

The Commission and our colleagues across GSOC's executive staff have worked with the Department of Justice on the Bill, in the course of which we gave reasoned observations on gaps in and many practical issues of concern that we identified in the draft legislation.

The Bill represents a significant step forward in addressing a clearly-defined and long-signalled gap in Ireland's policing accountability infrastructure. That being said, it is our view that in a number of significant ways the legislation falls short of the vision of independent civilian oversight laid out by Commission on the Future of Policing in 2018. The Bill maintains what in our view is an undue degree of Ministerial involvement in the governance and operations of the new Police Ombudsman. The Bill curtails the new agency's powers in crucial areas, including search powers and fails to require An Garda Síochána to cooperate fully and promptly with the agency's investigations. As the Bill continues its passage through the Oireachtas in the coming weeks and months, we will continue to articulate these concerns.

In parallel to our engagement on the draft legislation, GSOC is involved in the cross-agency and cross-departmental implementation programme, which aims to put all the practical governance, process and inter-agency systems in place to ensure that the new Office of the Police Ombudsman will be ready to fulfil its new statutory remit. This involves sustained engagement by GSOC administrative and operational staff with counterparts in the Department of Justice, An Garda Síochána and in the National Shared Services Office. This work is ongoing. A core aspect of this has

been to prepare our institutional and governance structures for our relaunch as an agency with, for the first time, its own, independent, Oireachtas vote, a CEO who will be the Accounting Officer answerable directly to these Houses, and an Ombudsman and Deputy Ombudsman replacing the present three-person Commission.

Work on a new and multi-functional Case Management System – fundamental to the ability of the new Office of the Police Ombudsman to fulfil its enhanced mandate – is also a priority in our organisational Transition. This is a complex project for which we are drawing on a well of external expertise and guidance. Once complete, it will equip the new Office of the Police Ombudsman to enhance performance management, track the progress and timeliness of investigations, and crucially, to produce robust data on trends and patterns, on which we can base research.

Resourcing

Following some welcome increases in our staffing and resourcing in recent years, our current staff complement as of today is around 170, and our most recent budget allocation (2023) was 16.67 million Euros.

Unfortunately, this remains some way off the minimum necessary to meet our present needs and does not come close to meeting the requirements that the expanded statutory functions proposed in the new legislation will require.

GSOC has repeatedly and publicly flagged that for the new Office of the Police Ombudsman to succeed, significant additional support in the shape of resources and expertise will be needed. In order to better identify the new Ombudsman's needs, we commissioned an external Organisational Review of GSOC. This has just been completed and will assist us and the Department of Justice in making a business case to the Department of Public Expenditure and Reform. It will also provide us with a prism through which we can view existing strengths and weaknesses in our present operation.

The review demonstrates what a transformed and expanded Office of the Police Ombudsman will require in terms of staffing, resourcing and expertise. Our aim is to paint a clear picture of what will be necessary to ensure that our successors – the new Police Ombudsman, Deputy Police Ombudsman and Chief Executive Officer – can fulfil their new remit. In broad terms, a minimum of a doubling of our current staff complement, including a considerable increase in our complement of investigative staff, will be required. We are not talking about a Rolls Royce, but a vehicle that can carry all the complement needed to investigate all the complaints that we receive from start to finish, professionally, fairly, rigorously and in a timely fashion. Recruiting, training and embedding such a large number of staff will also be a significant challenge for the new organisation. To that

extent I welcome the preparedness of An Garda Síochána to facilitate our investigators in their training system.

Whether the new Office of the Police Ombudsman will succeed will depend on the combination of many different ingredients. The core of these, in the shape of a motivated, competent and dedicated staff is already present. More responsibilities will, however, require more resources. Effective investigation in the digital age has become a fast-moving and increasingly complex undertaking.

Failure to prepare for this will inevitably be preparation for failure. Keeping ahead of this is the aim, but keeping pace alone will take considerable effort. Recognising these immutable facts when it comes to resourcing will determine if the aims and objectives of the new legislative regime will be met.

Conclusion

It is our clear aim as a Commission and Executive Staff to do everything we can to ensure that the new Office of the Police Ombudsman is equipped to provide the service that the public expects: efficient, effective, human-rights-based policing oversight that promotes accountability, and the enhancement of trust in policing in Ireland.

I will conclude my opening remarks there, and look forward to the discussion to come. I again invite you to come and visit us at our Dublin HQ. Meet the staff. Listen to them and see the work they do. It is my belief that you will be impressed. Thank you for affording us the opportunity to discuss our work with you today.

- **Rory MacCabe, Chairperson, Garda Síochána Ombudsman Commission**