

Annual Report of the Garda Síochána Ombudsman Commission (GSOC) for 2020
(In accordance with section 22 of the Protected Disclosures Act, 2014)

Under section 22 of the Protected Disclosures Act, 2014 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 fifth such annual report from GSOC and it covers the period of 01 January 2020 to 31 December 2020. It should also be noted that this report covers the period of the COVID-19 pandemic, and matters progressed when and where possible during this national emergency.

1. Current Caseload

In the time covered in the 2019 report 31 disclosures were received which, combined with the matters on hand, brought the total number to 67 disclosures by the end of 2019.

In 2020, 19 disclosures were received under sections 7 and 8 of the Protected Disclosures Act, 2014 despite the pandemic. Out of these 86 matters, 11 matters were closed in 2020, leaving a total of 75 remaining on hand at the 31 December 2020.

2. 2020 Cases

During 2020, 2 files were sent to the Director of Public Prosecutions for consideration under the Non-Fatal Offences Against the Persons Act, 1997 and an offence under the Post Office (Amendment) Act, 1951. No prosecution was directed in either case, with both subsequently reverting to a disciplinary investigation under the Garda Síochána Disciplinary Regulations which remained ongoing at the end of 2020.

Of the 11 disclosures that were closed in 2020:

- In 5 cases, a withdrawal by the discloser occurred 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.
- One file was submitted to the Garda Commissioner under section 97 of the Garda Síochána Act, 2005 relating to discipline matters. A finding of no disciplinary action taken was returned by the Garda Síochána in 2020, thereby closing the matter.
- One report was submitted to the Garda Commissioner following the decision of the Ombudsman Commission to discontinue an investigation under section 93 of the Garda Síochána Act, 2005. It was no longer necessary for GSOC to continue its investigation and it was closed, however other matters were forwarded for consideration by Garda Management in this instance.
- In 4 cases, the Ombudsman Commission as Prescribed Persons under section 7 of the Protected Disclosures Act, 2014 reviewed the material submitted by disclosers and determined that 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. Public Interest Consideration

GSOC, in addition to considering 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.

4. Unit Resourcing

In December 2020 the final GSOC staff member for the GSOC Protected Disclosures Unit (PDU) was expected to arrive and commence work in January 2021. This will complete a recruitment process which had commenced in the previous year. The PDU was staffed by a Senior Investigations Officer and eight Investigations Officers in 2020. GSOC continue to engage with the Department of Justice and the Department of Public Expenditure and Reform with regard to the resourcing of this unit to ensure that it can meet the demands for its services.

Training has been identified for the members of staff dealing with disclosures in addition to training already undertaken. This is in line with the forthcoming requirements set out in EU Directive 2019/1937 and will be delivered in 2021 should the pandemic permit. Other training which was to be undertaken in 2020 did not occur due to restrictions associated with the pandemic. Limited online training occurred in the area of report writing and open source information gathering.

5. Legislative Reform

GSOC continued in 2020 to engage with the Department of Public Expenditure and Reform regarding the transposition of EU Directive 2019/1937 into Irish legislation which has to be completed prior to mid-December 2021. GSOC has also attended and participated in the Government Interdepartmental Protected Disclosures Network, in addition to liaising with other Government departments and the Garda Síochána on disclosure matters and associated processes.

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 three meetings virtually again due to restrictions associated with the pandemic and signed up to the Rome and Brussels declarations which were published on the GSOC website in 2020.