



Annual Report of the Garda Síochána Ombudsman Commission (GSOC) for 2021
(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 sixth such annual report from GSOC and it covers the period of 01 January 2021 to 31 December 2021. It should also be noted that this report covers the continued period of the COVID-19 pandemic, and matters progressed when and where possible during this national emergency.

1. Previous Caseload

As reported in 2020, 86 disclosures remained throughout the year, 11 matters were closed in 2020, leaving a total of 75 on hand at the 31 December 2020 which progressed into 2021. In 2021 a further 20 disclosures were received under section 7 and section 8 of the Act, with 95 matters actionable in the reporting year. In 2021 a total of 26 matters were closed leaving the remaining 69 on hand at the 31 December 2021.

2. 2021 Cases

As outlined above 26 disclosures did not proceed any further in 2021 and were closed. This occurred for a number of reasons, such as;

During 2021, 4 disciplinary investigation files under section 97 of the Garda Síochána Act 2005 (as amended) were sent to the Garda Commissioner following investigations, in two of these matters GSOC were informed by the appointed Garda Investigating Officer who reviewed the GSOC investigation that no disciplinary issues arose and no disciplinary proceedings were warranted in these cases, as such these matters were closed. The remaining 2 matters were sent forward for a Board of Enquiry under the Garda Síochána Disciplinary Regulations the results of which were awaited at the end of this reporting year.

In 9 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.

In another case, 1 report was submitted to the Garda Commissioner following the decision of the Ombudsman Commission not to recommended disciplinary action in this matter in accordance with section 97 of the Garda Síochána Act 2005. It was however considered that the findings of the investigation be brought to the attention of the Commissioner to ensure that safeguards were put in place to prevent such issues occurring in the future, GSOC were subsequently informed that action had been taken in regard to this.

In another case following a section 98 investigation under the Garda Síochána Act 2005, the Ombudsman Commission did not consider the sending of a file to the DPP necessary and a systemic observation letter with a comprehensive report was sent to the Garda Commissioner for his consideration. Following a review of this report the Garda Commissioner informed the Ombudsman Commission that the relevant business areas of An Garda Síochána were examining the GSOC recommendations set out in this report. This is with a view to ensuring that similar issues do not arise again in the future.

2 other cases concluded the first under section 93 of the Garda Síochána Act 2005 where GSOC established after receiving an anonymous disclosure and initiating an investigation that there was an ongoing Garda investigation into the matter. Following the submission of the Garda investigative report to the DPP and the direction of the DPP putting the matter before the courts. The Ombudsman Commission considered under section 93 of the Garda Síochána 2005, it was no longer reasonably practicable for GSOC to continue with this investigation. In the second matter following the conclusion of an investigating by GSOC it was reported to the Commission under section 101(7) of the Garda Síochána Act 2005 that no misbehaviour by a member of the Garda Síochána has been identified and as such no further action in relation to this matter.

In another matter GSOC received an anonymous disclosure of information which was wide ranging and non-specific, the matters did not meet the criteria for the Ombudsman Commission to admit this anonymous disclosure. The Ombudsman Commission decided to share this information with the Garda Commissioner under the provisions of section 81 of the Garda Síochána Act 2005 for his review in connection with any ongoing Garda investigations not known to GSOC and for the development of related governance arrangements.

In 8 cases the Commission as Prescribed Persons under section 7 of the Protected Disclosures Act 2014 reviewed the material submitted by disclosers to them, 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.

Public Interest Consideration

In addition, 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.

3. Unit Resourcing & Training

Like all other business areas within the Garda Síochána Ombudsman, in 2021 the Protected Disclosures Unit continued to struggle to meet the demands for its services through its allocated resources in the reporting period.

Training has been sourced in the year 2021 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 for which Ireland have opted for a direct transposition, this training will now be delivered in 2022 due to the delay in the new Protected Disclosures Amendment Bill publication. Other training was undertaken in 2021 including interviewing, open source investigations and digital media investigations.

4. Legislative Reform

GSOc continued in 2021 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 attended 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.

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 4 meetings virtually again due to restrictions associated with the pandemic and hosted the fourth meeting virtually in Dublin in December 2021 with the Dublin declaration published on the GSOc website.