



Garda
Ombudsman
INQUIRY INDEPENDENCE IMPARTIALITY

GARDA SÍOCHÁNA OMBUDSMAN COMMISSION

2020 ANNUAL REPORT



Ms Helen McEntee TD
Minister for Justice
Office of the Minister
Department of Justice
51 St. Stephen's Green
Dublin 2
D02 HK52

31 March 2021

Dear Minister,

It is with pleasure that I submit to you the fifteenth Annual Report of the Garda Síochána Ombudsman Commission which covers the period 1 January to 31 December 2020. This Report is submitted in accordance with section 80 of the Garda Síochána Act, 2005.

Yours sincerely,



Justice Mary Ellen Ring,
Chairperson

Garda Síochána Ombudsman Commission.

GLOSSARY OF ABBREVIATIONS AND TERMS

(The) Act	The Garda Síochána Act, 2005, as amended, is the principal act governing the functioning of GSOC. This can be seen at: http://www.irishstatutebook.ie/eli/2005/act/20/enacted/en/print .
Admissibility	All complaints are assessed against the criteria listed in section 87 of the Act to decide whether they can legally be admitted for investigation or not.
Advice	This is a sanction, which may be applied by the Garda Commissioner, for breach of the Discipline Regulations – it can be formal or informal.
Allegation	Each complaint is broken down into one or more allegations, which are individual behaviours being complained about. For example, if a person said that a garda pushed them and used bad language, this is one complaint with two separate allegations.
Article 2	Article 2 of the European Convention on Human Rights (ECHR) states that everyone’s right to life will be protected by law.
Complaint	An expression of dissatisfaction made to GSOC by a member of the public, about the conduct of an individual member of the Garda Síochána. A complaint may contain one or more allegations against one or more gardaí. Each allegation against each garda is assessed individually for admissibility.
CoFPI	Commission on the Future of Policing in Ireland
Custody Regulations	Criminal Justice Act, 1984 (Treatment of persons in Custody in Garda Síochána Stations) Regulations, 1987 – regulations related to the detention of people in garda stations. It can be seen at http://www.irishstatutebook.ie/eli/1987/si/119/made/en/print .
Discipline Regulations	The Garda Síochána (Discipline) Regulations 2007, as amended. These can be seen at: http://www.irishstatutebook.ie/eli/2007/si/214/made/en/print .
Disciplinary Action	Sanction which may be applied by the Garda Commissioner following an investigation. There are two levels of action provided for by the Discipline Regulations, relating to less serious breaches and serious breaches of discipline respectively.
Disciplinary Proceedings	These are proceedings that may be instituted by the Garda Síochána following a disciplinary investigation. Recommending the institution of such proceedings is the limit of GSOC jurisdiction. Any sanction arising is a matter for the Garda Commissioner.
DMR	Dublin Metropolitan Region
DO	Designated Officer
DPP	Director of Public Prosecutions
ECHR	European Convention on Human Rights
GSIO	Garda Síochána Investigating Officer
GSOC	Garda Síochána Ombudsman Commission
IO	Investigations Officer

Local Intervention	The local intervention process is aimed at resolving certain service-level types of complaints against members of the Garda Síochána at a local level without the need for the matter to enter a formal complaints process. The process entails nominated Garda inspectors contacting the person making the complaint, establishing what the issues are, and attempting to resolve matters to the complainant's satisfaction.
Median	When numbers are listed in value order, the median value is the number at the midpoint of the list, such that there is an equal probability of falling above or below it.
Member in charge	The member of the Garda Síochána who is designated as being responsible for overseeing the application of the Custody Regulations, in relation to people in custody in the garda station. This can be a member of any rank. The full legal definition and list of duties of a member in charge can be seen in sections 4 and 5 of the Custody Regulations (see above).
Ombudsman Commission	The three Commissioners of the Garda Síochána Ombudsman Commission.
Out of time	A complaint made more than twelve months after the incident being complained of.
PDA	Protected Disclosures Act, 2014
PD/PDU	Protected Disclosures/Protected Disclosures Unit.

GARDA SÍOCHÁNA OMBUDSMAN COMMISSION

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REVIEW OF THE YEAR

Introduction

In the year under review and against the backdrop of the global pandemic, GSOC's central functions of receiving and investigating complaints were maintained without interruption, with the organisation recording a significant increase in complaints received (1,955 in 2020 compared with 1,756 in 2019).

As was the case with other providers of essential services, GSOC adapted its work practices and processes to meet unprecedented circumstances. This enabled GSOC to respond to the increased level of complaints, as well as to continue with the important work of preparing the organisation for the radical transformation which will be required under forthcoming legislation.

While the Policing and Community Safety Bill had yet to be published at the end of 2020, the report of the Commission on the Future of Policing in Ireland (CoFPI), published in September 2018, and accepted by the Government, gave a clear indication of the shape of the future of police oversight. A number of recommendations in the CoFPI report will, when provided for in the legislation, have significant resource implications for the proposed Ombudsman organisation which may succeed GSOC.

Among the changes already initiated by GSOC on foot of the CoFPI report is an increase in the number of investigations, which previously would have been given to senior gardaí to investigate, now being undertaken by GSOC investigators. The number of non-criminal investigations begun by GSOC investigators in 2020 reached 150, compared with 100 just two years previously. This is in line with the CoFPI recommendation that all complaints, with the exception of performance-management matters, should be independently investigated. It is worth noting that the decision to keep a greater number of these investigations 'in house' was only possible because of an increase in the number of investigators employed by GSOC in 2019 and into 2020.

The local intervention initiative, begun as a pilot scheme in 2018 and rolled out nationally in 2019, again produced positive results. The process, designed to resolve less serious, service-level complaints about Garda members outside of the formal investigation process, resulted in 175

complaints being resolved or otherwise closed following local intervention in 2020 (up from 119 in 2019). This had the benefit — for both the complainants and the Garda members about whom complaints were made — of bringing a speedy resolution to complaints without lengthy formal investigation.

The Garda Anti-Corruption Unit was due to become operational at the end of 2020 having been announced by the Garda Commissioner in 2019. GSOC welcomes this positive development. However, it is a matter of concern that this initiative was launched without any consultation with GSOC. This is most unfortunate as investigations into misconduct by either the Garda Síochána or GSOC run the possibility of overlapping. GSOC is of the strong view that the Ombudsman body should be aware of all suggestions of misconduct within the Garda Síochána. To have the Garda Anti-Corruption Unit investigate potential criminal conduct by its colleagues without reference to independent oversight flies in the face of the spirit of the CoFPI report and the basic principle that gardaí should not be investigating themselves without scrutiny. The absence of such independent oversight can only serve to undermine any such investigations. This is a matter to which GSOC will return in 2021.

Notable Events

The terms of two GSOC Commissioners ended on 11 December 2020. Dr Kieran FitzGerald served two terms, a total of nine years, as a Commissioner, and Mr Patrick Sullivan served one term having joined GSOC in 2018. The process of selecting new Commissioners through the Public Appointments Service (PAS) was at an advanced stage by the end of the year, and Ms Emily Logan and Mr Hugh Hume were appointed by the President of Ireland in February 2021.

There was an ongoing focus on recruitment of staff during 2020, with a number of senior positions filled in addition to filling positions throughout the organisation which were sanctioned in 2019 through a mixture of open recruitment and internal promotions. This leaves GSOC in a strong position as we face into 2021 with new Commissioners and a full-strength senior team, as well as being close to our full, sanctioned complement of staff. Internal promotions also took place within GSOC which served to raise morale and also fill vacancies with talented, able and enthusiastic personnel who

continue to work to a high standard on behalf of the organisation and the public. This commitment throughout the year has meant that despite the challenges of a pandemic GSOC has been able to meet its statutory obligations and its service to the public.

The Ombudsman Commission and senior staff engaged with the Department of Justice and Equality during the year in relation to the drafting of the general Scheme of the Policing and Community Safety Bill.

Throughout 2020 GSOC received 43 referrals from the Garda Commissioner under section 102 (1) of the Act. These referrals arise where the conduct of a member of the Garda Síochána may have resulted in the death of, or serious harm to, a person or persons. Not all of these referrals lead to an investigation as the contact with the Garda Síochána may turn out not to have been immediate to the incident in question. Where death is involved, GSOC has regard not only to the incident concerned but also the needs of family members, and a number of GSOC staff act as Family Liaison Officers to assist throughout the investigation. At year's end, on 30 December 2020, a young man, George Nkencho, died after being shot by a member of the Garda Síochána. The death was referred by the Garda Síochána to GSOC in accordance with section 102 of the Act, and a GSOC investigation into the circumstances of the shooting was immediately commenced. This investigation is continuing at the time of writing.

Key Figures

The statistics quoted in this report relate to complaints made to GSOC by members of the public, and referrals made to GSOC by the Garda Commissioner. They do not include allegations of misconduct by gardaí which may have been reported to the Garda Síochána but were not reported to GSOC. The following statistics relate to the workload dealt with by GSOC during 2020:

- 1,955 complaints received by GSOC in 2020;
- 3,089 allegations contained within those complaints;
- 43 referrals from the Garda Síochána of matters where it appears “the conduct of a

member of the Garda Síochána may have resulted in the death of, or serious harm to, a person”;

- 27 files referred to the DPP, resulting in 7¹ directions for prosecution, 14 directions for no prosecution with 7 decisions pending;
- 26 public interest investigations (those investigations undertaken in the absence of a complaint or referral by the Garda Commissioner) were opened in 2020;
- 19 protected disclosures were made to GSOC by members and / or employees of the Garda Síochána;
- 77 sanctions were imposed by the Garda Commissioner on individual gardaí following complaints to and/or investigations by GSOC;
- 56 mandatory child protection referrals, and 107 non-mandatory referrals were made to Tusla.

¹ 1 file resulted in 2 directions for prosecution

RESPONSE TO COVID-19

By late February 2020, it was clear that the COVID-19 pandemic had reached Europe. In light of the risk that the pandemic would pose to GSOC's operations, GSOC convened an early meeting to address the business continuity arrangement required to ensure the provision of the organisation's services in light of possible public health restrictions.

GSOC's functions were deemed to constitute an essential service. As the providers of an essential service, GSOC's priority was to ensure continuity in the taking and investigation of complaints while at the same time safeguarding the health and welfare of GSOC staff, members of the public, and all other people who interact with GSOC.

On the advice of the health authorities GSOC closed its public office in March 2020. In line with public health advice, staff were only required to attend the office where that attendance was necessary to carry out essential duties. At the start of the first lockdown in mid-March 2020, 110 of GSOC's 125 staff were equipped and set up to work remotely with laptops. By early April 2020, laptops for the remaining 15 staff had been procured and all staff in GSOC were equipped to work remotely. As it was not possible to continue to provide a phone service with staff working remotely, this service was suspended for a number of months. An answering service remained in place which allowed members of the public to leave messages which were responded to by GSOC staff on a priority basis. A major upgrade of GSOC's Virtual Private Network (VPN) server, together with necessary adaptations to working, supervision and control arrangements, training and other supports from the Corporate and Human Resource Unit were put in place to mitigate the effects of the pandemic across the organisation and to ensure that GSOC's service to the public could continue in a secure environment.

The closure did not adversely affect GSOC's ability to receive complaints - in fact, the number of complaints received in 2020 was 11 per cent higher than in 2019.

Staff wellbeing has been a major concern over the course of the year. A range of additional protective measures were taken for staff attending the workplace, including the provision of personal protective equipment (PPE) including masks, visors, hand sanitizer, social distancing and contact

measures, additional office cleaning arrangements and the installation of perspex screening. There was a particular focus on staff communications, in addition to training and wellbeing supports, including through the Civil Service Employee Assistance Service, to all staff to assist with wellbeing in the face of changing working arrangements, remote working and the pandemic.

With the lifting of the first lockdown over the course of Summer and Autumn 2020, measures were put in place to facilitate the phased return of staff to the office in line with government and public health advice, through the implementation of blended working arrangements for staff which provide for a combination of working in the office and from home. These arrangements were formalised in a 'Policy and Response Plan for Business Continuity during COVID-19', which details the necessary arrangements for staff to attend GSOC workplaces, while ensuring compliance with the Government Return to Work Safely Protocol, minimising the risk to our staff and others, and providing the best possible service to the public. These arrangements also allowed for the resumption of GSOC's phone lines, however, the public office has remained closed until further notice. Members of the public may still make complaints to GSOC in a number of ways including by email, written correspondence and online.

Since 30 December 2020, when the Government announced the current Level 5 restrictions, GSOC has focused on prioritising the maintenance of essential services which cannot be conducted remotely. Staff attendance in GSOC's offices is being kept to a minimum, consistent with the provision of services which cannot be undertaken remotely, in accordance with Government guidelines.

COVID-19-Related Complaints

It became apparent to GSOC from March 2020 that a number of complaints about people's interactions with members of the Garda Síochána featured COVID-19 and/or the enforcement of COVID-19-related restrictions. These complaints were dealt with in the usual way (see Section 1 for information about admissible and inadmissible complaints). The Ombudsman Commission decided that it would be beneficial to the Garda Síochána to share real-time information about how the public was experiencing or perceiving policing at this time,

thus helping to inform decision-making by the Garda Síochána in relation to additional policing duties with regard to COVID-19. Consequently, information about the number and nature of these complaints was collated and provided to Garda management, in an anonymised format, on a weekly basis to alert them to the issues that were arising and the experiences and concerns that members of the public had about COVID-19 related policing.

In recognition of the increased pressure placed on the Garda Síochána by the pandemic, GSOC agreed to extend the timeframes for completion of disciplinary investigations by Garda Superintendents. The Protocols between GSOC and the Garda Síochána establish these timeframes. GSOC agreed a three month extension in March 2020, and a six week extension in October 2020.

Between March and the end of December, a total of 295 complaints to GSOC mentioned COVID-19. The most common circumstances which gave rise to these complaints were enforcement of travel restrictions and interactions with gardaí at checkpoints. Discourtesy, concerns about social distancing and lack of PPE equipment were the main causes of complaint. As with all complaints to GSOC, these complaints were assessed to see if they met the criteria for admissibility¹. Sixty eight (68) were found to be inadmissible, 50 were admitted for investigation, 24 were still open at the end of the year, and the majority of the remainder did not proceed past the 'query' stage, that is, complainants failed to provide sufficient detail to allow the complaint be considered for admissibility.

¹ Complaints received by GSOC are assessed against criteria set out in the Garda Síochána Act, 2005 to determine if they can be admitted for investigation. See Section 1 for more information on admissibility criteria.

SECTION 1: COMPLAINTS AND INVESTIGATIONS

TOP-LINE DATA

CALLS



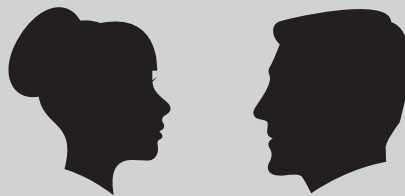
1,132*

calls to lo-call number, answered by caseworkers.



97%

of all calls received were answered within 60 seconds



51*

people were met face to face in our public office and in scheduled appointments

QUERIES



3,908

of these initial contacts were opened in our case management system, initially as queries. Once sufficient information is received, a query's status is upgraded to become a formal complaint.

COMPLAINTS



1,955

complaints were opened in 2020.

3,089

allegations within these complaints (because there can be several allegations in one complaint).

* Data refers to the period 1 January - 11 March 2020 and to a period later in the year when some staff returned to the office. GSOC public office facility was closed from 12 March 2020 due to the COVID-19 restrictions and the facility to talk to caseworkers directly was affected.

COMPLAINTS

Sections 83 to 101 of the Garda Síochána Act, 2005, as amended (“the Act”), set out rules and processes defining how GSOC must deal with complaints.

1.1 VOLUME OF QUERIES

In 2020, caseworkers dealt with **3,908** queries via post, email, and correspondence from Garda stations. Initially each contact is opened on our system as a ‘query’, until we have sufficient information to upgrade it to a complaint and assess it for admissibility.

Due to COVID-19 restrictions, it was necessary to close the GSOC public office facility. In addition, interactions with the public by phone were severely restricted for part of 2020.

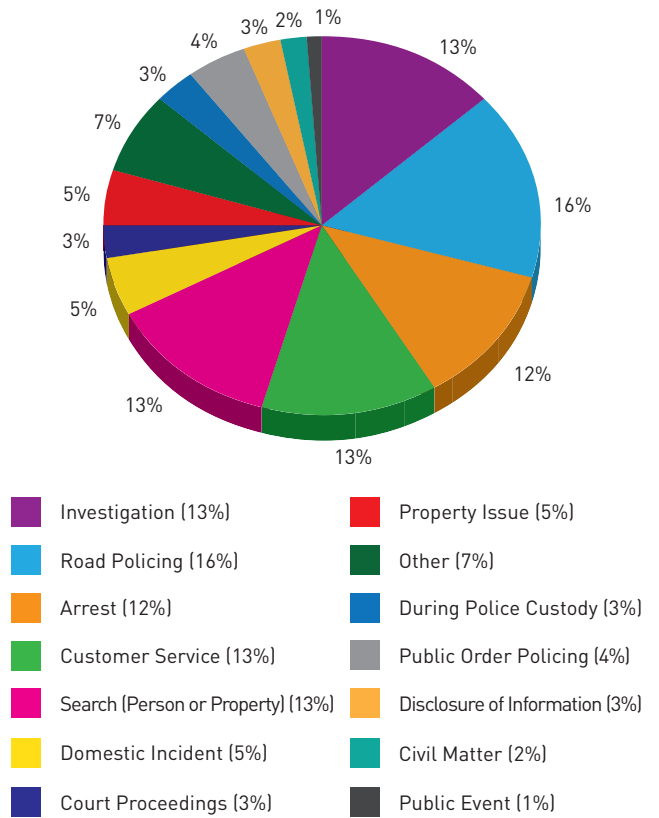
As a result, only **1,132** phone calls to GSOC’s lo-call 1890 600 800 number were answered, a significant decrease on the **4,026** calls received in 2019. Some **97 per cent** of those calls were answered within 60 seconds. Callers to GSOC wishing to speak to caseworkers were advised to leave a contact number so that staff could later return their call.

Caseworkers met **51** people in our public office from January to March 2020. This compared with a total of 290 interactions in the public office throughout 2019.

1.2 VOLUME OF COMPLAINTS AND ALLEGATIONS

A total of 1,955 complaints were opened in 2020, an **11 per cent** increase on the 2019 figure (1,756). While it is difficult to say for certain why the number of complaints increased to the extent that it did, it is likely that increased interaction between members of the public and gardaí tasked with enforcing COVID-19 restrictions was a factor. The 1,955 complaints contained 3,089 allegations - a complaint may contain more than one allegation.

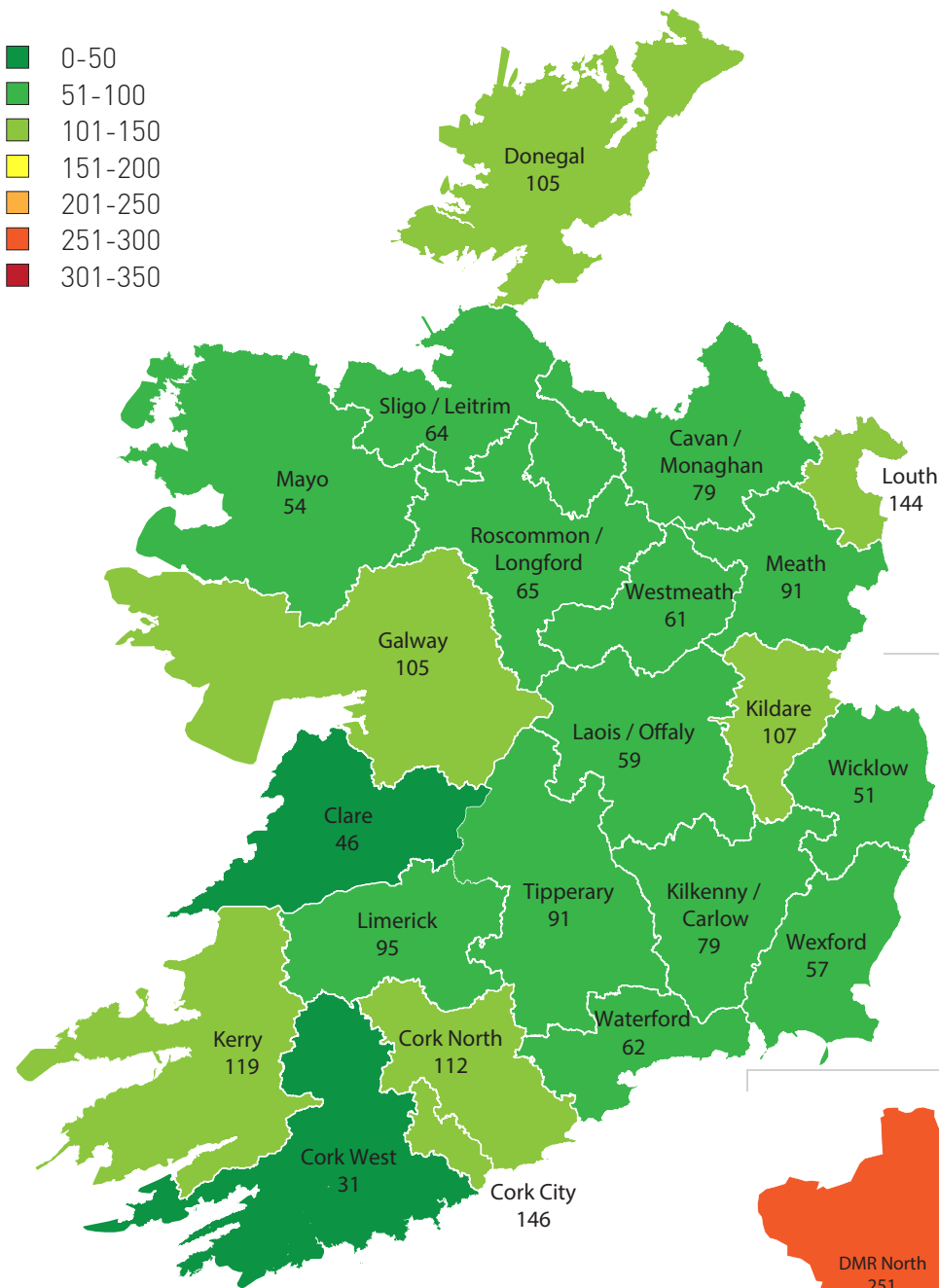
Chart 1: Circumstances of Complaints Received (Total Complaints: 1,955)



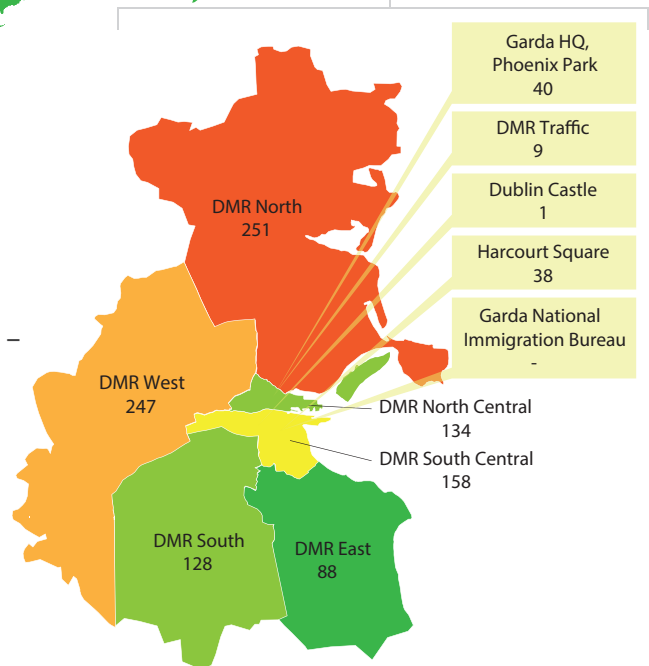
The most common circumstances which gave rise to complaints in 2020 were road policing incidents, the conduct of investigations by gardaí, customer service by gardaí and conduct of gardaí when searching property and/or person.

The maps (on page 13) show the geographical distribution of allegations in complaints made against gardaí in 2020. They show all allegations, those that have been determined to be admissible, those that have been determined to be inadmissible, and those on which admissibility decisions had not been made yet by 31 December 2020. Excluded are 172 allegations for which garda divisions had not yet been established by the end of the year.

Map 1: Allegations by Garda Division
(excluding Dublin Metropolitan Region)



Map 2: Allegations by Garda Division – Dublin Metropolitan Region (DMR)



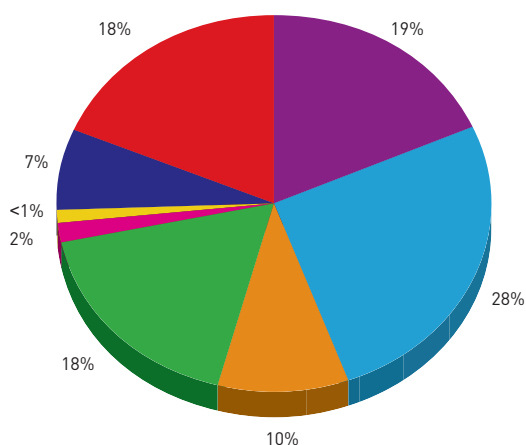
The greatest number of allegations were recorded against gardaí in the Dublin Metropolitan Region (DMR), as could be expected given the population and police activity in the capital. The highest numbers came from DMR North with 251 allegations and DMR West with 247 allegations. In 2019, DMR North and DMR South Central had the highest number of allegations.

Outside the DMR, Cork City and Louth respectively were the divisions with the highest number of allegations made against gardaí in 2020.

1.3 WHAT PEOPLE COMPLAIN ABOUT

The matters about which people complain to GSOC tend to be similar year on year.

Chart 2: Allegation Types in Admissible Complaints (Total Allegations: 2,339)



- Abuse of Authority (19%)
- Neglect of Duty (28%)
- Discourtesy (10%)
- Non-Fatal Offence e.g assault (18%)
- Falsehood & Prevariation (2%)
- Road traffic infringement (<1%)
- Other (7%)
- Awaiting allegation type decision (18%)

Chart 2 shows that the most common matters about which people complain are:

- Neglect of Duty – allegations that a garda failed to take an action that could have been reasonably expected – such as, at one end of the scale, returning a phone call, or properly investigating an alleged serious crime at the other - would be typical examples of ‘neglect of duty’.
- Abuse of Authority – excessive use of force, or an instruction to do something which the person making the complaint believes was beyond the garda’s authority to instruct, are

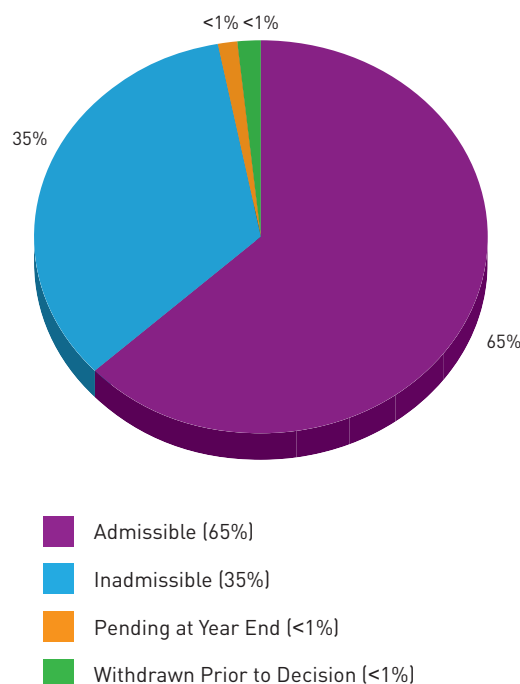
the main types of allegation categorised as ‘abuse of authority’.

- Non-Fatal Offences – these are allegations of a criminal offence listed in the Non-Fatal Offences Against the Person Act, 1997 and include, for example, assault.
- Discourtesy – complaints around how a garda spoke to or behaved towards a person.

1.4 ADMISSIBILITY

All complaints received by GSOC are assessed against criteria listed in the Garda Síochána Act, 2005 to determine if they are admissible. If they meet those criteria, they can be dealt with by GSOC; if they don’t, they are deemed inadmissible.

Chart 3: Complaint Admissibility Decisions (Total Complaints: 1,955)



- Admissible (65%)
- Inadmissible (35%)
- Pending at Year End (<1%)
- Withdrawn Prior to Decision (<1%)
- Pending at Year End (<1%)

How do we decide if a complaint is ‘admitted’ for investigation?

According to section 87 of the 2005 Act, we can admit a complaint if it:

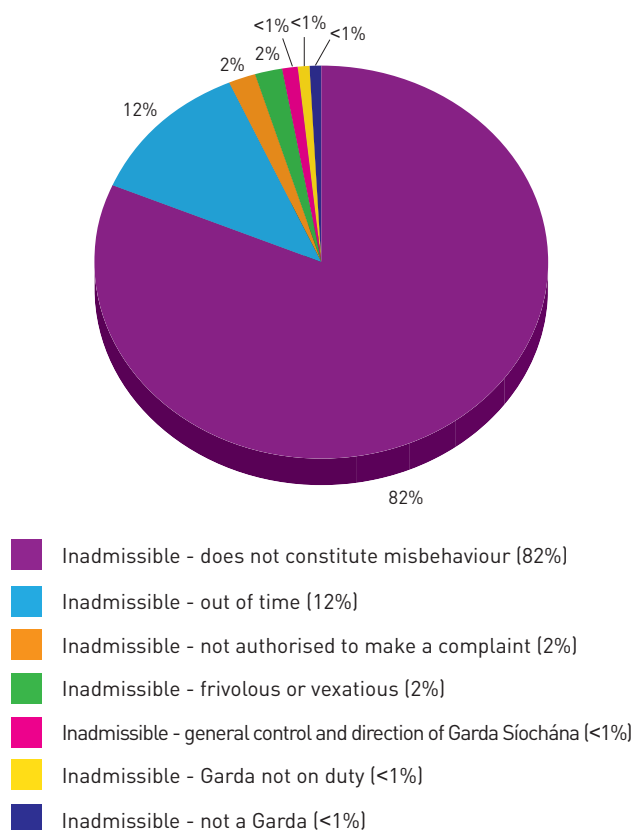
- is made by (or, in certain circumstances, on behalf of) a person who is directly affected by, or who witnesses, the conduct subject of complaint; and
- is about behaviour which would, if proven, constitute a criminal offence or a breach of Garda discipline by a member of the Garda Síochána; and

- **is** made within the time limit of within one year of the incident which is the subject of the complaint; and
- **is not** frivolous or vexatious; and
- **does not** relate to the general direction and control of the Garda Síochána by the Garda Commissioner; and
- **does not** relate to the conduct of a member of the Garda Síochána while the member was off-duty, **unless** the conduct alleged would, if proven, be likely to bring discredit on the Garda Síochána.

1.5 INADMISSIBLE ALLEGATIONS

In 2020, 687 of the complaints received were deemed to be inadmissible, as none of the allegations (746 in total) fulfilled the admissibility criteria laid out in the Act. The chart below shows the reasons.

Chart 4: Reasons for Inadmissibility of Allegations in Inadmissible Complaints (Inadmissible Allegations 746)



The most common reason—in the case of **615** allegations—was that, even if proven, the alleged

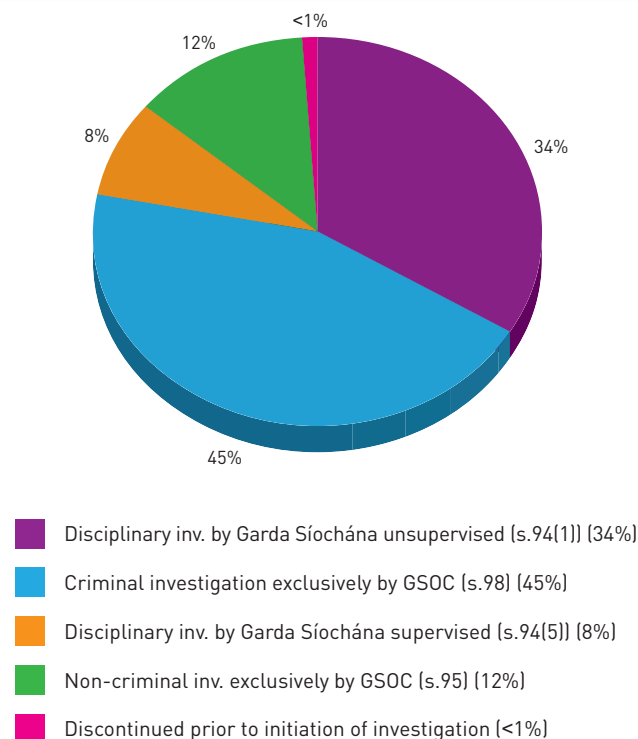
behaviour would not be a crime or a breach of the Discipline Regulations.

The second most common reason not to admit a complaint for investigation was because the allegation(s) were outside the time limit—12 months after the date of the conduct complained of—specified in section 84 of the Act. In 2020, **89** allegations were determined to be inadmissible for this reason. While GSOC has some discretion to admit complaints outside the specified time period, there is a practical reason for a time limit in the majority of cases; the more time that has elapsed between the incident and the complaint, the more difficult it is to conduct an effective investigation which involves preserving evidence, finding potential witnesses, and securing accurate statements.

1.6 ADMISSIBLE COMPLAINTS

In 2020, 1,264² complaints (containing at least one admissible allegation) were received and admitted for investigation and dealt with in one of five ways. The chart below details the type of investigations opened in 1,264 of these cases. Note: 4 cases which were initially deemed admissible were discontinued before an investigation began.

Chart 5: Investigations Opened by Type (Total Complaints Admitted for Investigation: 1,264)



2 In addition to the 1,264, 2 cases were deemed admissible but were withdrawn prior to an investigation decision being made, and 2 cases were admitted and were awaiting investigation decisions at the end of the year.

Chart 5 shows how each admitted complaint was initially dealt with. This can change during the lifetime of the case. For example, an unsupervised disciplinary investigation can be escalated to a supervised investigation or to a non-criminal investigation undertaken by GSOC investigators. Once the criminal aspects of a complaint have been investigated, any non-criminal aspects may then be examined and/or investigated.

1.6.1 Criminal Investigations

Criminal investigations by GSOC are conducted in accordance with section 98 of the Act. All allegations of criminal offences by gardaí (for example assault) are investigated by GSOC's own investigators. As a result of complaints received in 2020, **572** criminal investigations were opened.

1.6.2 Disciplinary Investigations

There are **three** ways allegations of breaches of discipline can be handled:

- **Unsupervised disciplinary investigations** (under section 94 (1) of the Act) are conducted by Garda superintendents in line with the Garda Discipline Regulations. The Protocols³ between GSOC and the Garda Síochána require that unsupervised investigations must be completed and a final report issued to GSOC within 16 weeks. There were **432** such cases opened in 2020. This compares with 405 in 2019 and 598 such investigations opened in 2018. An example of the kind of case that is investigated in this way is an allegation that there was abuse of authority in the manner in which an arrest was conducted. The significant decline in these investigations in 2019 and in 2020 compared with previous years reflects the introduction of the Local Intervention process. This process, introduced as a pilot scheme in 2018 and rolled out nationally in 2019, allows for the resolution of some complaints at a local level; complaints resolved in this way do not become the subject of the type of formal investigation described in this section. The

Local Intervention process is described in detail in section 4.

- **Supervised disciplinary investigations** (under section 94(5) of the Act) are also conducted by Garda superintendents but are supervised by GSOC investigators who meet with the Garda superintendents to agree an investigation plan. The GSOC investigator can direct and partake in the investigative actions, and must receive interim reports. Supervised investigations are appropriate in more serious allegations of neglect of duty, for example, lack of, or insufficient, investigation of a serious crime reported to gardaí. The Protocols between GSOC and the Garda Síochána require that supervised disciplinary investigations must be completed and an investigation report provided within 20 weeks. There were **106** such cases opened in 2020.
- **Non-criminal investigation** by GSOC (under section 95 of the Act) – Certain cases which do not appear to involve criminal offences, but which may involve disciplinary and/or systemic matters, are investigated by the Garda Ombudsman's own investigators. This includes, for instance, disciplinary investigations which follow on from criminal investigations. There were **150** such cases opened in 2020. This compares with 100 such investigations opened in 2018, with the increase reflecting GSOC's commitment to start giving effect to a recommendation by the Commission on the Future of Policing in Ireland (CoFPI) that GSOC's successor body should not give complaints back to the Garda Síochána for investigation. The increase in staff numbers in GSOC since 2019 facilitated this move towards conducting more non-criminal investigations.

3 Protocols are an agreed document between the Garda Síochána Ombudsman Commission and the Garda Síochána on operational matters. This requirement was set out in the Garda Síochána Act, 2005.

Case summary

A garda was found to be in breach of discipline for failing to investigate an alleged assault and failing to provide any information about the investigation to the victim.

A person alleged he was assaulted in a nightclub and gardaí attended the scene. The victim of the alleged assault complained to GSOC that a garda who attended at the scene had failed to investigate the incident, failed to take a statement, was unresponsive to the complainant's correspondence, and only responded once the complainant engaged a solicitor to correspond on his behalf.

The complaint was admitted and a disciplinary investigation was commenced under section 94 (1) of the Garda Síochána Act where a Garda Síochána Investigations Officer (GSIO) was appointed to investigate.

The GSIO interviewed the complainant and also obtained a record of the incident from PULSE. There were no records of the complainant's attempts to contact the member, and the complainant was not able to provide details of any of the alleged calls they made.

The GSIO also interviewed the garda member in question. The garda member said that the complainant was intoxicated at the time of the incident and made no allegation of assault at the scene and that the assault allegation was not made until five months after the incident. Also, the garda member said that staff at the venue, who the garda spoke to on the night of incident, indicated that he may have injured himself.

The garda member said that there was no CCTV footage available of the location where the complainant suffered his injuries. He denied receiving correspondence from the complainant, and said that he had called the solicitors' office but did not receive a return call. The garda admitted however, that he did not take a statement despite telling the complainant at the time of the incident that he would.

» The GSIO said that under the 'best evidence' rule, the garda should have taken witness statements from the staff, obtained any CCTV available inside the nightclub and taken statements from other parties involved in the argument with the complainant—but none of this was done. The GSIO also decided the communication from the garda member to the complainant fell short of what would be reasonably expected. The garda was found to be in breach of the Discipline Regulations for two counts of neglect of duty for failing to investigate the alleged assault, and for failing to provide appropriate information about the investigation to the complainant. The garda received a monetary sanction and caution.

Case summary

A member of the public made a complaint to GSOC about how she was treated when she was giving a voluntary cautioned statement about a road traffic collision for which the other driver had accepted liability.

The person complained that the garda taking the statement would not record her opinion that the other party had been drinking, and she said that giving the statement felt more like an interrogation.

A senior garda (GSIO) was appointed to conduct a disciplinary investigation. The GSIO interviewed the garda member who admitted he was discourteous towards the complainant. He admitted that he used inappropriate language while he took the statement from the complainant. When asked about interrupting the complainant during the statement, he stated that he was seeking clarification during the course of the interview, and that this was normal procedure.

The GSIO concluded that the garda was in breach of the Discipline Regulations for discourtesy towards the complainant. The garda's admission was taken into account, and he was sanctioned by way of a caution. »

Case summary

A garda was sanctioned for neglect of duty after an investigation found that the garda failed to keep a family informed about a case, and failed to follow through on directions from the District Officer following a serious assault.

The allegation of assault was reported to the Garda Síochána by a parent on behalf of a minor. A further report was notified to gardaí of alleged intimidation by the perpetrators to stop the charges been brought against them.

One person was charged in connection with the assault. A second person was given an adult caution.

A complaint was made to GSOC as the parent felt she was not kept informed by the investigating garda—she had sought information on why other people allegedly involved in the assault were not prosecuted, and failed to get this information.

A Garda superintendent was appointed to conduct a supervised investigation – that is, an investigation supervised by a GSOC investigations officer.

The investigation found that following the allegation of assault, four people were identified as suspects. The investigating garda recommended that all four be prosecuted for the assault. However the Director of Public Prosecution (DPP) recommended a prosecution against one individual. Prior to the direction from the DPP, an alleged intimidation campaign was instigated by the suspects. One individual was interviewed about the alleged intimidation and provided a 'no comment' interview. The garda recommended no prosecution in relation to the intimidation allegation, stating there »

» was no evidence. But the Sergeant in Charge said that the individual was unsuitable for adult caution and should be prosecuted. The Superintendent agreed with this. Several attempts were made by the garda to arrange an appointment with the individual to charge the individual but each was unsuccessful.

The garda subsequently administered an adult caution even though the person had several convictions—adult cautions⁴ should only be administered to people who have no previous convictions. It is also a feature of the adult caution scheme that the views of the victim should be sought, and the views were not sought in this case. When the parent was notified about the adult caution she expressed her unhappiness.

The garda was found to be in breach of the Garda Síochána (Discipline) Regulations 2007 for failing to prosecute one individual when directed to do so by the District Officer which it was the garda's duty to do, failing to keep the family informed or seek their views before administering an adult caution, and failing to keep the family informed of the progress throughout the garda investigation. The sanction imposed by the Garda Commissioner was a warning on three counts.

Case summary

A garda member was sanctioned for failing to investigate a minor road traffic collision. The collision was reported to the local garda station but the garda member who took the report failed to investigate it in a timely manner.

The collision occurred in a retail outlet carpark while the owner of the vehicle was in the store. The perpetrator left the carpark leaving »

4 Adult Caution - The decision to administer an adult caution rather than initiate a prosecution is one for the local Garda superintendent (or Garda inspector acting as the District Officer). The administration of an adult caution requires the person accused of an offence accepting responsibility for the behaviour in question, and a warning (caution) that any future behaviour of a similar criminal nature will likely result in prosecution. The offender must be deemed suitable for cautioning and often those without previous convictions will be deemed eligible for an adult caution. A person should ordinarily receive an adult caution once. Before the adult caution is administered the views of the victim should be sought and considered.

» no contact details. The owner of the vehicle immediately reported the collision to the local garda station. The owner of the vehicle took a picture of the damage and provided it to the garda with contact details to retrieve the carpark CCTV footage. The garda assured the owner they would be in contact in a week with some information.

When no contact was received from the garda, the owner contacted the garda station and spoke with him. The garda explained he had made no progress with the collision as he had lost all the information the vehicle owner had passed on.

The owner provided the information again, but again some time passed with no contact from the garda. The owner of the vehicle subsequently contacted the security company and queried if the garda was in touch to view the footage. The security company said the garda did not contact them until five weeks after the collision and by then, the footage was no longer available.

The owner of the vehicle complained to the Garda Síochána about the lack of investigation being carried out. Gardaí referred the complaint to GSOC under section 85 of the Garda Síochána Act, 2005 and the complaint was deemed admissible. A Garda Síochána Investigating Officer (GSIO) was appointed to investigate under section 94 (1) of the Garda Síochána Act, 2005.

The GSIO established that the garda did not make a PULSE incident report for the incident until five weeks after the incident and failed to retrieve the CCTV footage in a timely manner. The garda was found to be in breach of the Garda Síochána (Discipline) Regulations 2008 on two counts of neglect of duty - the sanction imposed was a warning.

Case summary

A garda was sanctioned for neglect of duty for failing to immediately inform a member of the public that her car was recovered a few days after it was stolen. The car owner incurred costs hiring a car and was unhappy with the lack of communication.

The car was stolen from outside the person's home and when she reported the theft to gardaí she was dealt with promptly and efficiently. The woman then reported the stolen car to her insurance company which would only officially classify the car as stolen after 14 days. For those 14 days, the insurance company provided the woman with a courtesy car, and the complainant had to hire a car at her own expense after these 14 days expired. While awaiting a call from her insurance company one day, she received a call from the recovery company which were in possession of her own car and said it was available to be picked up. The woman was unaware her car had been recovered until the recovery company informed her. They also informed her the car was discovered four days after it was stolen. The complainant said she was never informed by the Garda Síochána.

The complaint was made to GSOC and deemed admissible. A Garda Síochána Investigating Officer (GSIO) was appointed to investigate under section 94 (1) of the Garda Síochána Act, 2005.

When the garda, who was notified of the car being found, was interviewed for the investigation, he said he did not call the complainant when the car was discovered because it was the middle of the night. It was also the garda member's understanding that the garda member who took the initial report of the stolen vehicle from the complainant would report the finding of the car to the complainant. The garda member admitted the breach of discipline.

The garda was found in breach of discipline for neglect of duty in failing to inform the complainant her stolen car had been located. The sanction imposed by the Garda Commissioner was a caution.

Case summary

A garda was sanctioned after a woman alleged that a garda was discourteous to her at a COVID-19 checkpoint.

The complainant runs an animal sanctuary and while travelling to buy animal feed she was stopped at a garda checkpoint and questioned about the reason for her journey. When she told the garda the reason for her journey, she was told that it was unnecessary as there were other stores closer to her home.

When the woman explained that the food was needed for the sanctuary, she said that the garda responded 'I have a dog, I can sort out your cats for you'. The woman was shocked at this response and went straight home. She later called the garda station and reported the incident. Later that day the woman received a call from the garda she had dealt with at the checkpoint. The garda explained to the woman he was only advising her to stay safe. When asked for his badge number, the garda allegedly kept repeating his name and asking would he spell it out for her. She ended the call shortly afterwards as she felt the garda was being discourteous towards her.

The woman subsequently made a complaint to GSOC and it was deemed admissible. A Garda Síochána Investigating Officer (GSIO) was appointed to investigate under section 94 (1) of the Garda Síochána Act, 2005.

When the garda was interviewed for the investigation, he said he was not discourteous or threatening and felt the woman was misrepresenting the nature of their interaction. The garda explained he was obliged to explain to the woman the penalties for making unnecessary journeys which the garda believed the complainant had taken. The garda also refuted the comments implying he would feed her cats to his dog. The garda stated he was merely making conversation with her that he too owned a pet.

The garda was found to be in breach of the Garda Síochána (Discipline) Regulations 2008 for one count of discourtesy – the sanction given was a warning.

Case summary

A garda was found in breach of discipline for failure to record a road traffic incident in a timely and complete manner on the PULSE system. The finding followed an investigation into a complaint by a man who alleged he was arrested without reason when carrying out deliveries.

The man told GSOC he was temporarily blocking an entrance while unloading his truck to deliver goods one busy morning. The driver stated he was parked in the bus lane while unloading his truck. A number of cars were honking their horns while he was unloading. He was approached by a man shouting to 'give me the keys to the truck'. The driver refused and said he was calling the guards. It was at this point the male who approached him said he was a garda. He was not in uniform, was driving an unmarked garda car and did not present any identification. The garda refused to show his badge and told the truck driver 'you are going to jail buddy'. The garda subsequently arrested the truck driver for dangerous parking.

A complaint was made to GSOC and it was deemed admissible. A Garda Síochána Investigating Officer (GSIO) was appointed to investigate. The GSIO investigating on behalf of GSOC interviewed the garda who, when questioned, stated that when he approached the truck he had activated blue lights on the unmarked garda vehicle, identified himself as a garda and asked the driver what permission he had to cause an obstruction on the road during rush hour traffic.

The garda requested assistance as the driver was shouting at him and when assistance arrived he arrested the driver for dangerous parking contrary to section 55 of Road Traffic Act, 1961. The truck was subsequently left in the same position for the remainder of the day until the driver was released from the garda station.

The GSIO established that the manner of parking by the truck driver did not amount to dangerous parking. Normal traffic was »

» not affected, and pedestrian traffic was also unaffected by the truck. But the bus lane was blocked and an entry was obstructed, and this amounted to obstruction. Section 55 of the Road traffic Act, 1961 does not provide a power of arrest for obstruction. The incident was not properly recorded on the PULSE system until three months after the incident, and in addition, no prisoner log was recorded.

The garda accepted he should have recorded the incident on PULSE.

The garda was found to be in breach of the Garda Síochána (Discipline) Regulations 2008 for failure to record the incident on the PULSE system – the sanction given was a caution.

Case summary

A garda was found to be in breach of discipline for neglect of duty in relation to the way he dealt with a hit-and-run incident.

A member of the public made a complaint to GSOC about a failure on the part of a garda member to investigate a hit and run incident that resulted in severe damage to the complainant's motorcycle. He said the only contact he received from the garda member was a phone call requesting that he not make an insurance claim—this call came several months after the incident and after the insurance company had already undertaken an assessment.

The investigating garda, he alleged, asked him not to pursue action against the individual responsible as he (the individual responsible) seemed like a 'genuine person' and did not realise that he hit the motorcycle. The complainant stated that his premium increased as a result of the lack of cooperation by the garda member. He also wrote a letter to the superintendent at the member's station outlining the matter. »

» The complaint was investigated under section 94(1) of the Garda Síochána Act and a Garda Síochána Investigation Officer (GSIO) was appointed to investigate.

When interviewed the garda involved admitted to the breach. He said he did review the CCTV footage when he received it. He said that when he interviewed the person involved in the incident, the person was apologetic and offered to pay. The garda admitted that initially he did not put the incident on PULSE as he was under the impression that the bike had blown over. He claimed that the complainant had overstated the damage to the motorcycle and that the garda also never received any correspondence from the insurance company.

Taking into account that the garda member failed to record the incident and failed to submit an investigation file, the GSIO decided that the member was in breach of the Discipline Regulations for neglect of duty. The penalty imposed was a monetary sanction.

Case summary

A garda was found to be in breach of discipline for failing to properly investigate an incident involving a collision between a pedestrian and a cyclist.

A man was rushing to get to his illegally-parked car after spotting a garda, and he collided with a cyclist on the footpath. When he got up, the garda said he would give him a ticket for the parking offence and the man asked the garda to investigate the collision with the cyclist.

The complainant did not take any contact details for the garda member and had to wait until the parking ticket arrived. In the meantime, the complainant found witnesses to the collision and obtained CCTV from a local business. Once he received the parking ticket he rang the garda in question. According to the »

» complainant, the garda said the investigation could not progress as there were no witnesses or CCTV evidence, and that as the investigation could not progress he no longer had the details of the cyclist.

The man made a complaint to GSOC which was admitted for investigation under section 94 (1) of the Garda Síochána Act. A GSIO was appointed to investigate.

The GSIO interviewed two witnesses who were working in the area and confirmed that the complainant had been hit by the cyclist. The garda member who had attended the incident was also interviewed by the GSIO. He said that he did not witness the collision and that the complainant had told him that the cyclist had “nearly” knocked him down.

He believed that no offence was committed, and he told the complainant that he cautioned the cyclist. The garda said that he had asked the same local business for the CCTV footage, but he did not receive this. The garda also said he asked other businesses in the area but no other CCTV evidence was recovered. The garda member acknowledged that he should have taken the cyclist’s details and that he regretted not taking witness statements which potentially could have led to prosecution of the cyclist.

The member in question was found to be in breach of discipline for not fully investigating the matter. He was found to have taken some investigative steps, however he unsuccessfully sought CCTV footage and failed to record the details of the cyclist. The manner in which the garda admitted to the shortcomings in the investigation and his previous good record were taken into account by the GSIO and he was sanctioned by way of a caution.

Case summary

A person complained to GSOC that a garda had abused her powers by phoning the complainant and advising her to hand over her child’s »

» passport to the child’s father. This was after the father had attended the garda station seeking assistance with the matter. The complainant said that this was not in keeping with a court order. Following the complainant’s first conversation with the garda, she received a phone call from the garda informing her that the passport would be handed over. The complainant alleged that the garda intended to call a different person, the father’s new partner, who was a friend of the garda’s.

The complainant believed that the garda acted inappropriately on behalf of a friend.

A senior garda was appointed to conduct a disciplinary investigation into the complaint in accordance with section 94 of the Garda Síochána Act 2005. The Garda Síochána Investigation Officer (GSIO) identified three possible breaches of discipline; two counts of discreditable conduct, one of making the phone call regarding a family law matter, and one of making the call from a mobile number while on duty, and a breach related to the submission of a report by the garda to her supervisor outlining that she (the garda) did not have contact with the complainant or her ex-partner following the initial phone call with the complainant.

When interviewed, the garda said that she did not know the complainant’s ex-partner (the child’s father) before he came into the station, and she denied the allegation of discreditable conduct in intervening in a family law matter. The garda stated that she mediated between the two parties and believed she had resolved the matter to everyone’s satisfaction. The garda also denied any allegation of falsehood in the report filed with her supervisor, and said that she had no further contact with the complainant or the complainant’s ex-partner following the day she had mistakenly phoned the complainant. But the garda admitted to one breach, namely that she used her mobile phone while on duty and mistakenly phoned the complainant. She said she had intended to phone the complainant’s ex-partner, and when she realized her mistake she hung up the phone. »

The GSIO was satisfied that the garda member had acted in good faith in mediating in the situation and did not set out to intentionally mislead her supervisor in her report. It was recommended by GSOC, which received a report from the GSIO following the investigation, that disciplinary proceedings be brought against the garda member for the charge of discreditable conduct to which she admitted. The garda received a monetary sanction.

Case summary

A member of the public made a statement to gardaí regarding physical and sexual abuse that she and another family member had suffered at the hands of her father a number of years ago. She made a complaint to GSOC when she discovered five years afterwards that the Garda Síochána did not follow up on the statement she had made. The complaint was admitted and a GSOC investigations officer was appointed to undertake a disciplinary investigation under section 95 of the Garda Síochána Act, 2005

The complainant said that five years after she made a statement to gardaí alleging sexual and physical abuse by her father, gardaí finally got in touch, but only after the other victim queried the progress of the investigation. A garda superintendent apologised to her and said that an investigation would go ahead from that day. The superintendent also recommended that she and the other victim make a complaint to GSOC. Following the garda investigation into the allegations against her father, a file was sent to the DPP and a decision was made not to charge her father.

The GSOC investigation found that a statement was taken from the complainant and the other family member in 2010, and the complaint and documentation was forwarded to a garda station in the part of the country where the alleged incidents of abuse occurred. However, when GSOC submitted a request for the documentation on the 2010 investigation from Garda Síochána, no file was available as the matter was not fully investigated. »

» Four garda members in this garda station were found to be in possible breach for neglect of duty. Three of these members had since retired and, as a result, were no longer subject to disciplinary regulations. The fourth member was on leave during the GSOC investigation and failed to respond to correspondence with GSOC when offered an opportunity to forward a submission in relation to the investigation. Correspondence from 2010 showed that this garda member had requested further witness statements be provided, however, no further correspondence followed this.

Following a GSOC investigation into garda misconduct, it was recommended that the garda who was still serving at the time of the GSOC investigation would be disciplined for Neglect of Duty. A monetary sanction was imposed.

1.6.3 Outcomes of Investigations

1,724 complaints containing 2,813 allegations were closed in 2020.

Of these, 1,017 complaints containing 2,046 allegations were admitted and investigated (the remainder were closed following inadmissibility, withdrawn prior to admissible decision or closed following the failure of the complainant to engage).

While the 1,017 complaints all contained one or more admissible allegations, 57 of the allegations contained in them were inadmissible, so these were not investigated. In total 1,989 allegations were investigated and the outcomes are described in Table 1.

Table 1: Outcomes of complaints closed in 2020

Outcome/ Reason	Explanation	Type of investigation concerned	Number of allegations
Discontinued - Further investigation not necessary or reasonably practicable	The most common scenario here is that an investigation is discontinued because there is no independent evidence to prove an allegation.	All types	1,046
No breach of the Discipline Regulations identified	The allegations were investigated and the garda whose conduct was complained of was found to have acted correctly.	Disciplinary investigation by the Garda Síochána (s.94 ⁵) or by GSOC (s.95)	439
Allegation withdrawn	The person who made the complaint indicated that they would not pursue it.	All types	187
Non-cooperation by the complainant	The complainant failed to engage with investigation.	All types	40
Breach of Discipline Regulations identified and sanction applied	A range of sanctions may be applied depending on the gravity of the breach found (see Table 2). The identification of the specific breach and any sanction to be applied is a matter for the Garda Commissioner under the Discipline Regulations.	Disciplinary investigation by the Garda Síochána (s.94) or by GSOC (s.95)	77
No misbehaviour identified following criminal investigation	The most common scenario here is that there is no independent evidence to prove the allegation(s) made.	Criminal investigation by GSOC (s.98)	177
Garda Discipline Regulations no longer apply	The garda subject of a disciplinary investigation retired or resigned prior to, or during, the investigation.	Disciplinary investigation by the Garda Síochána (s.94) or by GSOC (s.95)	6
Referred to the DPP - No Prosecution Directed	If there is evidence that an offence may have been committed following criminal investigation, the case is referred to the DPP, who decides whether or not to prosecute. In certain cases, the Ombudsman Commission may refer a case to the DPP to ensure full transparency and public confidence. <i>(See further detail in Section 5)</i>	Criminal investigation by GSOC (s.98)	13
Referred to the DPP – Prosecution Directed	The DPP made a decision based on the evidence to direct a prosecution resulting in a trial <i>(See further details in Section 5)</i> .	Criminal investigation by GSOC (s.98)	4*
TOTAL OUTCOMES			1,989

* This figure refers here to the number of files, arising from complaints, which were sent to the DPP and for which the DPP directed prosecution. Trials in relation to these cases may not yet have taken place.

5 Either supervised or unsupervised investigations.

Discontinued Cases

A large number of investigations are discontinued by GSOC every year for a variety of reasons. Cases are sometimes discontinued because a complainant withdraws the complaint or decides not to cooperate, or because an initial examination finds the complaint has no merit. Sometimes, despite a considerable amount of work having been done, including statements taken and witnesses interviewed, there may be no independent evidence which would prove or disprove the allegation. Cases are discontinued when it becomes apparent that further investigation is not necessary or reasonably practicable.

Among the investigations discontinued in 2020 were:

- GSOC received a complaint from a man who alleged money went missing from his account and garda members had allegedly instructed the bank not to return the money. The complaint was deemed admissible and a disciplinary investigation was initiated. A senior Garda officer appointed to investigate made several attempts to contact the complainant to obtain a statement but to no avail. The complaint was discontinued due to non-cooperation by the complainant.
- A woman complained to GSOC that when she went to get her car which had been reported stolen and subsequently recovered by gardaí, she found the car had been destroyed. Gardaí recovered the car a few days after it was reported stolen, but the garda concerned was unable to contact the woman to inform her as she had left the jurisdiction for a month.

Upon her return she contacted the investigating garda and was informed her car was currently at a recovery yard. The woman went to retrieve the vehicle and found it had been crushed 'on instruction from the guards'. The garda concerned said that he had made. »

- » numerous efforts to contact the woman. However he made no record of these attempts on the on PULSE. The woman also alleged that she tried to contact the garda several times by email, but there was no record of such emails. The garda denied telling the recovery company to crush the vehicle

The recovery company confirmed they sent correspondence by registered post to the woman notifying her the vehicle could be reclaimed but got no response. It was discovered during the investigation that this letter had issued to the wrong name but correct address, and the complainant said she did not receive it. The recovery company also confirmed they spoke to a second garda member who tried to call the complainant and sent a patrol car to her home but were also unsuccessful in contacting her. An advert was placed in the local newspaper of the recovery company's intent to crush vehicles. The company stored the vehicle for 21 days and when there was no contact from the registered owner the vehicle was crushed. The investigation was discontinued on the basis that the responsibility to crush the vehicle lies with the recovery company, not the Garda Síochána and the failure to make contact with the complainant could not be independently corroborated.

- A member of the public made a complaint to GSOC that he was searched by gardaí, while driving, on an excessive number of occasions. He said that on one occasion his car was seized and impounded, without a valid reason, which had inconvenienced him as he had to take a day off work. The complaint was designated for a disciplinary investigation under section 94(1) of the Garda Síochána Act 2005, and a Garda Síochána Investigating Officer »

» (GSIO) was appointed to investigate. The GSIO spoke to the garda who impounded the vehicle. The garda said he had stopped the complainant due to the manner of his driving, and at this point he noted that there was no insurance disc on the windscreen. He said that he searched the vehicle because the complainant appeared to be trying to evade gardaí, and he refused to allow gardaí to search the vehicle with consent, and this was in an area that had a serious drug problem. The garda said that this was the only time he had stopped the complainant. Garda records indicated he had only been stopped by gardaí once previously. As the complainant failed to make any appointment to give a statement, and was uncooperative, the GSOC recommended the investigation be discontinued.

- A complaint was made to GSOC by a person who alleged that gardaí had failed to progress the investigation into the theft of his bicycle, despite giving undertakings to him that they would. A Garda Síochána Investigating Officer (GSIO), appointed to investigate his complaint, examined the garda records on this matter, which showed that a garda had taken details of the stolen bicycle, and the circumstances around the alleged theft, and had requested CCTV footage from the building where it was stolen. The garda who had been investigating the matter said she could not identify the person who had stolen the bike from the CCTV footage, and she had informed the complainant that the investigation could not be progressed any further—but that if any further information came to light, he would be informed. The GSIO made several unsuccessful attempts to contact the complainant, but when he was contacted, he said in no longer lived in the country and now wished to withdraw his complaint. The case was discontinued.

Reviews of Disciplinary Investigations

If a complainant is dissatisfied with the result of an unsupervised investigation undertaken by a Garda Superintendent, section 94(10) of the Act provides that they can request that a GSOC officer review the matter. In these reviews, GSOC's role is to establish if the investigation was comprehensive enough and the outcome appropriate.

GSOC does not have the power to substitute the decision or finding with a new decision. GSOC provides a report to the Garda Commissioner where concerns in relation to how the investigation was conducted and/or its outcome arose. As the disciplinary process has been concluded in these cases, the case cannot be re-opened or the outcome changed. It is hoped that the feedback may contribute to a reduction in the occurrence of similar issues in future investigations.

GSOC received **32** requests for review in 2020 (in relation to investigations completed in 2020 or other years), of which **26** were completed by year end and **6** remained open.

Sanctions

Should an investigation by the Garda Síochána under section 94 (either supervised or unsupervised) or by GSOC under section 95 find evidence of a potential breach of the Discipline Regulations by a garda, the Garda Síochána makes a decision on whether or not there has been a breach. A range of sanctions may be applied, depending on the gravity of the breach found. Sanctions are a matter for the Garda Commissioner. The sanctions applied in 2020, following decisions of a breach of discipline, are set out in Table 2.

Table 2: Sanctions applied by the Garda Commissioner in 2020, following disciplinary investigations

Sanction	Number
Advice	32
Fine imposed	8
Warning	7
Caution	12
Reprimand	1
Reduction in pay not exceeding 2 weeks' pay	16
Reduction in pay not exceeding 4 weeks' pay	1
TOTAL SANCTIONS	77

In addition to the above outcomes, which were findings in relation to the behaviour of individual gardaí, some investigations highlighted situations where the problem may have arisen due to a systemic or management issue rather than the behaviour of an individual. With a view to reducing or eliminating the incidence of similar complaints

in the future, the Ombudsman Commission referred a number of recommendations about policies and/or practices to the Garda Commissioner – please see **Section 6** for details.

1.6.4 Time Taken to Close Cases

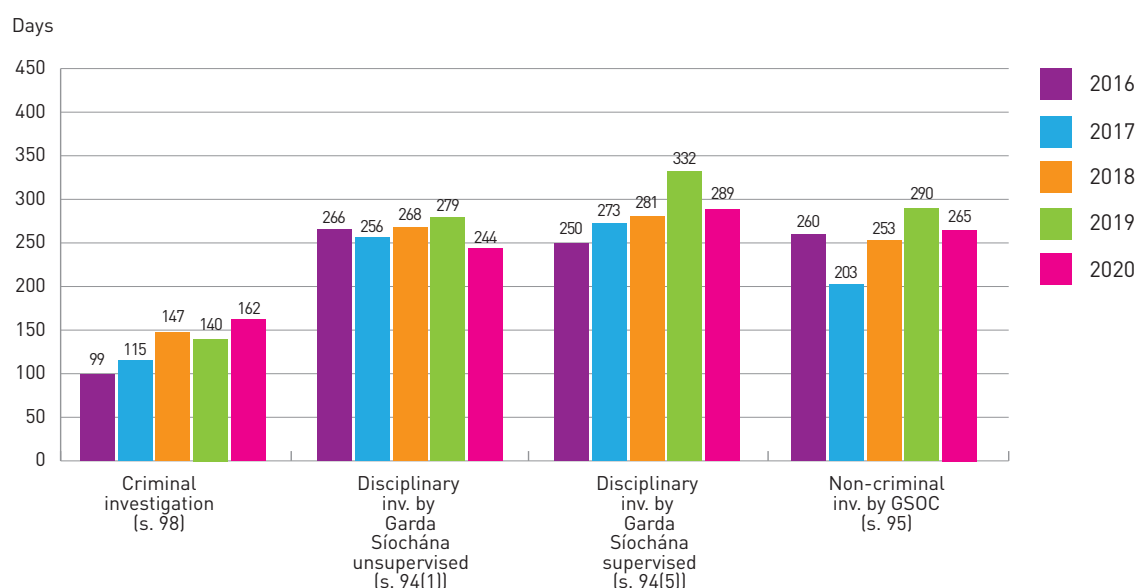
In 2020, the time it took to conclude some categories of investigations was reduced, but for others, notably criminal investigations, the time taken increased. GSOC is committed to improving the time it takes to close / complete investigations. Chart 6 shows the median time it took to close cases by type by the end of 2020.

Criminal Investigations

At the end of 2020, the median time taken to close criminal investigations was **162** days, an increase of 22 days on 2019. The impact of COVID-19 was a factor in the longer timeframes in 2020 as interviews with witnesses and Garda members under investigation could not go ahead as scheduled in the early months of the pandemic. New ways of conducting interviews were developed as working practices changed to suit the new environment.

Criminal investigations are subject to a review process, which includes standard control measures. As part of this process, cases which have been open for 60 days are formally reviewed

Chart 6: Time taken to close investigations (in days)



by Senior Investigations Officers, and cases which have been open for 90 days are formally reviewed by a Deputy Director of Operations. Cases open for 120 days are brought to the attention of the Director of Operations for review. In parallel, cases categorised as containing a very serious allegation are subject of review on a bi-monthly basis by the Director of Operations and the Ombudsman Commission.

Unsupervised Disciplinary Investigations

Unsupervised disciplinary investigations are undertaken by Garda Síochána Investigating Officers (GSIOs). The median duration of such investigations at the end of 2020 was **244** days, a decrease of 35 days on the 2019 outcome.

Supervised Disciplinary Investigations

Supervised disciplinary investigations are undertaken by Garda Síochána Investigating Officers supervised by GSOC investigations officers. The Protocols between the Garda Síochána and GSOC say that supervised disciplinary investigations must be completed and an investigation report provided within 20 weeks/ 140 days. The median time duration for such investigations in 2020 was **289** days, which is a significant decrease of 43 days on the 2019 outcome.

Non-Criminal Investigation by GSOC

Non-criminal investigations by GSOC may, under section 95 of the Act, be undertaken by the Garda Ombudsman's own investigators. The median duration of such investigations was **265** days which is a decrease of 25 days on the 2019 outcome.

GSOC and Child Protection

GSOC has obligations in relation to child protection under both the Children First Act, 2015, and the Children First National Guidance for the Protection and Welfare of Children. During the course of their work taking complaints from members of the public, or conducting investigations, staff are frequently made aware of situations in which children may have been harmed or may be at risk of being harmed. »

» Under the Children First Act, certain GSOC staff, namely Designated Officers (investigators) are mandated persons when they are conducting criminal investigations. As a mandated person, the Designated Officer must make a referral to Tusla if he or she knows, believes or reasonably suspects that a child has been harmed, is being harmed or is at risk of being harmed, or if a child discloses harm.

GSOC Designated Officers made **56** mandatory referrals to Tusla in 2020.

In addition, GSOC made **107** non-mandatory referrals in 2020. These related to matters which came to the attention of GSOC staff in the course of their work, but not in the course of a criminal investigation. Non-mandated persons are required to notify GSOC's Designated Liaison Persons of issues that may relate to child protection and/or welfare while fulfilling their official duties through raising alerts on the organisation's case management system.

A total of **558** such Child Protection alerts were made on the case management system in 2020. The alerts are reviewed by the Designated Liaison Persons who record decisions to make referrals to Tusla, and decisions not to refer.

Designated Liaison Persons may decide not to make a referral to Tusla if, on review of the specifics of the case, they do not identify any child welfare or protection concerns, or GSOC is satisfied that Tusla is already aware of the matter.

Key Figures

558 new Child Protection alerts
107 non-mandatory referrals
56 mandatory referrals
443 decisions not to refer

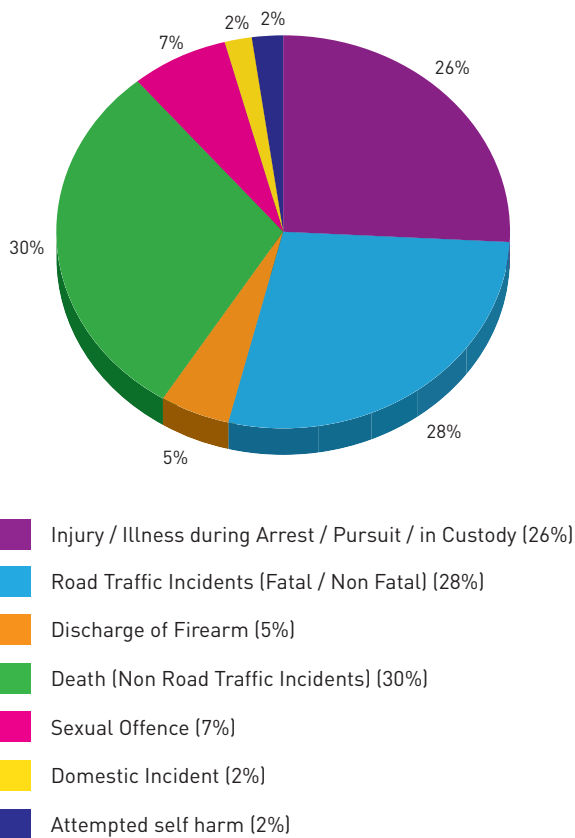
SECTION 2: INDEPENDENT INVESTIGATIONS FOLLOWING DEATH OR SERIOUS HARM

2.1 REFERRALS FROM THE GARDA SÍOCHÁNA UNDER SECTION 102(1)

Section 102(1) of the Garda Síochána Act, 2005 provides that “the Garda Commissioner shall refer to the Ombudsman Commission any matter that appears to the Garda Commissioner 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”.

GSOC received **43** referrals under this section in 2020, compared with 40 in 2019, and 38 in 2018. The power to refer is delegated by the Garda Commissioner to superintendents whose responsibility it is to decide if it is appropriate to refer an incident, in order that it be investigated independently.

Chart 7: Circumstances in Referrals

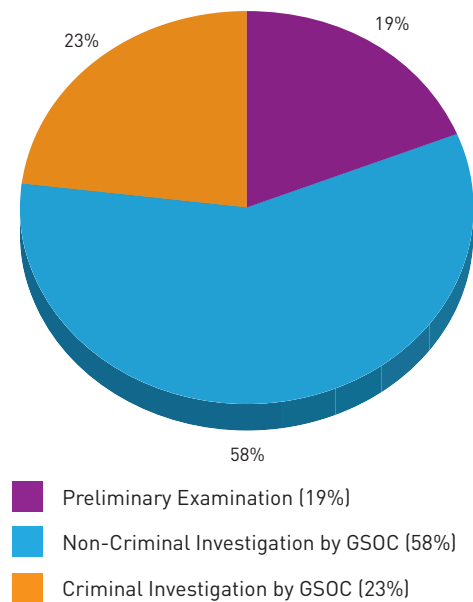


How GSOC Investigates Matters under Section 102

Once GSOC receives a referral from the Garda Síochána, we must investigate the matter.

We aim to respond proportionately, according to the circumstances. It is sometimes the case that, following an initial examination, it is clear that there is no evidence of misbehaviour or criminality by a garda. At the other end of the scale, sometimes it is appropriate to undertake a full criminal investigation and refer the case to the DPP.

Chart 8: Investigation Types in Referrals (Total Referrals Received: 43)



Twenty (20) of the referrals received in 2020 related to fatalities, including seven fatalities relating to road traffic incidents.

If there has been a fatality, there must be particular consideration given to the State’s obligations under Article 2 of the European Convention on Human Rights (ECHR). Article 2 states that everyone’s right to life shall be protected by law. The European Convention on Human Rights Act, 2003 requires that Irish state bodies including the Garda Síochána, perform their functions “in a manner compatible with the State’s obligations under the convention provisions”.

To be compliant with Article 2, investigations into deaths following police contact should adhere to five principles developed by the European Court of Human Rights. These are:

- Independence
- Adequacy
- Promptness
- Public Scrutiny
- Victim Involvement.

The fact that such investigations are undertaken by GSOC fulfils the requirement for independence. We are conscious of upholding the other four principles too. Victim involvement is directly related to the work undertaken by GSOC to comply with legislation outlining the rights of victims of crime.

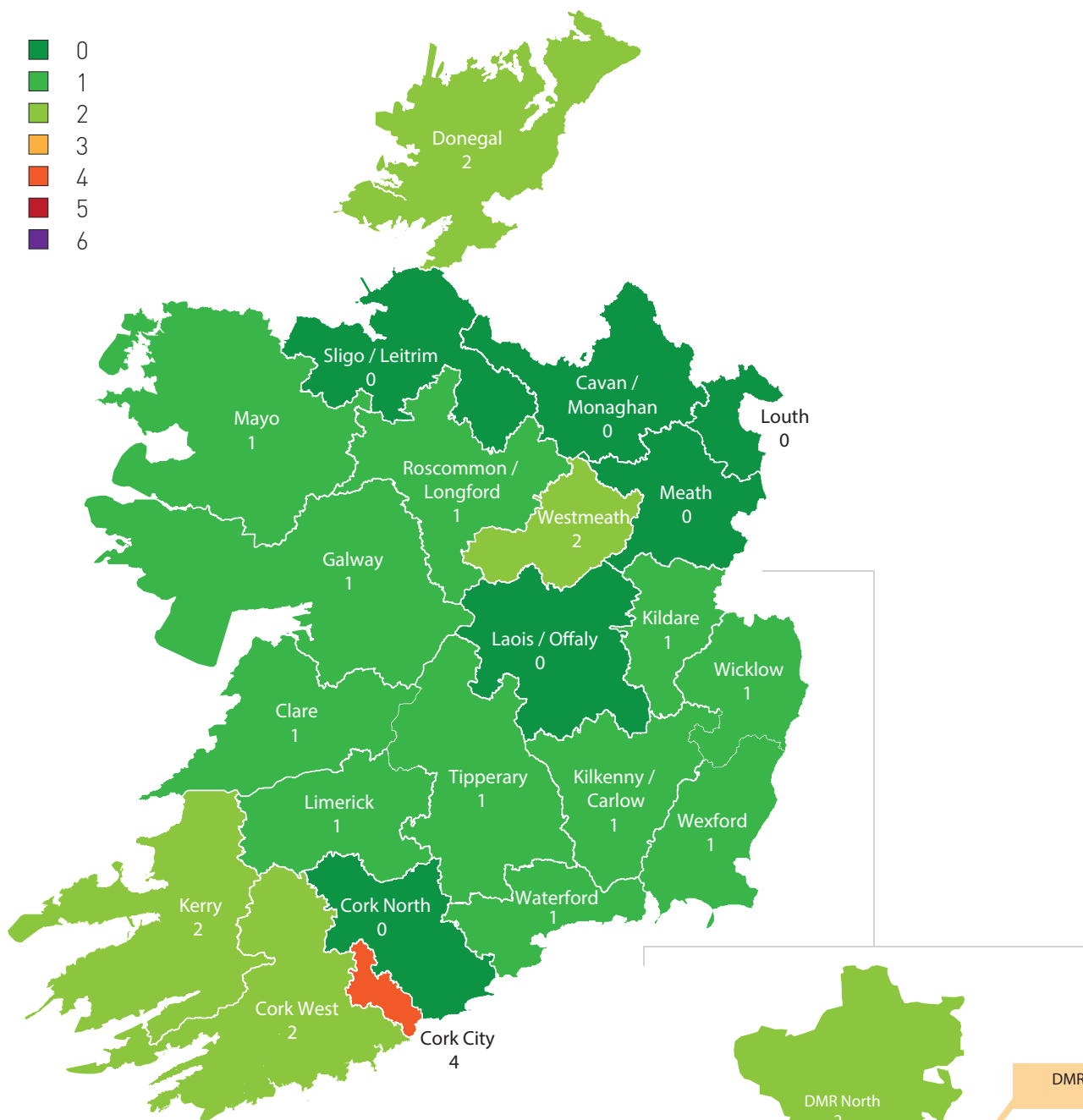
2.1.2 Outcomes of investigations following referrals

Table 3: Types of investigation and their outcomes (investigations closed in 2020)

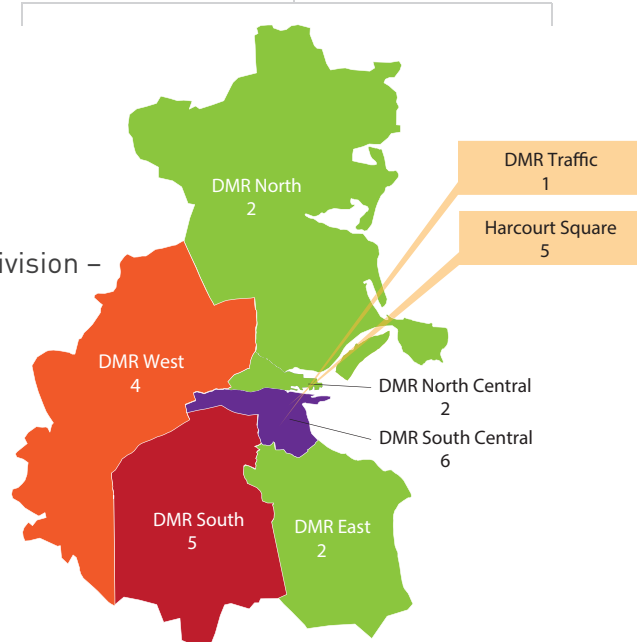
Type of investigation and outcome	Cases
Case closed after initial examination showed no evidence of misbehaviour or criminality by a garda.	16
Non-criminal investigation undertaken and concluded, finding no evidence of misbehaviour by a garda – no further action taken.	8
Non-criminal investigation undertaken and concluded – sanction applied by the Garda Commissioner.	2
Criminal investigation undertaken and concluded, finding insufficient evidence of criminal misconduct by a garda – no further action taken.	4
Criminal investigation undertaken and concluded – referred to the DPP – no prosecution directed.	2
Case discontinued due to lack of cooperation from the injured party and no other issues of concern.	5
TOTAL	37

The maps below show the geographical distribution of referrals made by the Garda Síochána in 2020.

Map 3: Referrals by Garda Division
(Excluding Dublin Metropolitan Region)



Map 4: Referrals by Garda Division – Dublin Metropolitan Region



NB. The total number in the maps above is slightly higher than the total number of referrals [43] because a small number of referrals involved gardaí from more than one division.

Case summary

A Garda superintendent made a referral to GSOC under section 102 of the Garda Síochána Act, 2005 after a man, who had come into contact with gardaí a short time earlier, was struck by a car and fatally injured. The car left the scene and the man's body was discovered about an hour after the interaction with gardaí.

GSOC conducted an initial examination, visiting the scene of the fatal incident, obtaining initial accounts from the garda members, meeting with the Garda Forensic Collision investigator, and getting briefings from other personnel. As there was no indication of an offence (crime) by gardaí, a non-criminal investigation was initiated to establish the facts of the matter and the role of the gardaí in relation to the incident.

The matter was referred to GSOC because the deceased had been given a lift by gardaí to his partner's house an hour prior to the incident. The gardaí had been on duty in the early hours of the morning, when they spotted a man outside a house. The gardaí recognised the man, and established that he was going to his girlfriend's house; they offered him a lift, which he accepted. The gardaí dropped him to his girlfriend's estate, and later told GSOC that he appeared in good form and that they had no concern for the man at that time. »

The man's girlfriend was not home, and he was observed by witnesses walking away. Approximately one hour after he was dropped off by gardaí he was discovered by a local man, an ambulance was called and the man was pronounced dead in hospital.

The driver of the vehicle which had struck the man was subsequently identified and interviewed by gardaí. A review of documentation from the Garda material, including accounts taken from witnesses and suspects, corroborated the accounts of the incident given by gardaí. GSOC enquiries established that there did not appear to be any indication that the man who died was so despondent or intoxicated when the gardaí left him that he would have been a danger to himself. »

» Following their investigation, GSOC concluded that there was no appearance of an offence or a breach of discipline on the part of the gardaí. The evidence suggested that the gardaí had an innocent interaction with the deceased a little over one hour before he was fatally injured.

SECTION 3: INVESTIGATIONS IN THE PUBLIC INTEREST

In addition to providing for the referral of matters to GSOC by the Garda Commissioner, section 102 of the Garda Síochána Act, 2005, provides for investigations to be undertaken in the public interest, even in the absence of a complaint or a referral by the Garda Commissioner.

The Minister for Justice and the Policing Authority can request GSOC to investigate certain matters, and can also ask GSOC to consider whether it should investigate a matter.

GSOC can also decide to conduct public interest investigations in the absence of complaints or referrals.

Section 102 (4) of the Act provides that:

“The Ombudsman Commission may, if it appears to it desirable in the public interest to do so and without receiving a complaint, investigate any matter that appears to it to indicate that a member of the Garda Síochána may have-

- a) committed an offence, or*
- b) behaved in a manner that would justify disciplinary proceedings”.*

Section 102 (5) adds that:

“The Minister may, if he or she considers it desirable in the public interest to do so, request the Ombudsman Commission to investigate any matter that gives rise to a concern that a member of the Garda Síochána may have done anything referred to in subsection (4), and the Commission shall investigate the matter.”

In addition, the Policing Authority may request GSOC to investigate matters in the public interest. Under Section 102 (7) both the Policing Authority and the Minister may refer a matter to GSOC for the Ombudsman Commission to consider whether it should investigate it in the public interest.

Twenty six **(26)** public interest investigations were opened in 2020 and **22**, which include investigations commenced before 2020, were closed.

There were no requests made to GSOC to investigate a matter in the public interest under

Section 102(5). One public interest investigation was opened following a referral from the Minister for Justice under Section 102(7).

The Ombudsman Commission may decide to open a public interest investigation when suspected misconduct by a garda or gardaí comes to the attention of the Commission outside of the usual complaints or referrals processes. Media reports about alleged misconduct have, in the past, led to public interest investigations. Allegations of wrongdoing may be made to GSOC in a complaint which is not admissible under the Garda Síochána Act, 2005, but which the Commission decides is in the public interest to investigate.

Among the public interest investigations opened in 2020, two involved incidents where money was reported missing, one from a Garda station and one from a premises which had been searched by gardaí. A public interest investigation was opened after the Commission was made aware of an allegation that gardaí may have put a person's life in danger because of the alleged unauthorised disclosure of information about that person to another party. A number of investigations were opened into allegations of assault or excessive use of force by gardaí.

Case summary

GSOC commenced a public interest investigation after it was widely reported in the media that there had been a security breach at Áras an Uachtaráin, the official residence of the President.

The facts of the incident, established early in the investigation, were that on 14 September 2018 at 17:23 a car was driven through an open gate into the grounds of Áras an Uachtaráin without challenge. The driver drove to the front of the Áras, stopped the car and walked into the Áras building through the front door which was open.

The person tried to open a number of doors in the building before happening upon the President's study. The President opened the »

» door to the study and was confronted by the intruder. The person spoke to the President in an aggressive manner about issues that concerned the intruder. The person was in the Áras for just over three minutes before the President went to call for assistance and the person left.

The person went back to the car, drove back to the Phoenix Gate and left through the gate, again without being challenged.

The duties of members of the Garda Síochána assigned to Áras an Uachtaráin are set out in a document known as the Protection Order—Áras an Uachtaráin, which provides for, among other things, a number of ‘static’ posts.

Among the static posts is one at the Phoenix Gate (the gate through which the intruder gained access on 14 September). Most of the Garda members on duty at the Áras are permanently assigned there—but gardaí from elsewhere in the division, or at times outside the division, are regularly called upon when it is not possible to fill the posts from the resources allocated to the Áras.

The Protection Order states that the Garda member on duty will ascertain from all persons seeking admittance their identity and the nature of their business. The Order also states that the Phoenix Gate will remain closed at all times except for the permitting of authorised vehicles and visitors to enter Áras an Uachtaráin.

The GSOC investigation established that the Phoenix Gate was left open for a period by the garda (Garda A) who was on duty at the gate up until 5pm. When Garda A took up duty earlier that day, electricians were working on lighting just outside the gate. They needed frequent access to the fuse box in the lodge beside the gate where the garda on duty is based, so they were in and out through the gate regularly during Garda A’s tour of duty.

As they were in and out through the gate for the duration of the garda’s shift, and more frequently as the afternoon went on, Garda A asked if it would be better to leave the gate »

» open. There were a lot of staff from the Áras leaving at that time, so Garda A believed it made sense to leave it open. The gate is controlled using a code on a key pad beside the gate. A code must be entered by the member on duty at the gate both to open and close the gate.

While the gate remained open, Garda A remained standing at the gate as per instructions.

As the gate was left open by Garda A for access by authorised work persons, and as Garda A stood at the gate during this time, Garda A did not act in contravention of the Protection Order. GSOC recommended that no disciplinary proceedings be instituted under the Garda Síochána Disciplinary Regulations (2007) against Garda A.

GSOC also recommended that no disciplinary proceedings be instituted against a Garda sergeant who had completed a tour of duty before the breach of security occurred and who could not be held accountable for supervision while not on duty.

GSOC did however recommend that disciplinary proceedings be considered against Garda B, who took up duty at the Phoenix Gate at 5pm on the date in question, for neglect of duty. Garda B was on duty at the Phoenix Gate when the person who confronted the President in his office was allowed to drive through the open gate unchallenged and allowed drive back out again, unchallenged, a few minutes later.

Garda B said in a statement that he wasn’t really comfortable leaving the gate open and asked the workers if they would need it open much longer. They told him they needed another 15 minutes. He remained standing at the gate and while he was speaking to someone, he noticed that internal doors in the lodge were banging from the breeze. He decided to go and close the doors, an action which took a few seconds. He heard a car on the gravel as he was in the lodge and began to make his way back to the gate. He saw a small car driving in the gate with the driver waving at him in the manner that Áras staff use when »

» they are identifying themselves at the gate. Garda B said the car was similar to a car used by one of the staff at the Áras.

Garda B said he had a split second to decide if he needed to be concerned about the car and driver, but taking everything he had seen into account, in that split second, he assumed the driver was a staff member.

Less than ten minutes later, the same car drove back down the avenue and the driver had a hand raised as if in greeting. The gate was still open as the workers were still there. Garda B acknowledged the driver who then drove out the gate. Just as the car was going out the gate, the phone in the lodge rang; it was one of the President's aides asking if a blue car had just left. The aide said that a person had just come into the Áras and had confronted the President and wanted to know who had let the person in. Garda B said in his statement to GSOC that he had not seen the Protection Order for the Áras, and his knowledge of what is required came from informal briefings for general duty and formal briefings for special events, such as when visitors are expected. He was not aware if a risk assessment was conducted for the gate being left open.

The GSOC report of its investigation (outlined above) was sent to the Garda Commissioner recommending that consideration be given to instituting disciplinary proceedings against Garda B. GSOC has no role in these proceedings.

GSOC was subsequently informed by the Garda Síochána that a senior garda who was appointed to decide, on the basis of the statement of facts decided by the GSOC investigation, if Garda B was in breach of discipline had decided that Garda B was in breach of discipline. Garda B was an experienced garda, and had previously worked shifts at Áras an Uachtaráin. While Garda B reported that he had not previously received a copy of the Protection Order for Áras an Uachtaráin or a specific risk assessment in respect of works being conducted at the Áras on the date in question, the senior garda »

» was satisfied that Garda B would have had the knowledge and understanding that undertaking any duty at the Áras required a high level of duty to protect the President and the Áras. A core element of this duty is to check all persons entering Áras an Uachtaráin.

The senior garda found that Garda B had neglected his duty in failing to ascertain the nature and business of the member of the public who drove through the gate in contravention of the Protection Order, Áras an Uachtaráin. His failure to conduct a diligent enquiry into the vehicle and its occupant and failure to alert the main house at Áras an Uachtaráin of the vehicle, compromised the safety of the President and Áras an Uachtaráin. The garda was subject to a monetary sanction

INDEPENDENT REVIEW MECHANISM

In addition to the above, three investigations which came to GSOC from the Independent Review Mechanism (IRM) remained open at the end of 2020.

The IRM was established by the Minister for Justice and Equality in 2014. Its purpose was to consider allegations of Garda misconduct, or inadequacies in the investigation of such allegations, with a view to determining to what extent and in what manner further action might be required in each case. A panel of two senior and five junior counsel was established to review allegations.

Under section 102(5) of the Garda Síochána Act, the Minister requested GSOC to carry out public interest investigations of a total 21 cases arising from the IRM. Ten of the investigations were opened in 2015 and 11 in 2016. Of the 21 investigations, three remained open at the end of 2020.

SECTION 4: LOCAL INTERVENTION INITIATIVE

INTRODUCTION

The year under review, 2020, was the second full year in which the Local Intervention (LI) process was available throughout the country. GSOC saw a 10 percent increase in the number of complaints referred for local intervention, and a 50 percent increase in the number resolved or otherwise closed having been referred for LI.

By any measure, it was a ‘successful’ year for Local Intervention. The fact that the process is conducted mostly by phone meant that despite the challenges posed by COVID-19, complaints could continue to be dealt with and, in a large number of cases, resolved to the satisfaction of the people who made the complaints.

Begun on a pilot basis in 2018, the LI initiative refers to a process whereby some made to GSOC may be resolved at a local level without the need for a formal investigation. Only service-level matters, for example complaints about discourtesy or low-level neglect of duty, can be considered for LI.

Under the LI process, nominated Garda inspectors contact people who have made complaints to GSOC and who are willing to have their complaints addressed in this way; the Garda inspectors establish what the issues are, and then endeavour to resolve the complaint. (See the ‘How it Works’ panel for details of the steps in the process and the types of complaint that might be considered for this intervention.)

LI was developed against a background of dissatisfaction by complainants, by GSOC and by the Garda Síochána with existing mechanisms for dealing with what could be termed ‘service-level’ complaints. Under the Garda Síochána Act, 2005, a complaint to GSOC about, for example discourtesy or a failure of a garda to return phone calls, would, once deemed admissible by GSOC, entail the appointment of a Garda superintendent, frequently assisted by a Garda inspector to investigate the matter.

The complainant and the garda against whom the complaint was made would generally have to wait nine months or more for an investigation to be completed. As the investigation could only address whether or not there had been misbehaviour—that

is, a breach of the Discipline Regulations—on the part of the garda complained of, it was unlikely that the discourtesy or neglect of duty the person had complained about could be remedied or resolved to the complainants’ satisfaction.

Table 4: Outcomes under the Local Intervention Process 2020

Local Intervention	No. of Cases 2020	No. of Cases 2019
Referred by GSOC for Local Intervention	263	237
Resolved/closed following LI process	175*	119
Closed without intervention, typically where complainant did not engage	28*	N/A
Referred back to GSOC for admissibility decision	84*	58

*These figures include cases referred to Garda inspectors the previous year and still with the inspectors at the end of 2019.

Of the 84 complaints referred back to GSOC for a decision on whether or not they would be admitted for investigation, 66 were admitted and forwarded for investigation (64 for investigation under section 94(1) and two for investigation under section 94 (5)).

IMPACT

From the above it can be seen that almost 60 percent of cases forwarded to the nominated Garda inspectors were resolved or closed following LI, and a further 10 percent were closed without intervention. (Complainants may choose not to proceed when contacted by the Local Intervention team.)

This is a positive outcome from the complainants’ perspective in that they have their complaints addressed and resolved quickly, in a matter of days or weeks. If their complaints had been admitted for formal investigation, the investigation would likely have taken months. (The time taken to close section 94 (1) investigations has averaged

263 days in the years 2016 years to 2020). At the end of a formal investigation, whether or not the garda complained of is found in breach of discipline, complainants are unlikely to have had their particular complaint 'resolved'.

The success of LI is also welcomed by GSOC and the Garda Síochána because of its positive resource implications.

Section 94(1) investigations require many hours work over months, and sometimes years, on the part of a Garda superintendent or inspector appointed to assist them who investigate on behalf of GSOC. They also place demands on GSOC staff who have responsibility for managing the complaints process.

The LI process has led to a significant fall in the number of these (section 94(1)) investigations opened by GSOC over the two years since the programme was rolled out nationally. While the number of section 94 (1) investigations opened by GSOC increased slightly in 2020—432 compared with 405 in 2019—it remains considerably lower than the 598 opened in 2018.

How it works

All cases received by GSOC are recorded initially on the case management system (CMS) as 'queries', and are not upgraded to complaints until there is sufficient information available to allow GSOC make an admissibility determination. A complaint can only be admitted for investigation if it meets the criteria set out in legislation. The Local Intervention process engages at the 'query' stage, before an admissibility decision is made.

- ▶ When a complaint is received by GSOC, GSOC decides whether or not the matter is suitable for local intervention. Only service-level issues, such as discourtesy or low level neglect-of-duty type complaints, are considered for local intervention. Examples of the issues which are considered for LI are: »

- »
 - Poor quality or standard of service
 - Inefficient or no service
 - Incivility/impoliteness/rudeness
 - Lack of communications or response
- ▶ If GSOC is of the view that the complaint is suitable for LI, GSOC contacts the person making the complaint, explains the LI process and asks if the person will consent to having the matter dealt with in this way.
- ▶ If the complainant consents, GSOC refers the matter to a nominated Garda inspector who manages the process on behalf of the Garda Síochána. (If the person does not consent, GSOC will decide if the allegation will be admitted for investigation in line with the criteria and processes set out in legislation and described in Section 1 of this report.)
- ▶ The nominated Garda inspector contacts the complainant by phone to identify what actions or outcomes he/she is seeking to achieve. Typically, the inspector then has a discussion with the garda member concerned to explore what may have led to the issue. The process is not about apportioning blame, it is about addressing the issue raised and learning from what has happened in order to prevent a reoccurrence. The inspector contacts the complainant again to advise on the action taken to address the matter. If the complainant is satisfied with the response, the inspector notifies GSOC and GSOC confirms with the complainant that he or she is satisfied. GSOC then closes the file. If the attempts to resolve the matter through LI are unsuccessful, the complaint is referred back to GSOC which decides if the complaint should be admitted for investigation.

Case summary

A person made a complaint in relation to a speed check point they witnessed. The person complained that the garda member was carrying out the check point in a dangerous manner and alleged the garda could have caused a serious accident. The person stated that "the member had no visible Garda identification on their person on a busy road which had numerous cars doing speeds of 100km.. no high visibility jacket, no hat, only a small logo on the side of a fleece and was pulling cars into the left hand lane due to there being no hard shoulder". Following enquiries, the inspector identified the member believed to be involved in this checkpoint, raised the risk assessment of checkpoints with the member and the member's supervisor, and stressed that the garda's paramount duty is the safety of the public. The inspector then spoke to the complainant and advised on the inspector's findings. The complainant appeared satisfied with this and was happy for the case to be closed.

Case summary

A parent wrote to GSOC to seek help in getting back the mobile phone of their child who had died in tragic circumstances. After the inquest, the parent had asked for the return of the phone, and said a garda asked that gardaí be given two weeks to allow the return of the phone. The person said they left the garda messages, called in to the garda station and rang the liaison officer but to no avail.

The person said they were asked by the liaison officer for the make of their child's phone because, as it was not a criminal case, the phone would not have been logged or bagged. The nominated inspector to whom the matter was referred by GSOC located the mobile phone, and on learning that the parent had no PIN code for the phone, arranged for a trained garda to attempt to access the phone. The access attempt was successful and all images »

» and videos were downloaded onto USB sticks which the inspector handed over, along with the phone, to the parent. The person acknowledged receipt of all items and expressed their satisfaction with the outcome and their gratitude to the inspector for the inspector's efforts in resolving the matter.

Case summary

A person complained to GSOC that around ten gardaí called to the person's door with a warrant to search the home for cannabis. The person alleged that the garda leading the search said they had stopped the person's son on a bike and the son had given false information. The person stated that they knew this was a mistake because their son didn't cycle, he drove a car. The gardaí searched the son's room and two cars at the property. The person stated that they called their son and asked him to come home. Meanwhile, the parent showed the Garda member a photo of the son, and the search was stopped. When the person's son arrived home, none of the gardaí present recognised him. The person wanted an explanation for why "this horrible embarrassing ordeal in front of all our neighbours" happened. The inspector called to meet with the person and their family, including their son at their home – and offered a comprehensive explanation for why gardaí searched their home and the fact that gardaí now accepted that this family were not and were never involved in criminal activity. The person was extremely thankful for the visit and explanation, and thanked GSOC for our support with the matter.

SECTION 5: LEGAL ACTIVITY FOLLOWING CRIMINAL INVESTIGATION.

Criminal investigations are undertaken by GSOC following complaints (described in Section 1) and referrals (described in Section 2) from the Garda Síochána and others, who may include the Minister for Justice. Furthermore, GSOC may, if it appears desirable in the public interest to do so, and without receiving a complaint, investigate any matter where it appears to the Commission that a member of the Garda Síochána may have committed an offence or behaved in such a manner that would justify disciplinary proceedings.

Upon completion of the criminal investigation, if the Commission is of the opinion that the conduct of the member or members under investigation may constitute an offence, GSOC must send a file to the Office of the Director of Public Prosecutions (DPP).

Where there has been a death in Garda custody or where a person has died following interaction with gardaí, and GSOC has carried out a criminal investigation, GSOC may send a file to the DPP in order to comply with its obligations under Article 2⁶ of the European Convention on Human Rights.

GSOC may also send a file to the DPP when the Ombudsman Commission determines that it is in the public interest to do so.

Section 110 of the Garda Síochána Act, 2005 also creates the offence of providing false or misleading information to the Ombudsman Commission in relation to a complaint or investigation whether by a garda or a member of the public. Such a prosecution may not be initiated without the consent of the Director of Public Prosecutions.

In all cases, it is the DPP who decides whether or not to prosecute the case in court.

FILES SENT TO DPP

In 2020, GSOC sent 27 files to the DPP following criminal investigations by GSOC investigators (compared with 23 in 2019 and 17 in 2018). Arising from these, there were:

- 7 directions for prosecution from 6 files
- 14 directions for no prosecution
- 7 decisions pending at the end of 2020.

In addition, there were 4 decisions made by the DPP in 2020 on files pending at the end of 2019 — there were 2 directions for prosecution and 2 for no prosecution.

Directions for prosecution were given in the following cases:

- One count of providing false or misleading information contrary to section 110 of the Garda Síochána Act, 2005 against a complainant (not a member of the Garda Síochána).
- An offence contrary to Schedule 3, Part 4 of the Road Traffic Act, 2010 (Part 3) (Fixed Charge Offences) Regulations 2017, one count of assault contrary to section 2 of Non-Fatal Offences Against the Person Act, 1997, one count of false imprisonment contrary to section 15 of the Non-Fatal Offences Against the Person Act, 1997, and one count of an offence contrary to section 110 of the Garda Síochána Act, 2005.
- One count of assault contrary to section 2 of the Non-Fatal Offences Against the Person Act, 1997 against a member of the Garda Síochána.
- An adult caution for an offence contrary to section 2 of the Criminal Damage Act, 1991 was administered to a member of the Garda Síochána.
- One count of providing false or misleading information contrary to section 110 of the Garda Síochána Act, 2005 against a member of the Garda Síochána.
- One count of using a false instrument contrary to section 26 of the Criminal Justice (Theft and Fraud) Offences Act, 2001, one count of perverting the course of justice and one count of providing false or misleading information contrary to section 110 of the Garda Síochána Act, 2005 against a complainant.
- One count of dangerous driving contrary to section 53 of the Road Traffic Act, 1961, against a member of the Garda Síochána.

6 Article 2 obliges the State through its agents to refrain from causing the deprivation of life and imposes a duty on the State to investigate suspicious deaths. It says the duty to investigate is even stronger where the death has occurred while the person was detained by the State. Where Article 2 engages, the decision must be made by a prosecutor.

- Two counts of assault causing harm contrary to section 3 of the Non-Fatal Offences Against the Person Act, 1997 and one count of trespass contrary to section 13 of the Criminal Justice (Public Order) Act, 1994 against a member of the Garda Síochána.
- One count of theft contrary to section 4 of the Criminal Justice (Theft and Fraud Offences) Act, 2001 and 4 counts of making off without payment contrary to section 8 of the same Act against a member of the Garda Síochána.

CASES DECIDED IN COURT IN 2020

- A member of the Garda Síochána entered a guilty plea for an offence contrary to section 53 of the Road Traffic Act, 1961, as amended, of dangerous driving causing death. He was sentenced to a two year suspended sentence, a four-year driving ban and €100 fine. The sentence was appealed by the DPP, and the Court of Appeal quashed the sentence early in 2021 and substituted a sentence of two years and six months with the final year suspended. [See case study in this chapter].
- A garda member entered a guilty plea to failing to display a tax disc contrary to section 73 (1) of the Finance Act, 1976, and this was taken into account. He also entered a guilty plea to having no tax contrary to section 13 (1) of the Road Traffic Act, 1920 and was fined €200. He was found not guilty of dangerous driving contrary to section 53 of the Road Traffic Act, 1961, as amended. He was found guilty of careless driving contrary to section 52 of the Road Traffic Act, 1961, as amended, and fined €750. He was found not guilty of assault contrary to section 2 of the Non-Fatal Offences Against the Person Act, 1997.
- Two garda members had one count each of assault contrary to section 2 of the Non-Fatal Offences Against the Person Act, 1997 dismissed.
- A garda member offered a guilty plea for offences contrary to sections 21 and 22 of the Data Protection Act, 1988. As these are alternative offences, the plea was accepted to section 22 of the 1988

Act which provides for both the unlawful processing and disclosure of personal data. An offence under section 62 of the Garda Síochána Act, 2005 was withdrawn. The Judge held that a sum of €1,000 was to be paid to a charity nominated by the injured party with section 1 (1) of the Probation Act, 1907 to be applied to the garda member on receipt of payment. (See case study in this chapter).

- A garda member entered a guilty plea for an offence contrary to section 53 of the Road Traffic Act, 1961, as amended, of dangerous driving. The Judge was satisfied to substitute the offence for an offence of careless driving contrary to section 52 of the Road Traffic Act, 1961 as amended. He was fined €500 with four months to pay with no disqualification order made.
- A garda member was convicted of assault causing harm contrary to section 3 of the Non-Fatal Offences Against the Person Act, 1997 and acquitted of criminal damage contrary to section 2 of the Criminal Damage Act, 1991. The garda was given a 12-month prison sentence suspended for a period of 12 months.

Case summary

A garda was ordered by a court to complete an anger-management course and to write a letter of apology to a young person who had made a complaint to GSOC that the garda had assaulted him. The garda was also ordered to pay €3,000 by way of compensation to the injured party, and write a letter to the Judge (for the Judge's eyes only) detailing the lessons the garda had learned from the incident which had led to the complaint, and how he would deal with similar situations in the future.

The case was heard in court in 2019—the garda was charged with assault contrary to section 2 of the Non-Fatal Offences Against the Person Act, 1997. The conditions were imposed on the garda member at the end of the hearing. When it came back to court in 2020, the Judge deemed that the garda had adhered to all the conditions of his sentence and so, struck out the matter. »

» The case followed an investigation by GSOC into a complaint made on behalf of a teenager in relation to an incident in which he and a number of friends were asked by gardaí to move on from where they had gathered in a public place. The group of five young people were sitting together at around midnight in a carpark when they were asked by gardaí to move on.

As the group moved off, two of the teenagers asked the gardaí why they were being moved—and, following exchanges, two of the males were arrested for alleged Breach of the Public Order Act and brought to a garda station.

The following day, a relative of one of the two teenagers went to the garda station and complained about the way the teenagers had been treated. He also produced a video recording, taken by one of the young men on his phone. The matter was subsequently brought to GSOC's attention by a Garda superintendent who shared the concerns of another senior garda who viewed the video, about the use of force in the arrests. The Chief Superintendent notified the matter to GSOC in accordance with section 85 of the Garda Síochána Act, 2005 which obliges gardaí to pass on to GSOC complaints made to Garda Síochána about gardaí.

The complainant consented to GSOC investigating the matter. The allegations which were admitted by GSOC for investigation were that the complainant and four friends were 'aggressively' asked by gardaí to 'move on'; that he was assaulted during his arrest and in the patrol car; that gardaí used threatening and insulting language in the patrol car; and that two gardaí refused to identify themselves (there were three gardaí at the scene, and two refused to identify themselves).

At the end of the investigation, GSOC sent a file to the DPP who directed a prosecution in the case of one garda who was charged with assault.

The garda was charged with assault and the case was heard in 2019. Sentencing was put »

» back, with the Judge indicating that, if the garda met the conditions, the matter would be struck out. When the case came back to court in 2020, the Judge deemed that the matter could be struck out as the conditions had been met.

Case summary

A garda pleaded guilty to an offence contrary to section 22 of the Data Protection Act, 1988, as amended, following a criminal investigation by GSOC. The investigation began after GSOC received a complaint from a member of the public about the unauthorised sharing of his personal information by the garda.

The complainant told GSOC that he had been called to a meeting of an organisation to which he belonged after a senior figure in the organisation received an email from the garda. The garda belonged to the same organisation, and sent an email to the senior figure containing information about the complainant's arrest a few weeks earlier.

The complainant had been arrested for a public order offence and an adult caution was subsequently applied.

The garda, who had sent the email, had no involvement in the complainant's arrest and was not on duty at the time. This garda said he was told by colleagues afterwards that the complainant had invoked his—the garda's—name after the arrest. In his email to the organisation, he expressed outrage that the complainant had suggested that he, the garda, had orchestrated his arrest.

When interviewed by GSOC, the garda acknowledged that he had sent the email with the information to the senior figure in the organisation, and had attended a meeting about the incident and arrest. He said he was aware of the provisions of Section 62 of the Garda Síochána Act, 2005, which prohibits the disclosure of information by gardaí (and others) gained in the course of their work which could be harmful, but denied acting »

» contrary to this provision. The garda said he was acting in a private capacity when he passed information to the organisation which he believed should be informed of the behaviour of the complainant.

The complainant said that as a result of the garda sharing the particular information about him, a note of his arrest and the circumstances surrounding it would remain on the organisation's files. He said that as a result of the garda revealing the information, the complainant had reduced his participation in the activities associated with the organisation in the following years and was upset that everyone knew what had happened.

GSOC sent a file to the DPP who directed that the garda be prosecuted for offences under section 62 of the Garda Síochána Act, 2005, and under sections 21 and 22 of the Data Protection Act, 1988, as amended.

The garda pleaded guilty to the offence under section 22 (of the Data Protection Act, 1988, as amended). This prohibits a person from obtaining and disclosing personal data of another without authority. The plea was accepted on full facts before the Court. The DPP withdrew the other two charges. The Judge ordered that the garda pay €1,000 in compensation to the injured party. However, the injured party asked the Court to order payment of the compensation to a charity which he nominated. This was accepted by the Court and on payment of the sum to the nominated charity, the Probation of Offenders Act, 1907 was applied to the garda member.

Case summary

A garda received a two and a half year prison sentence, with one year suspended, for dangerous driving causing death. The prosecution of the garda followed a GSOC investigation which was undertaken on foot of a referral to GSOC by a Garda superintendent.

The Garda superintendent made the referral to GSOC under section 102(1) of the Garda »

» Síochána Act, 2005 following the death of a woman who was fatally injured when her vehicle was struck from behind by an off-duty garda travelling in excess of the speed limit.

The GSOC investigation established from witness accounts that the off-duty garda's vehicle was observed driving in a manner which was dangerous to the public along a motorway, and in excess of the speed limit, shortly before the collision. After his vehicle collided with the rear of another car, fatally injuring the driver, the off-duty garda got out of his car, approached the other vehicle, but then left the scene on foot. The car into which he crashed had four occupants, including two children. The people who came across the collision a short time later called emergency services, but the driver of the car was pronounced dead at the scene.

A few hours later, the garda who was involved in the collision presented himself to a member of staff from National Roads Authority who was at that time working on the motorway. The garda was later interviewed under caution by GSOC. Following its investigation, GSOC sent a file to the Director of Public Prosecution (DPP) who directed that the garda should be prosecuted for dangerous driving causing death contrary to section 53 (1) and 2 (a) of the Road Traffic Act, 1961, as amended.

The morning before the trial was scheduled to take place, the garda member pleaded guilty to dangerous driving causing death. The judge imposed a two-year suspended sentence and a fine, and disqualified the garda from driving for four years.

The DPP appealed the sentence on the grounds that it was unduly lenient, and the appeal was heard in early 2021. The Court of Appeal quashed the sentence imposed by the Circuit Court and substituted a sentence of two years and six months imprisonment with the final year suspended upon the garda entering into a bond to keep the peace and be of good behaviour for a period of two years upon completion of the custodial sentence. The Court of Appeal noted the garda member remained disqualified from driving for a period of four years.

Cases Pending before the Courts at the end of 2020

- A garda member was facing charges of careless driving contrary to section 52 of the Road Traffic Act, 1961, as amended (summary charge only).
- A member of the Garda Síochána was facing a charge of assault contrary to section 2 of the Non-Fatal Offences Against the Person Act, 1997.
- A member of the Garda Síochána was charged with two counts of assault causing harm contrary to section 3 of the Non-Fatal Offences Against the Person Act, 1997.
- Two people (not members of the Garda Síochána) are charged with offences contrary to section 110 of the Garda Síochána Act, 2005, as amended.
- A member of the Garda Síochána was charged with one count of assault contrary to section 2 of the Non-Fatal Offences Against the Person Act, 1997 and one count of assault causing harm contrary to section 3 of the Non-Fatal Offences Against the Person Act, 1997.
- A member of the Garda Síochána was facing charges of one count of assault contrary to section 2 of Non-Fatal Offences Against the Person Act, 1997, one count of false imprisonment contrary to section 15 of the Non-Fatal Offences Against the Person Act, 1997 and one count of an offence contrary to section 110 of the Garda Síochána Act, 2005 as amended.
- A member of the Garda Síochána was facing charges of one count of assault contrary to section 2 of the Non-Fatal Offences Against the Person Act, 1997.
- A complainant (not a member of the Garda Síochána) was facing charges for an offence contrary to section 110 of the Garda Síochána Act, 2005, as amended.
- A member of the Garda Síochána was facing charges of two counts of assault causing harm contrary to section 3 of the Non-Fatal Offences Against the Person Act, 1997 and one count of trespass contrary to section 13 of the Criminal Justice (Public Order) Act, 1994.
- A member of the Garda Síochána was facing charges of one count of providing false or misleading information contrary to

section 110 of the Garda Síochána Act, 2005 as amended.

- A member of the Garda Síochána was facing charges of one count of theft contrary to section 4 of the Criminal Justice (Theft and Fraud Offences) Act 2001, and 4 counts of making off without payment contrary to section 8 of the Criminal Justice (Theft and Fraud Offences) Act, 2001.
- A criminal trial dealt with a sexual assault allegation after a GSOC investigation. A garda member was convicted by a jury and a prison sentence imposed. The conviction was overturned on appeal due to the fact that the Judge had failed to mention certain matters in his charge to the jury. A retrial was ordered and a new hearing date is awaited.

Non-Party Disclosure of Evidence to the Defence

On 11 June 2019, a revised Protocol entitled *Non-Party Disclosure of Evidence to the Defence in Criminal Proceedings where GSOC has not sent a file to the DPP* was executed by GSOC and the Director of Public Prosecutions.

The Protocol engages where GSOC receives a complaint in relation to an incident which is also the subject of a separate prosecution on foot of a Garda investigation.

Requests for non-party disclosure can be made directly to GSOC. The information required in order for GSOC to process such a request is available on the GSOC website. A copy of the Non-Party Disclosure Protocol is also available on the website at: <https://www.gardaombudsman.ie/about-gsoc/non-party-disclosure/>

Between 1 January 2020 and 31 December 2020, **48** Non-Party Disclosure files were processed by GSOC.

SECTION 6: INFORMING GARDA POLICY AND POLICING PRACTICE

This section deals with practices encountered during the course of GSOC investigations which the Ombudsman Commission believes need to be brought to the attention of Garda management.

The practices outlined here relate to systemic or management issues rather than to the behaviour of individuals. The Ombudsman Commission

believes that highlighting these issues when they arise, and making recommendations to avoid the recurrence of similar incidents, is an important element of oversight.

The Garda Síochána's responses to the recommendations are included in the table below.

Table 5: Recommendations made by GSOC in 2020

No.	General subject matter	Specific subject matter	Recommendation and response
SRI	Management of Garda Files	Loss of Garda Investigation File	<p>An investigation was carried out by GSOC into an allegation that gardaí failed to deal with numerous domestic abuse calls made by a woman who said she was not taken seriously as her husband was a serving member of the Garda Síochána. It was alleged that gardaí failed to adequately investigate a complaint of sexual assault and failed to respond to reports of a number of breaches of a Safety Order. During the course of the investigation, it was found that the original Garda investigation file into the incident of alleged sexual assault could not be located.</p> <p><i>Recommendation issued by GSOC on 22 January 2020</i></p> <p>GSOC recommended that the issue of the missing garda file in this case be highlighted to the Garda Commissioner. The garda file was in relation to a serious complaint against a serving garda member. The loss of the file had a detrimental effect on the subsequent GSOC investigation. It is recommended that garda file management systems be reviewed so as to mitigate against a similar loss occurring in the future.</p> <p>GSOC also recommended that all non-active unsolved/undetected sexual assault investigations within the particular district in which the loss of the file occurred be reviewed for compliance with current garda file management procedures.</p> <p>Letter of acknowledgment received on 9 March 2020</p>
SR2	Firearms Licences	Garda Procedure When Issuing/ Renewing Firearms Licences	<p>A close relative to the complainant in this case was murdered by a neighbour using a licensed shotgun. The firearms licence was reviewed by gardaí from time to time. The complainant's family alleged gardaí were negligent for failing to take action against the neighbour, particularly having noted that he had made complaints to gardaí about the deceased prior to the murder.</p> <p><i>Recommendation issued by GSOC on 4 May 2020</i></p> <p>GSOC recommended that the Garda Commissioner consider seeking the views of a firearms licence applicant's GP when issuing or renewing a firearms licence.</p>

No.	General subject matter	Specific subject matter	Recommendation and response
			<p>GSOC recommended that the Garda Commissioner consider revising Garda procedure in relation to the issuing/ renewal of firearms' licences, and in particular that consideration be given to the UK 'Guidance on Firearms Licensing Law' published on 1st April 2016 which provides:</p> <p>On the grant or renewal of a firearm or shotgun certificate police will ask every certificate holder's GP if the patient suffers from specific health issues;</p> <ul style="list-style-type: none"> - GPs will be asked to place a firearm reminder code on the patient's record. This means the GP will know the person is a gun owner, and they can inform the police licensing department if the patient's health deteriorates after the certificate is granted. - New guidance is being published to help GPs and police operate the new system, and to inform certificate holders and applicants.
			<p>Letter of acknowledgment received on 25 May 2020.</p>
			<p>Further letter received on 6 October 2020 (dated 1 October 2020) from the Garda Síochána detailing a response to the recommendation made. Reference is made to the Firearms Act which currently requires that it is mandatory that a firearms applicant provide details of their GP in their application and it further provides that the Superintendent or Chief Superintendent retains discretion to contact a licence holder's GP at any time during the course of their licence.</p>
			<p>AGS states that the recommendations made by GSOC would require a change in the current legislation and as such, AGS are not in a position to implement this proposed recommendation.</p>
SR3	Investigation Failures	Failure to conduct appropriate investigation into allegations of sexual assault/ Inadequate Supervision	<p>An investigation was carried out by GSOC into an allegation that gardaí failed to conduct a proper investigation into an allegation of sexual assault.</p> <p>The matter was investigated in accordance with section 94(1) of the Act and the GSIO found a garda in breach for neglect of duty. The GSIO also alluded to issues around the supervision of that garda. GSOC subsequently investigated the matter in accordance with section 102(4) of the Act. Garda members who might have been of interest to the investigation because of their potential involvement in a supervisory capacity were found to have retired by the time this investigation commenced.</p> <p>They were not, therefore, amenable to disciplinary investigation. A decision was made by the Commission that although no individual garda member could be held to account, the issues relating to supervision were worth bringing to the attention of the Garda Commissioner.</p>

No.	General subject matter	Specific subject matter	Recommendation and response
			<p><i>Recommendation issued by GSOC on 27 May 2020</i></p> <p>GSOC recommended that:</p> <ul style="list-style-type: none"> - The Garda Síochána consider initiating a review process within the district to identify whether any other sexual offence investigations suffered similar failings in Senior Management review. - All garda members should be reminded of the requirements of the Garda Policy on the Investigation of Sexual Crime against Children, and supervisors reminded of their specific duties regarding oversight, reporting and audit of such cases. - An instruction be issued to garda members to address circumstances where there is a change in the supervision of an investigation, outlining the necessity for a clear briefing and documented hand-over process. - An entry regarding the hand-over and change of supervisory member should also be made in the "investigation notes" section on PULSE. <p>Letter of acknowledgment received 10 December 2020</p>
SR4	Communication with Victims of Crime re: Court Dates	Failure to confirm in writing a Court of Appeal hearing date to a complainant	<p>This case involved a supervised investigation conducted by GSOC in relation to a complaint that garda members had failed to communicate a Court of Appeal hearing date to two victims of a crime. During the GSOC investigation, it was found that a garda member had verbally informed the complainant about the appeal, including the date and venue of the hearing, but this was not confirmed in writing.</p> <p><i>Recommendation issued on 6 May 2020</i></p> <p>GSOC recommended that:</p> <ul style="list-style-type: none"> - The Garda Síochána remind members of the obligations under section 8 of the Criminal Justice (Victims of Crime) Act, 2017 to make a record of information requests, and consider implementing a policy where a written record is made of the information which is actually provided to a victim. - That the Garda Síochána consider implementing an instruction that if information is requested by a victim under section 8 of the Criminal Justice (Victims of Crime) Act, 2017, that a written record of the information given is provided to the victim as soon as practicable. <p>Letter of Acknowledgment received 25 May 2020</p>

No.	General subject matter	Specific subject matter	Recommendation and response
SR5	Carriage of Firearms by Off-Duty Members	<p>Availability of Non-Lethal Force Options to Off-Duty Members</p> <p>Safe storage of firearms at home</p> <p>Clothing of Detective Members</p> <p>Control Measures for Off-Duty Members Retaining Firearms</p>	<p>Gardaí made a referral to GSOC (in accordance with section 102 of the Garda Síochána Act, 2005) after the official firearm of an off-duty Garda member was discharged, injuring a member of the public during a struggle. The garda member had been driving his private vehicle home after finishing his shift when he noticed a car driving erratically and followed it. A confrontation ensued, there was a struggle, and the firearm was discharged. The DPP subsequently directed no prosecution in relation to this garda member.</p> <p>During the course of the GSOC investigation, it was noted that the garda member's carriage of his personal issue firearm while off duty, as in this instance, was in accordance with Garda policy. However, it was also noted that the member had no alternative non-lethal options at his disposal at the time and, as a result, the only option available to the member was the production of his firearm. It was also found that the member had worked an exceptionally long shift which was taken into consideration.</p> <p><i>Recommendation sent on 11 September 2020</i></p> <p>GSOC recommended the following:</p> <ol style="list-style-type: none"> 1. That consideration be given to providing off-duty detectives with non-lethal use of force options, such as batons, intoxicant spray or other non-lethal equipment: 2. That consideration be given to implementing greater control measures regarding allowing firearms to be carried by members where there is evidence of factors such as inadequate rest, working very hard or for too long, and disruption of the body clock by shift work might be evident. 3. That consideration be given to the appropriateness of clothing worn by detectives in circumstances whereby the clothing worn by the member in this instance reduced his ability to conceal his firearm and thereby raised issues regarding his personal safety. 4. That consideration be given to issuing garda members in general with clearer direction regarding the safe storage of firearms and ammunition within the home environment. It is recommended that personal protection weapons and ammunition be stored safely and securely at all times and in particular, that gun cabinets be installed in the homes of members who have reason to carry personal protection weapons/ammunition while off duty. <p>Letter of Acknowledgment received on 27 October 2020</p>

No.	General subject matter	Specific subject matter	Recommendation and response
SR6	A85s / Misuse of Overtime Claims	Fraudulent claiming of overtime and Misuse of A85 returns	<p>The Commission received information alleging a garda member claimed overtime when in fact he was not working. A decision was made by the Commission to open a public interest investigation. Separately, the Commission later received further allegations regarding a number of instances of claims being made where the members involved were not on duty and this was known to the person authorising the payment of the claim. The Commission opened the investigation having regard to the potential for criminal misbehaviour as identified in the allegations.</p> <p><i>Recommendation sent on 26 May 2020</i></p> <p>GSOC recommended:</p> <ul style="list-style-type: none"> - Consideration be given to a more flexible, robust system of claiming overtime which allows for claims in keeping with actual hours worked and authorisation of those hours by the relevant supervisor. <p>The system of claiming overtime using the A85 form be reviewed and revised to bring claims into line with actual hours worked.</p> <p>Letter of acknowledgement received on 27 May 2020</p>
SR7	Search of a Private Residence	Planning of searches on multi-occupancy residences	<p>This investigation concerned a search that was conducted by gardaí on a multi-occupancy dwelling. The Armed Support Unit (ASU) was utilised to breach and clear the dwelling before a search for firearms was conducted. Prior to the search, the ASU were in possession of intelligence that a male meeting a specific physical description could be in possession of a firearm inside the house.</p> <p>When the ASU entered the dwelling, they forcibly secured a person with handcuffs. The sergeant in charge justified the use of force, in that the person was wearing a hood and did not respond when questioned. The ASU used force to secure the person, but released the person when it became clear that the person did not match the description given. The person involved was 15 years old. The GSOC investigation found the actions of the members were reasonable in terms of their response to the perceived threat.</p> <ul style="list-style-type: none"> - <i>Recommendation issued on 9 December 2020.</i> <p>GSOC recommend:</p> <ul style="list-style-type: none"> - Further preplanning for incidents such as the one that occurred in this case i.e. planned searches in multi-occupancy dwellings. - A Garda post-incident interaction with members of the public who may be adversely affected by Garda activity, particularly when dealing with children as in this case. - <i>Recommendation issued on 9 December 2020.</i> <p>Letter of acknowledgment received on 6 January 2021</p>

SECTION 7: PROTECTED DISCLOSURES

Under section 22 of the Protected Disclosures Act, 2014 ('the PD 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 fifth such annual report from GSOC and it covers the period of 1 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.

Table 6: Protected Disclosures

Disclosure Type	Number
New disclosures received 2020	19
On hand at the end of 2019	67
Closed during 2020	11
Current caseload on hand	75

2020 CASES

In 2020, 19 disclosures were received under sections 7 and 8 of the PD Act. Combined with the 67 matters on hand from 2019, this brought the total number of cases to 86. Of these 86, 11 were closed in 2020, leaving 75 on hand at the end of 2020.

During 2020, two files were sent to the Director of Public Prosecutions (DPP) 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. Both subsequently reverted to disciplinary investigations under the Garda Síochána Disciplinary Regulations and remained ongoing at the end of 2020.

Of the 11 disclosures that were closed in 2020:

- 5 were withdrawn by the discloser either through disengagement from the process as the person wished to pursue other avenues available to them or failed

to engage with GSOC after the initial approach.

- 1 resulted in a file being 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.
- 1 led to a report being 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.
- 4 were closed following decisions by the Ombudsman Commission. The Commission, as Prescribed Persons under section 7 of the PD Act, reviewed the material submitted by disclosers to them, and the information was deemed not to have met the threshold of relevant wrongdoing under section 5(3) of the PD Act, 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 PD Act (relevant wrongdoing), must also consider if launching an investigation is in the Public Interest. 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

UNIT RESOURCING

The PDU was staffed by a Senior Investigations Officer and eight Investigations Officers in 2020.

Further training has been identified for staff dealing with disclosures in line with the forthcoming requirements set out in EU Directive 2019/1937 and expected to be delivered in 2021.

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. This must be completed by 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 continued as the Irish representative to 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) and signed up to the Rome and Brussels declarations which were published on the GSOC website in 2020.

SECTION 8: INFORMATION REQUESTS

GSOC's Policy and Secretariat Unit deal with the majority of the many requests for different types of information received by GSOC. There are dedicated staff who deal with requests made under the Data Protection Act, 2018 and the Freedom of Information Act, 2014.

This team is responsible for ensuring these requests are responded to within the required time limits, promoting awareness of data protection, FOI and privacy matters within GSOC, providing data protection advice to staff, and ensuring that GSOC adheres to its statutory obligations under the legislation.

Sixty one (61) FOI requests were received in 2020, up from 38 the previous year and the highest number ever received by GSOC in one year. Most of the requests were for personal information held in GSOC case files. As records contained within an investigation or complaint files (that is, related to an examination or investigation under Part 4 of the Garda Síochána Act, 2005) are not covered by the FOI Act, these requests were refused.

The remaining FOI requests related to complaint statistics, including COVID-19 related complaint statistics, and to information on Garda lethal and non-lethal weapons discharges.

GSOC received six requests for internal reviews into decisions regarding FOI requests, of which three were subsequently referred by the requester to the Office of the Information Commissioner. The majority of these review requests related to the refusal to provide access to records contained in investigation or complaint files.

Further details about the FOI requests received in 2020 are available on the FOI Disclosure Log which is available to view on the GSOC website.

The number of data access requests received in 2020 was 75, up from 71 in 2019. The majority of these requests were from complainants — that is, people who have made a complaint about a member or members of the Garda Síochána to GSOC — who were seeking access to their personal data held on GSOC complaint and investigation files. This involved the review and processing of over 160 separate files. Two requests were for the erasure of personal data

held by GSOC. (This is a limited right under Article 17 of the General Data Protection Regulation.)

In 2020, the Data Protection Unit dealt with 39 requests for advice on data protection matters from staff. Most of the issues raised concerned disclosure of information to third parties, lawful bases to process personal data and assistance in dealing with initial refusals by other bodies to release information to GSOC. The Unit was also responsible for arranging training in conducting Data Protection Impact Assessments, which was attended by representatives of a number of other GSOC business units.

GSOC received five complaints from members of the public, mostly regarding a restriction in accessing their personal data, the non-release of third party data or unredacted information.

MEDIA

Requests for information from journalists, outside of the FOI process, are dealt with by GSOC's Communications Unit which provides a 24-hour-a-day on-call service. The Unit responded to 165 queries from journalists in 2020.

Table 7: Information Requests Processed in 2020

Subject	Number
Requests under the Freedom of Information Act, 2014	61
Requests under the Data Protection Act, 2018	75
Information Requests from the Dept of Justice and Equality	5
Material provided in response to Parliamentary Questions	13
Representations from members of the Oireachtas	5
Media Enquiries	165

SECTION 9: STAFF

In accordance with section 71 (3) of the Garda Síochána Act, 2005, as amended, the Garda Síochána Ombudsman Commission is the employer of its staff who are civil servants in the Civil Service of the State.

At 31 December 2020, GSOC had 127 staff in place of a total complement of 135. Recruitment processes were underway to fill a number of vacancies.

Chart 9 shows the organisation structure and resources at 31 December 2020.

The National Shared Services Office (NSSO) provides a suite of HR, performance management, payroll and pensions administration services on behalf of GSOC under a Service Level Agreement.

The Ombudsman Commission is committed to achieving high standards in the quality of service which it provides. However, it is acknowledged that there may be occasions when these standards are not met or maintained. For this reason, the Commission has a policy in place which deals with any complaint made about the Commission or its staff. Details about this policy and the procedures under which a complaint can be made are available on GSOC's website. The Commission received four complaints about staff members in 2020.

In 2016, GSOC established policy and procedures for its own staff to make disclosures under the Protected Disclosures Act 2014. No internal disclosures were received under this policy in 2020.

LEARNING AND DEVELOPMENT

GSOC continued to provide training and development of its staff in 2020. The provision of training was moved to delivery mainly by eLearning means due to COVID-19 with staff availing of both internal and external training and learning opportunities, including those provided by the Civil Service One Learning Shared Service.

In 2020, the Unit facilitated 32 different training courses or programmes for GSOC staff, 15 of which were provided by the One Learning Shared Service. A total of 95 (73 per cent) staff members attended one or more of these courses.

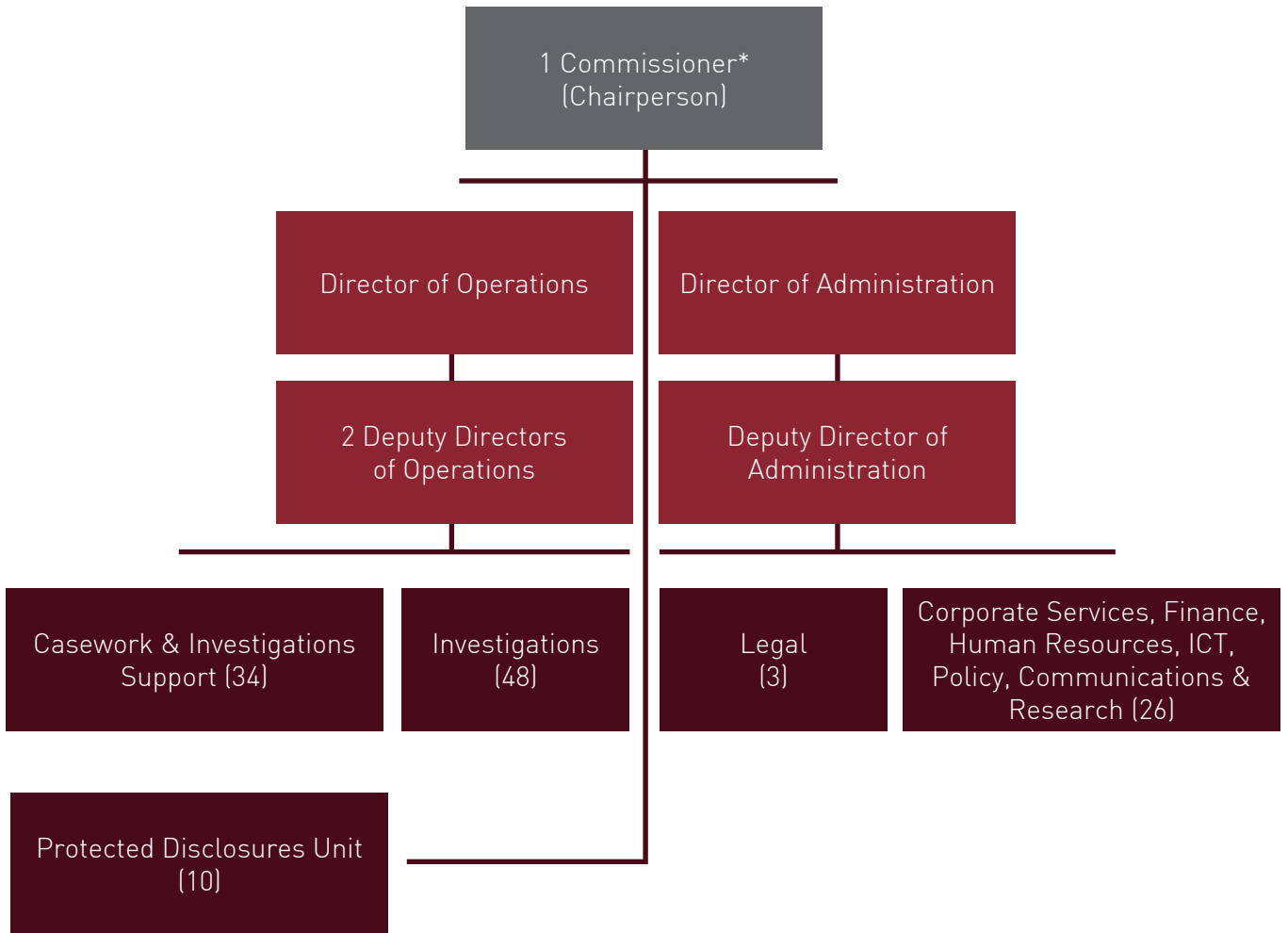
Training provided to GSOC staff in 2020 included:

- Accredited Mediation Programme;
- Family Liaison Officer;
- Open Source Internet Investigations;
- Report Writing for Investigators;
- Data Protection Impact Assessment Training;
- Preventing or Dealing with Disruptive/Aggressive Behaviour;
- Health & Safety courses (First Aid, Fire Warden & Manual Handling); and
- Various Microsoft courses including Word, Excel and PowerPoint.

In addition, a number of GSOC staff pursued educational and training courses on their own time and in accordance with the refund of fees scheme provided for under DPER Circular 23/2007. This circular sets out the arrangements to facilitate Government Departments and Offices in building appropriate skill and expertise levels, and in supporting officers' efforts in the area of self-development and life-long learning. By supporting staff in this way, GSOC is committed to the on-going need to develop new skills and new ways of working in order to enhance workplace performance in the organisation, in addition to recognising that assisting staff's career development is a worthwhile investment.

GSOC commenced a review of its training programme in the final quarter of 2020 with a view to putting in place a new Learning and Development Strategy which will identify learning and development needs for all its staff which will ensure that GSOC staff have the competencies, knowledge and skills to carry out GSOC's statutory functions in accordance with best practice and to meet future organisational needs.

Chart 9: Organisation Structure as at 31 December 2020*



* There was only one Commissioner at the end of year as the Term of Appointment for two Commissioners concluded on 11 December 2020 and the appointment process for new Commissioners was underway.

CONCLUSION

The work of GSOC proceeded in as normal a fashion as possible in what was an extraordinary year. Our central functions of receiving and investigating allegations of Garda misconduct continued largely uninterrupted, with staff quickly adapting to the new work processes and arrangements necessitated by the COVID-19 pandemic. The Commission recognises and applauds the efforts of staff to continue providing GSOC services in this difficult and challenging environment.

Work commenced on planning and preparing GSOC for far-reaching changes to the police oversight environment in the coming years.

There was intense engagement by the Ombudsman Commission with the Department of Justice and other stakeholders in relation to forthcoming legislation designed to give effect to the recommendations of the Commission on the Future of Policing in Ireland (CoFPI) in its final report published in 2018. Among the most significant changes recommended by CoFPI in the area of oversight is that the proposed new Ombudsman organisation would itself investigate all serious allegations of garda misconduct, rather than require that some investigations be undertaken by the Garda Síochána as is currently provided for under the Garda Síochána Act, 2005. The legislation was awaited at the end of 2020, and it is expected that the Bill will be published in 2021. Work commenced on reviewing the organisation's processes and resource requirements in the context of the anticipated new legislation. That work will continue in 2021.

In 2020, GSOC began work on the preparation of its new Statement of Strategy 2021-23, undertaking consultation with staff and key stakeholders. This document, published in March 2021, sets out our vision and mission for the next two to three years to guide our work up to the end of 2023, as we move towards transition to the new organisation envisaged by the CoPFI report.

GSOC also began preparing a new Learning and Development Strategy in the final quarter of the year. The need for appropriate training and continuous professional development of staff remains a priority for the Ombudsman Commission and one which will require particular

focus in light of the expanded range of functions envisaged for the organisation in the future.

December 2020 saw the conclusion of the terms of outgoing Commissioners Kieran FitzGerald and Patrick Sullivan. Dr FitzGerald was a valued member of the Ombudsman Commission for nine years, helping direct GSOC through often-challenging times. Mr Sullivan, who joined the Commission in 2018, brought 30 years' experience in law enforcement and oversight in the US, and made important contributions, particularly in the area of legislative change.

APPENDIX 1: GOVERNANCE, FINANCE AND INTERNAL CONTROLS

GOVERNANCE AND STRUCTURE

The Garda Síochána Ombudsman Commission was established under the Garda Síochána Act, 2005. The functions of the Commission are set out in Section 67 of this Act.

The Ombudsman Commission

The Ombudsman Commission is a three person commission consisting of two Commissioners and a Chairperson, one of whom must be male and one female. All members of the Ombudsman Commission are appointed by the President following the nomination of the Government and the passage of resolutions by both houses of the Oireachtas recommending their appointment. One of the Ombudsman Commission members is appointed as Chairperson.

In 2020, the Ombudsman Commission comprised:

Ms Justice Mary Ellen Ring (Chairperson),

Dr Kieran FitzGerald (term expired on 11 December 2020),

Mr Patrick Sullivan (term expired on 11 December 2020).

The Senior Management Team (SMT) comprised:

- Mr Darren Wright, Director of Operations,
- Ms Aileen Healy, Director of Administration, (Ms Healy took up her appointment in July 2020),
- Ms Niamh McKeague, Head of Legal Affairs (Ms McKeague commenced a leave of absence in September 2020),
- Mr Garrett Croke, Deputy Director of Operations,
- Mr George O'Doherty, Deputy Director of Administration (Mr O'Doherty took up his appointment in June 2020) and
- Mr Nick Harden, Deputy Director of Operations (Mr Harden took up his appointment in November 2020).

Governance

The Ombudsman Commission is responsible for the control and direction of the Garda Síochána Ombudsman Commission and for ensuring good governance, and is accountable to the Minister for Justice.

Responsibilities and Objectives

Sections 65 to 67 of the Garda Síochána Act detail the membership, terms and conditions, appointment, functions and objectives of the Ombudsman Commission. Along with its statutory functions and objectives, its responsibilities also include:

- promoting the success of GSOC by leading and directing GSOC's activities;
- providing strategic guidance to GSOC while still monitoring and supervising the discharge of any of its delegated functions;
- reviewing and guiding strategic direction, major plans of action, risk management policies and procedures, annual budgets and business plans, setting performance objectives, monitoring implementation and performance, and overseeing major capital expenditure decisions;
- acting on a fully informed and ethical basis, in good faith, with due diligence and care, and in the best interest of GSOC, subject to the objectives set by Government;
- promoting the development of the capacity of GSOC including the capability of its leadership and staff, and
- holding senior management to account for the effective performance of their delegated functions and responsibilities.

A range of key decisions are reserved to the Commission, including in relation to:

- Approval of capital projects;
- Putting in place delegated authority levels, financial management policies and risk management policies;
- Approval of terms of major contracts;
- Approval of significant acquisitions, disposals and retirement of GSOC's assets;
- Approval of annual budgets;
- Assurances of compliance with statutory and administrative requirements in relation to the approval of the number, grading, and conditions of appointment of all staff;
- Setting the organisation's strategy, and
- Production of Annual Reports and accounts.

Table A: Attendance at Monthly Commission Meetings 2020

Meets of the Ombudsman Commission in 2020		
Name	Position	No. of meetings attended.
Ms Justice Mary Ellen Ring	Chairperson	11
Dr Kieran FitzGerald	Commissioner	10
Mr Patrick Sullivan	Commissioner	11
Mr Darren Wright	Director of Operations	11
Ms Aileen Healy ⁸	Director of Administration	4
Ms Niamh McKeague ⁹	Head of Legal	6

The Senior Management team, reporting to the Commission, are responsible for the day-to-day management of the organisation.

There is a Corporate Governance Assurance Agreement in place between the Garda Síochána Ombudsman Commission and the Department of Justice, which was signed in March 2018. This sets out the broad corporate governance framework within which GSOC operates and defines key roles and responsibilities which underpin the relationship between GSOC and the Department. The Agreement sets out the arrangements for the effective governance, funding and general administration of GSOC in accordance with the Code of Practice for the Governance of State Bodies (2016). Any derogations or exceptions from the Code have been agreed with the Department and are laid out in the Corporate Governance Assurance Agreement.

Meetings of the Ombudsman Commission

The Ombudsman Commission formally meets once a month, excluding the month of August, to discharge its duties (see Table A above for schedule of 2020 meetings). It met 11 times in 2020.

⁸ Ms Healy took up her position with effect from 24 July 2020.

⁹ Ms McKeague took a leave of absence with effect from September 2020.

FINANCE

GSOC is funded through the provision of an annual grant from the Vote for the Department of Justice. The Secretary General of the Department is the Accounting Officer for the Vote and for funding provided to the Commission.

Section 77 of the Garda Síochána Act, 2005 requires the Ombudsman Commission to keep, in such form as may be approved by the Minister for Justice with the consent of the Minister for Public Expenditure and Reform, all proper and usual accounts of money received and expended by it. The Ombudsman Commission is responsible for keeping adequate accounting records which disclose, with reasonable accuracy at any time, its financial position and enables it to ensure that the financial statements comply with Section 77 of the Garda Síochána Act, 2005. The Chairperson is responsible for the preparation of GSOC's accounts.

Audit and Risk

The annual accounts of GSOC are subject to annual audit by the Comptroller and Auditor General. Having regard to the size of the Ombudsman Commission, it is not deemed feasible for it to have its own Internal Audit function. Arrangements have been put in place

Table B: GSOC Expenditure 2020.

Category	2020 Budget €	Expenditure Subhead	2020 Expenditure €
Pay	7,658,050	A01 - Pay & Allowances	7,534,642
Non-Pay	3,522,950	A02 - Travel & Subsistence	86,578
		A03 - Incidental Expenses	478,264
		A04 - Postal & Telecommunication Services	75,517
		A05 - Office Machinery & Other Office Supplies	1251,611
		A06 - Office & Premises Expenses	1,699,851
Total	11,181,000		11,126,463

to avail of the Internal Audit Service of the Department of Justice, which reports to the Department's Audit and Risk Committee. The Department's Audit Unit undertakes audits of the Garda Síochána Ombudsman Commission, reports of which are provided to the Ombudsman Commission and which are presented to, and discussed by, the Department's Audit and Risk Committee annually. In February 2021, the Ombudsman Commission decided to establish its own Audit and Risk Committee to oversee the management of risk and internal controls in the organisation and to advise the Ombudsman Commission in relation to matters of audit, governance and risk.

GSOC has a risk management process in place which includes:

- A Chief Risk Officer who has overall responsibility for overseeing the management of risk and keeping the Ombudsman Commission informed of high level risks and their mitigation;
- A Risk Management Policy which sets out the processes in place for the identification, assessment, management and mitigation of risks in the organisation
- A Risk Register which contains details of risks and their mitigation and which is kept up to date on an ongoing basis; and
- A Risk Management Group which meets throughout the year to support the Chief Risk Officer in the identification, assessment and management of risks.

Risk is a formal agenda item for the monthly Commissioner meetings, at which a report on risk management is provided for the Commission's consideration. Risk management is also a standing agenda item for Senior Management Team (SMT) meetings.

Expenditure

The Ombudsman Commission ensured that GSOC fully complied with the Public Spending Code throughout 2020.

Table B (above) shows the amount of expenditure by GSOC in 2020.

GSOC spent a total of €33,660 on measures in 2020 to ensure that its workplace locations complied with the necessary safety requirements under the Government's COVID-19 guidelines. Arrangements were put in place to facilitate social distancing and public health requirements in order to allow limited attendance by staff members in the office where work could not be conducted remotely or where access was required to the buildings in a limited capacity.

KEY MANAGEMENT PERSONNEL

Total salaries paid to key management personnel by the Garda Síochána Ombudsman Commission amounted to €430,694.

NON-SALARY RELATED FEES

No non-salary related fees were paid in respect of members of the Ombudsman Commission for 2020.

EMPLOYEE BENEFITS

The number of employees whose total employee benefits paid in 2020 fell within each of the following pay bands is shown in the following table (these figures include salary, overtime allowances and other payments made on behalf of the employee but exclude employer's PRSI):

Table C: Employee Benefits Breakdown:

Range From-To	Number of Employees	
	2020	2019
€60,000 - €69,999	21	16
€70,000 - €79,999	14	9
€80,000 - €89,999	4	3
€90,000 - €99,999	3	3
€100,000 - €109,999	2	2
€110,000 - €119,999	-	-
€120,000 - €129,999	-	-
€130,000 - €139,999	-	1
€140,000 - €149,999	3	2

CONSULTANCY AND LEGAL COSTS AND SETTLEMENTS

Expenditure in 2020 included the cost of external advice to management and general legal advice received by the Garda Síochána Ombudsman Commission amounting to €58,239.

Expenditure in relation to legal costs, settlements and conciliation and arbitration proceedings relating to contracts with third parties was €31,176 in 2020.

The financial statements, including the Statement of Internal Control in GSOC on page 59, have not yet been audited by the Comptroller and Auditor General and consequently the financial information provided in this report remains provisional.

Garda Síochána Ombudsman Commission Statement of Internal Control

Responsibility for system of Internal Control

On behalf of the Garda Síochána Ombudsman Commission, I hereby acknowledge our responsibility for ensuring that an effective system of internal controls is maintained and operated. This responsibility takes account of the requirements of the Code of Practice for the Governance of State Bodies (2016).

Purpose of the system of Internal Control

The system of internal control can only provide reasonable and not absolute assurance that assets are safeguarded, transactions authorised and properly recorded, and that material errors or other irregularities are either prevented or would be detected on a timely basis. We are satisfied that the systems, which the Commission has in place, are reasonable and appropriate for the Commission's circumstances having regard to its size, level of expenditure, staff resources and the nature of its operations.

Internal Control Environment

The following steps have been taken to ensure an appropriate control environment

- Internal reporting relationships are clearly assigned;
- Management responsibilities are clearly assigned and communicated between the Director of Administration, Corporate Services and the Finance Team;
- Decisions on expenditure rest with line managers and the members of the Commission in line with approved expenditure thresholds;
- The Department of Justice provide an agency payment service for the Garda Síochána Ombudsman Commission. Payroll Shared Service Centre processed payroll and travel and subsistence during the accounting year. The Department of Justice also provide internal audit, fixed asset register maintenance, purchase ordering and tax filing services to the Garda Síochána Ombudsman Commission. In order to ensure appropriate controls are in place, the Garda Síochána Ombudsman Commission uses the services of an external contractor to undertake regular reviews of controls. This process complements the audits undertaken by the Department of Justice internal audit unit;
- The Garda Síochána Ombudsman Commission has in place robust financial procedures and in addition engaged the services of an external accounting firm to prepare its financial accounts;
- GSOC has systems in place for the monitoring of risk and, in so far as possible having regard to the operating environment, dealing with the risks that have presented throughout 2020. and
- The Garda Síochána Ombudsman Commission met formally to discharge its governance responsibilities on 11 occasions in 2020.

Impact of COVID-19 pandemic to the Control Environment

The onset of the COVID-19 pandemic in early 2020, and the resulting public health advice and safety measures, rapidly and fundamentally changed the working practices of GSOC with remote and virtual working becoming the norm for most GSOC staff.

GSOC has monitored the developments closely, looking to mitigate the risks that may affect the GSOC's business operations, staff and stakeholders. Actions taken by the Commission includes:-

- Initiation of GSOC's Business as Usual (BAU) model and transition of such of its business operations as can be undertaken remotely bearing in mind the nature of GSOC's business as an essential service.

- Continual assessment of significant risks pertaining to the COVID-19 pandemic and the agility of GSOC to respond effectively.
- Ensuring robust segregation of duties remains and adequate cover is in place should specific approving authorities be unavailable.
- Ensuring all existing data protection and records management policies and procedures continue to apply in the remote working environment and are monitored and reported on as normal.
- Ensuring that staff members access GSOC's network using GSOC's approved ICT equipment and that all staff members working remotely have been equipped with the necessary ICT equipment.
- Assessing potential for weaknesses in internal controls resulting from COVID-19 and measures to monitor and update internal controls where necessary.

Risk and Control Framework

The Commission has established processes to identify and evaluate business and financial risks by putting a Risk Register and Risk management policies in place to:

- Identify the nature and extent of financial and operational risks;
- Assess the potential of risks occurring;
- Evaluate and assess capacity to manage the risks that do occur;
- Examine risks in the context of strategic goals;
- Put actions in place to mitigate risks; and
- Regularly report on risks.

The Garda Síochána Ombudsman Commission has a Risk Management system in place which includes a Chief Risk Officer with overall responsibility for risk management, supported by a Risk Management Monitoring Group which has responsibility for ensuring cross organisational participation and buy-in to the risk management process and providing oversight to the management of risk by Business Units, to ensure the implementation of a cohesive approach to risk management throughout GSOC and provide assurance to Senior Management that all known risks are mitigated against. The Risk Management Monitoring Group met 5 times in 2020 to review risk and update GSOC's Risk Register.

GSOC's risk register identifies specific risks, details the controls and actions needed to mitigate those risks and assigns responsibility for the mitigation and operation of controls to key staff. Every month, the Ombudsman Commission reviews material risk incidents and notes or approves actions taken by staff to mitigate or manage the identified risks to a tolerable level.

GSOC has a risk management process in place which includes:

- A Chief Risk Officer who has overall responsibility for overseeing the management of risk and keeping the Commission informed of high level risks and their mitigation;
- A Risk Management Policy which sets out the processes in place for the identification, assessment, management and mitigation of risks in the organisation;
- A Risk register which contains details of risks and their mitigation and which is kept up to date on an ongoing basis; and
- A Risk Management Group which meets throughout the year to support the Chief Risk Officer in the identification, assessment and management of risks.

Risk is a formal agenda item for the monthly Commissioner meetings, at which a report on risk management is provided for the Commission's consideration. Risk management is also a standing agenda item for Senior Management team meetings.

Having regard to the size of the Ombudsman Commission, it is not deemed feasible for it to have its own Internal Audit function. Arrangements have been put in place to avail of the Internal Audit Service of the Department of Justice, which reports to the Department's Audit and Risk Committee. The Department's Internal Audit Unit undertakes audits of the Garda Síochána Ombudsman Commission, reports of which

are provided to the Commission and which are presented to and discussed by the Department's Audit and Risk Committee annually. The Department of Justice's Audit and Risk Committee remit included the Garda Síochána Ombudsman Commission throughout 2020. In February 2021, the Commission decided to establish its own Audit and Risk Committee to oversee the management of risk and internal controls in the organisation and to advise the Commission in relation to matters of audit, governance and risk.

Monitoring and Review

The system of internal control is based a framework of controls which include management of information, administrative procedures and a system of delegation and accountability. In particular, this involves

- Comprehensive budgeting with an annual budget which is reviewed regularly by senior management;
- Submission of monthly finance reports to the Director of Administration for review; and
- Regular review by the Commission and Corporate Services of financial information.

Mechanisms have been established for ensuring the adequacy of the security of the Commission's information (internally within the Garda Síochána Ombudsman Commission) and communication technology systems.

Internal control Issues

No weaknesses in internal control were identified in relation to 2020 that require disclosure in the financial statements.

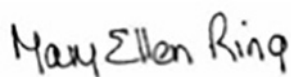
Compliance with Public Spending Code

The Garda Síochána Ombudsman Commission has procedures in place to ensure compliance with current procurement rules and guidelines as set out by the Office of Government Procurement.

Approval by the Commission

The Statement on System of Internal controls has been reviewed by the Commission to ensure it accurately reflects the control system in operation during the reporting period.

The Commission is reasonably assured that the systems of Internal Control instituted and implemented in the Garda Síochána Ombudsman Commission for the financial year ended 31st December 2020 were effective.



Ms. Justice Mary Ellen Ring,
Chairperson

Date: 31 March 2021

APPENDIX 2: PROFILE OF PEOPLE WHO COMPLAINED IN 2020

Charts below illustrate the profile of people who complained to GSOC in 2020.

Results are based on a survey distributed to all complainants when they submit a complaint. 22% of complainants (426) responded in 2020. All responses are anonymous.

Some figures were rounded up or down.

Chart 10: Gender

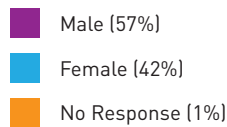
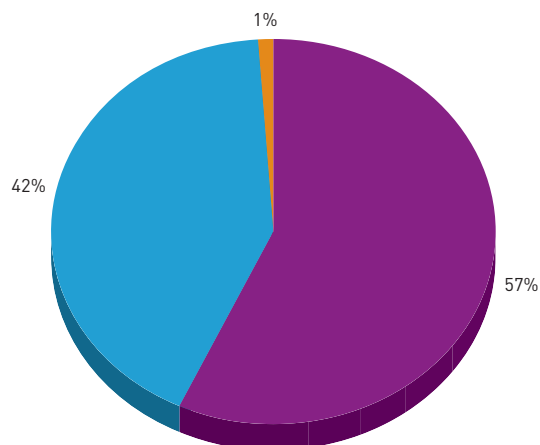


Chart 11: Age

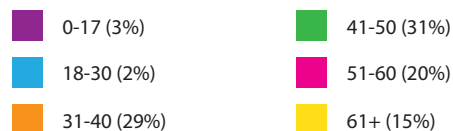
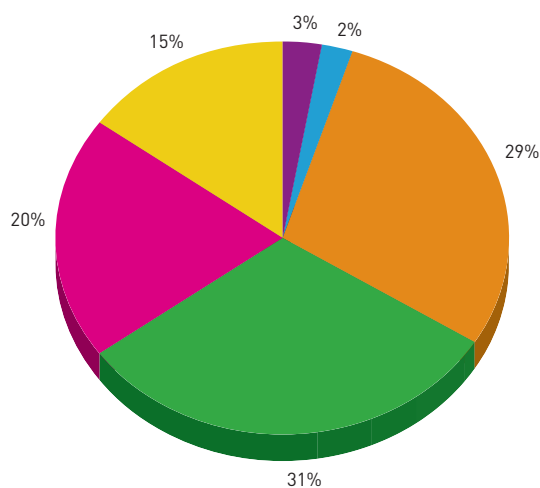


Chart 12: Nationality

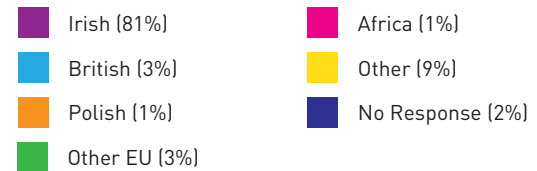
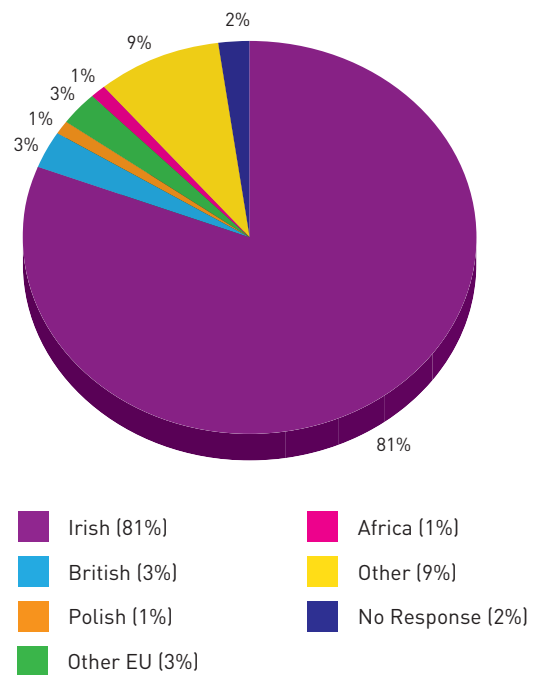


Chart 13: Country of birth

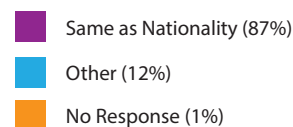
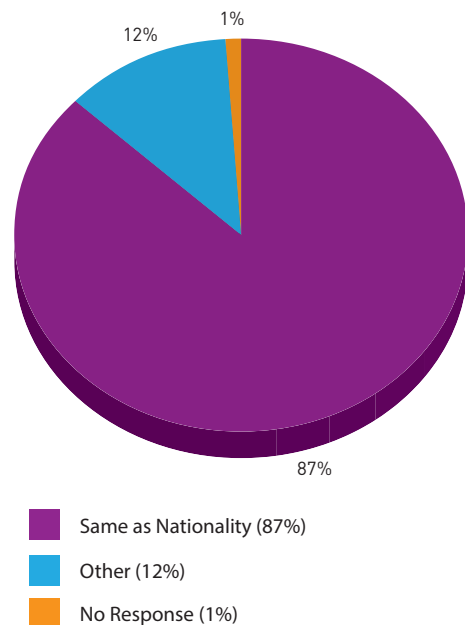
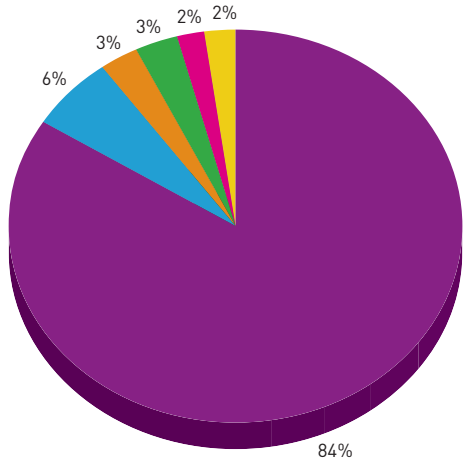
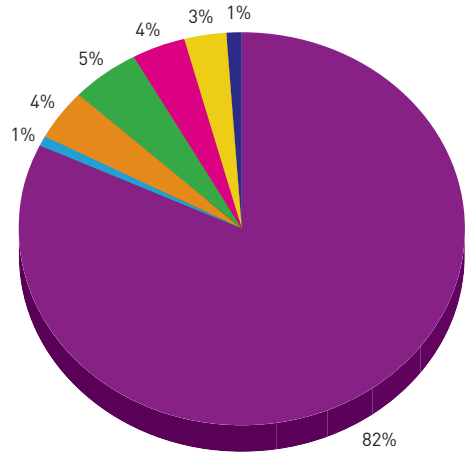


Chart 14: Ethnicity



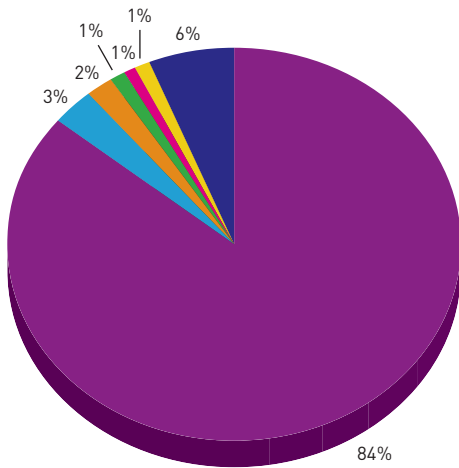
- White (84%)
- Black (6%)
- Asian (3%)
- Other (3%)
- Traveller (2%)
- No Response (2%)

Chart 16: Disability



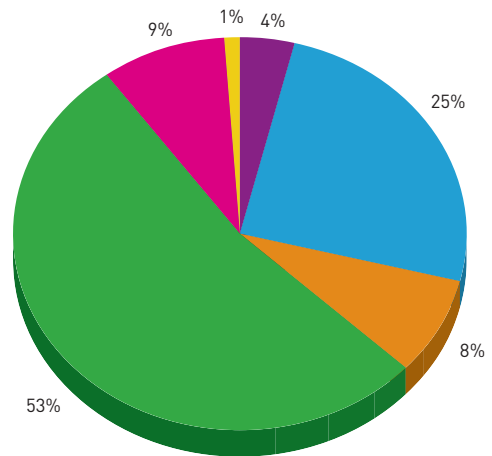
- None (82%)
- Intellectual (1%)
- Other (4%)
- Physical (5%)
- Psychological (4%)
- Several Types (3%)
- No Response (1%)

Chart 15: Language



- English (84%)
- Irish (3%)
- Polish (2%)
- Romanian (1%)
- French (1%)
- Russian (1%)
- Other (6%)

Chart 17: Religion



- Islam (4%)
- No Religion (25%)
- Other (8%)
- Roman Catholic (53%)
- Other Christian (9%)
- No Response (1%)

Chart 18: Housing

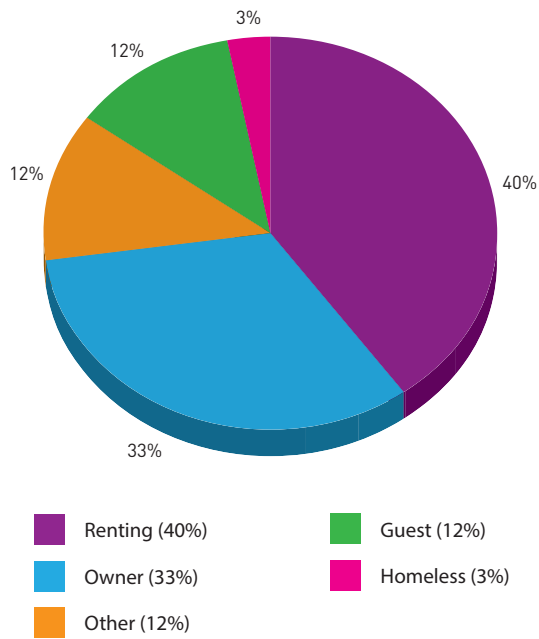


Chart 20: Employment Status

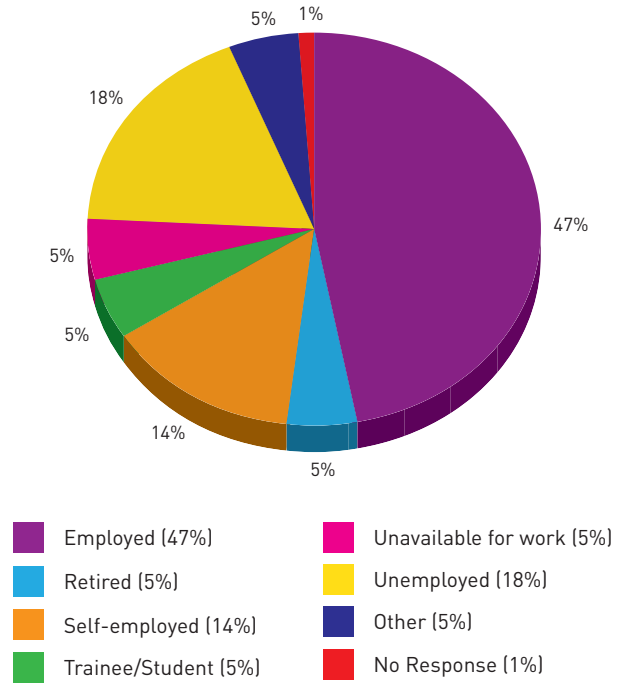
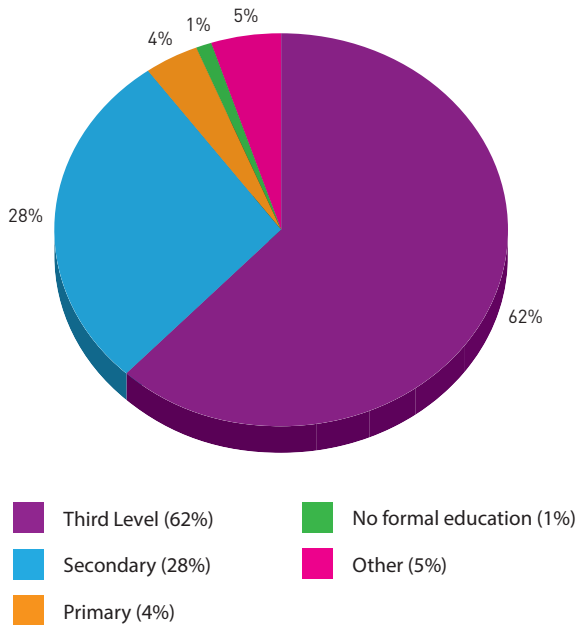


Chart 19: Highest Level of Education



APPENDIX 3: PROFILE OF GARDAÍ COMPLAINED OF IN 2020

The charts on this page show the profile of gardaí complained of in admitted allegations in 2020 where the identity (gender and rank) of the gardaí was known.

Some figures are rounded to nearest percentage point.

Chart 21: Gender of members of the Garda Síochána in allegations admitted in 2020

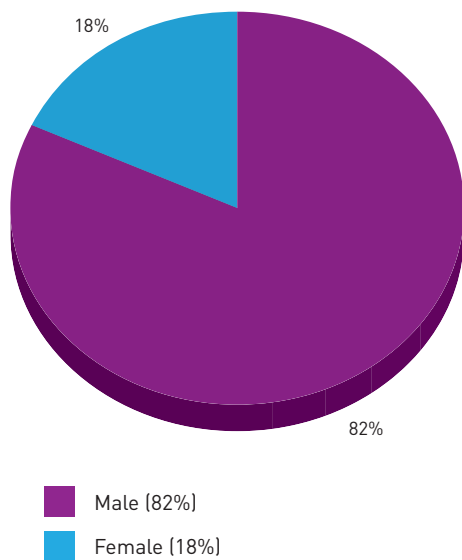
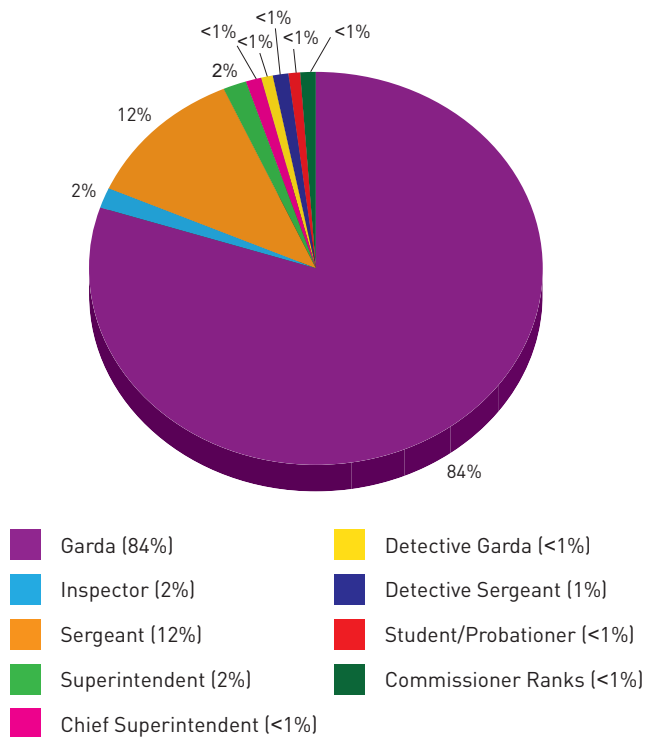


Chart 22: Rank of members in allegations admitted in 2020





Garda
Ombudsman
INQUIRY INDEPENDENCE IMPARTIALITY

Garda Síochána Ombudsman Commission
150 Abbey Street Upper
Dublin 1

☎ (01) 871 6700

☎ Lo-Call 1890 600 800

☎ (01) 814 7026

🖱 www.gardaombudsman.ie

✉ info@gsoc.ie

🐦 [@gardaombudsman](https://twitter.com/gardaombudsman)