

Ms. Éilís Fallon
Committee Secretariat
Committee of Public Accounts
Leinster House
Dublin 2 D02 XR20

By email only.

Your ref: S0386 PAC33

10th June 2021

Our ref: CEPS-008-21

Dear Ms. Fallon

I write to acknowledge receipt of your letter of the 24th of May inst. and welcome the opportunity of answering the query you have raised on behalf of the Committee of Public Accounts. I will also take this opportunity to address some of the broader issues referred to in the discussion in the Committee on the 11th of May last.

1. The Annual Report of the Garda Síochána Ombudsman Commission (GSOC) 2020 was provided to the Minister for Justice on the 31st of March last in accordance with the requirements of the Garda Síochána Act 2005 as amended ("the 2005 Act"). The decision to lay this Annual Report before the Houses of the Oireachtas is a matter for the Minister as per section 80 (6) of the 2005 Act. This letter has been delayed in the hope that the Annual Report might be fully available but GSOC is still not aware as when the Minister will proceed with the Annual Report.
2. In reporting to the Minister for Justice GSOC noted that 1,955 complaints were received in 2020, with 3,089 allegations contained within those complaints. (1,756 complaint in 2019 with 2,885 allegations contained within those complaints).
3. In 2020 43 referrals under section 102 (1) of the 2005 Act were received from AGS which related to incidents where it appears that the conduct of a member of the Garda Síochána may have resulted in the death of, or serious harm to, a person. (40 in 2019).
4. As a result of complaints received in 2020, 572 criminal investigations were opened. This contrasts with the 2019 figures of 485 criminal investigations opened in 2019.
5. GSOC investigators also carry out non-criminal investigations, i.e. investigations of alleged breaches of the Garda Discipline Regulations. In 2020 150 cases of this nature were opened by GSOC. (148 of these case in 2019).
6. GSOC investigators also supervise disciplinary investigations returned to the Garda Síochána for investigation. 106 such cases were opened in 2020 (105 in 2019).

The increased work level in 2020 – and continuing into 2021 – came at a time when there was no resulting increase in investigative personnel and at a time when COVID restrictions challenged the work of our staff in keeping with the rest of the country. As an essential service GSOC has remained open and on call as usual. In the normal way of any organisation GSOC staff move on and currently there are four vacancies in our investigative staffing numbers. We have commenced an open competition to build up panels for investigators and assistant investigating officers through the Public Appointment Service but as you will be aware this takes a period of months to complete and actually have a person in post ready to work.

It would be the view of the Commission that the staffing of an oversight body such as GSOC is not in line with other Civil Service departments or agencies. While it may be possible on the previous year's statistics to anticipate a current year's workload for many organisations, the decision of individuals to make a complaint is unpredictable. Further, out of the blue an event occurs – a shooting, a traffic incident, a death after garda contact, a death in a garda cell – which requires an immediate response from investigators, sometimes not becoming the focus of an ongoing GSOC investigation but in other cases adding to the workload of the teams across the organisation. These incidents cannot be planned for but must be responded to in accordance with our statutory mandate and in particular the State's responsibility under Article 2 of the European Convention on Human Rights.

As the Committee will be aware the General Scheme of the proposed Policing, Security and Community Safety Bill has recently been circulated having been approved by the Cabinet. The Commission welcomes the scheme in general with a number of issues to be addressed in further submissions. We particularly welcome the concept of complaints that were - and continue to be – dealt with under the Discipline Regulations moving into the area of performance management. These types of complaints – rudeness, inappropriate language, failures to return phone calls – currently involve investigations that take a number of months. These are the types of cases that GSOC returns currently for the Garda Síochána to deal with and often the behaviour is not found (correctly) to be a breach of the Discipline Regulations but leaves a member of the public (correctly) feeling frustrated that the issue has not been dealt with appropriately. The Commission sees these are matters which management should engage with, without a protracted investigation and where an outcome such as an apology (not currently available under the Discipline Regulations) may meet the situation to the member of the public's satisfaction. The Local Intervention scheme (non-statutory) which has been commenced over the last three years with the cooperation of GSOC and AGS has seen a number of these types of issues taken out of the formal complaint process and resolved to everyone's satisfaction.¹

The removal of the more minor complaints back for performance management handling and disposal by the Garda Síochána will leave the more serious allegations of criminal and serious discipline breaches for investigation by the new organisation. GSOC currently returns complaints to the gardaí for investigation (432

¹ 263 cases referred to AGS for local intervention in 2020. 237 cases referred in 2019. 84 cases referred back to GSOC by AGS of which 66 were admitted for investigation. (This figure would include cases referred in 2019). 58 cases were referred back to GSOC in 2019.

in 2020 as compared to 405 in 2019) across the country. Therefore as some of the more serious of those cases will be taken back by the new organisation it is anticipated that not only will there be a need for an increased investigation section but also a greater geographical spread of investigators. Currently GSOC has an office in Cork and one in Longford but we are looking at ways of adding geographically to our staff providing more local coverage along with reducing unnecessary Travel and Subsistence claims that could otherwise arise.

The Commission and the Senior Management Team within GSOC are currently preparing a business case for the transition period and beyond to the new organisation which will be submitted to the appropriate personnel in due course.

One of the elements of the General Scheme is the addition of non-sworn personnel coming within the remit of the new oversight organisation. This will then mean an increase in the mandate of the new organisation. As of the 31st of December 2019 (the latest figures available from the Annual Reports of AGS) there were 14,307 members, 2,944 staff and 485 reserve members within the garda organisation. This is a total of 17,736 personnel over which the new organisation will have a mandate (including any increases occurred in 2020 and onwards). Happily accepting that most gardaí and staff and reserves will not be the subject of complaints, even a 1% ratio of future GSOC investigators to the garda staff would see an increase from the current investigative staff of 40 to 177 investigators!

The Commission are firmly of the view that unless the new organisation starts with the old caseload reduced along with appropriate investigative staff in place, then any new organisation, however structured, will always be on the back foot and unable to meet the aspiration of "efficient" investigations. This will lead to a resulting loss of faith in the general public in meaningful garda oversight at a time where Ireland has an opportunity to become an international example of good practice in this area.

The Commission welcomes the opportunity to discuss this with the Committee at any stage. We are conscious of the provisions of section 78 of the 2005 Act – Accountability of Ombudsman Commission to Committee of Public Accounts – and feel we could usefully provide information to the Committee. Further the Commission has some suggestions about staffing of a new organisation into the future which are not just organisation specific but could provide training and growth opportunities across the public service. These proposals would not only meet the needs of the current/future organisation but also provide personnel to a number of departments and state agencies.

Yours sincerely



Ms. Justice Mary Ellen Ring

Chair, Garda Síochána Ombudsman Commission