

Ms Sarah Cremin
Committee Secretariat
Committee of Public Accounts

14 December 2021

Your Reference: S0642 PAC33

Dear Ms Cremin,

I refer to your letter of 22 November 2021 and the Committee's request for information from the Garda Síochána Ombudsman Commission (GSOC) in relation to the following:

- A response to the Department of Justice's letter to the Committee dated 29 October 2021 regarding GSOC's resourcing;
- The basis of letters GSOC is reported to have issued to complainants; and
- Information in relation to unofficial strike action and if there has been an appraisal of the implications for GSOC's workload.

Each of these issues is addressed below.

GSOC Resourcing

GSOC acknowledges the information which the Department of Justice has provided in its correspondence to the Committee in relation to GSOC's resourcing. The sanction provided in November 2018 to recruit an additional 42 posts followed the submission by GSOC of a business case for these resources to address a worrying lack of capacity and resilience in the organisation at that time and was very much welcomed. These additional staff were recruited during 2019 and brought the total number of approved posts in GSOC to 135. Nevertheless, GSOC continues to face challenging demands within its current operational environment.

On 31 May 2021, the then Chairperson, Ms Justice Mary Ellen Ring, wrote to the Department outlining in detail how the level of funding currently available to GSOC is not sustainable. She pointed out, in particular, that the funding for 2021 left no scope in GSOC's finances to cover unexpected costs associated with a number of key developments which arose in early 2021 and which gave, and indeed continue to give, cause for serious concern that GSOC's resources would not be sufficient to adequately allow for the provision of our statutory functions.

This is in the context of the additional pressures, highlighted by the Chairperson, which have been placed on GSOC due to the significant increase in the organisation's workload. For instance, complaints in 2020 increased by 11%, a trend which has continued into this current year, where further increases of 13% over 2020 levels have been experienced - a total increase of 17% over a 2 year period. In addition, the number of section 102(1) referrals

made by An Garda Síochána to GSOC, of cases involving death or serious harm following contact with members in the eleven months from January to November 2021 shows an increase of over 50% on the number of referrals made in the whole of 2020.

It is also noted that the nature of cases, in addition to their volume, raises serious concerns about GSOC's capacity to deal with them in a timely and effective manner and in the context of current workloads. This is in part due to the increased complexity of many of the matters which are brought to GSOC's attention, either through complaints from the public or referral by the Garda Commissioner, the Policing Authority and the Minister for Justice. In particular, GSOC's current workload includes a number of serious and high profile Article 2 investigations, which pose a considerable risk to GSOC's ability to carry out its statutory functions and its, and indeed the State's, obligations under the European Convention of Human Rights.

The increased work level in 2020 – and continuing into 2021 – has come at a time when there was no resulting increase in GSOC's investigative personnel and at a time when COVID-19 restrictions challenged the work of our staff in keeping with the rest of the country. This has had an impact on the conduct of investigations, which are more challenging due to their inherent nature, and inevitably resulted in some delays in our ability to progress cases due to the impact of COVID restrictions on certain investigative activities. Nevertheless, as an essential service, GSOC has remained open and on call as usual throughout the pandemic.

In writing to the Department in May 2021, Ms Justice Ring sought the allocation of additional pay and non-pay funding for GSOC to support a number of measures to assist in addressing the increasing workload in the organisation. One of these key measures is a requirement for additional staff resources to supplement our existing investigation and legal teams, along with a number of supporting administrative staff. GSOC acknowledges that in response, the Department has provided an additional €300,000 on top of its budget of €11.3m for 2021. This has enabled us to address some immediate needs identified in relation to some key investigations. GSOC also welcomes the Department's efforts in securing further additional funding which will see GSOC's allocation rise by €2.133m to €13.406m in 2022. We are currently finalising the identification of the key resource components, e.g. the staff expertise, numbers and grades, together with systems and supports which can be put in place in 2022 with the available funding, and which it is hoped will allow us to address backlogs in current cases and to improve our performance in terms of the timeliness of our response.

It is important to note however that this level of resourcing will only allow GSOC to deal with its current workload under the existing legislation. These resourcing levels do not take account of additional requirements consequent on the intended transition to the successor complaints body being provided for in the draft Policing, Security and Community Safety Bill, the General Scheme of which is currently undergoing pre-legislative scrutiny by the Joint Committee on Justice. Without doubt, the proposed change in remit of this body and the additional functions and obligations proposed under the new legislation, will seriously impact GSOC's capacity and will have to be separately addressed in future Estimates campaigns.

Furthermore, there is considerable preparatory work to be undertaken in the meantime to ensure that the new organisation is in place and is fit for purpose to take up and deliver its statutory remit in a timely and effective manner once the legislation is commenced. It is of huge concern to GSOC that the new arrangements position us to be an effective, high performing, oversight body which is trusted by the public to independently and competently

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address concerns about possible Garda misconduct, thus contributing to a police service which deserves the trust and confidence of the people of Ireland. As part of the preparations to implement the new legislation, GSOC will be engaging with the Department of Justice, including to seek the resources to assist in these preparations during 2022 and into 2023. While not yet quantified, it is certain that this will at the very least include requirements for assistance with business analysis and process change, project management and support and the development of new systems to facilitate the management of caseload under the new statutory provisions.

Pay Dispute Involving some senior Garda officers

We have been informed that, since July 2021, as a result of a dispute over pay and allowances, some senior Garda officers have withdrawn from work they consider outside their core duties. Such duties include the investigation of complaints referred to them by GSOC under section 94 of the Garda Síochána Act, 2005. These are complaints involving alleged breaches of discipline and do not include criminal allegations. All criminal complaints continue to be investigated by GSOC.

Section 94 investigations, in the normal course of events, are required to be completed in a timescale of between 16 and 20 weeks. With the dispute yet to be resolved, the withdrawal of some senior Gardaí from this work is impacting the completion of some investigations within the statutory timelines. The resulting delays are outside the control of GSOC.

Implications for GSOC/Correspondence with Complainants

GSOC's current estimate is that approximately 218 cases or 52% of such cases may be affected by the dispute.

On 4th November 2021, GSOC issued correspondence to complainants who may be affected by the delays. The purpose of this correspondence was to provide transparency to complainants regarding the reason for the delay in progressing their complaints.

By the end of November 2021, GSOC had been notified of 28 cases which were not being progressed and 17 Garda Síochána Investigation Officers, at the rank of Superintendent and Chief Superintendent, who have stated that they will not progress the cases assigned to them while the industrial relations dispute continues.

GSOC is continuing to seek updates from An Garda Síochána, and hopes that the dispute can be resolved without significant further delay.

I trust that the above information is helpful in addressing the Committee's queries in these matters.

Yours sincerely



Aileen Healy
Director of Administration

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