

DÁIL ÉIREANN

AN COMHCHOISTE UM DHLÍ AGUS CEART AGUS COMHIONANNAS

JOINT COMMITTEE ON JUSTICE AND EQUALITY

Dé Céadaoin, 28 Feabhra 2018

Wednesday, 28 February 2018

Tháinig an Comhchoiste le chéile ag 9 a.m.

The Joint Committee met at 9 a.m.

Comhaltaí a bhí i láthair / Members present:

Teachtaí Dála / Deputies	Seanadóirí / Senators
Colm Brophy,	Frances Black,
Jack Chambers,	Niall Ó Donnghaile.
Jim O'Callaghan.	

I láthair / In attendance: Deputy Donnchadh Ó Laoghaire.

Teachta / Deputy Caoimhghín Ó Caoláin sa Chathaoir / in the Chair.

Business of Joint Committee

Chairman: As we have a quorum, we shall commence in public session. I remind members to please switch off their mobile phones as they interfere with the recording equipment. I have not been advised of any apologies. We will now briefly go into private session.

The joint committee went into private session at 9.02 a.m. and resumed in public session at 9.31 a.m.

Garda Oversight and Accountability: Garda Síochána Ombudsman Commission

Chairman: The purpose of today's engagement is to meet the Garda Síochána Ombudsman Commission to revisit the issue of Garda oversight and accountability and look at the progress made in implementing the recommendations of the joint committee as published in December 2016 in its report on the subject. We shall also consider GSOC's proposals for stand-alone legislation for it. We note the publication of a report by Ms Justice Mary Ellen Ring in December 2017. We thank her for her attendance in such inclement weather. We also welcome Ms Claire Grady, head of communications at GSOC, who is in the Visitors Gallery.

Under the salient rulings of the Chair, members should not comment on, criticise or make charges against a person outside the Houses or an official, either by name or in such a way as to make him or her identifiable.

By virtue of section 17(2)(l) of the Defamation Act 2009, witnesses are protected by absolute privilege in respect of their evidence to the committee. However, if they are directed by it to cease giving evidence on a particular matter and continue to do so, they are entitled thereafter only to qualified privilege in respect of their evidence. They are directed that only evidence connected with the subject matter of these proceedings is to be given and asked to respect the parliamentary practice to the effect that, where possible, they should not criticise or make charges against any person or an entity by name or in such a way as to make him, her or it identifiable.

I invite Ms Justice Mary Ellen Ring to make her opening statement.

Ms Justice Mary Ellen Ring: I again thank the Chairman and committee members for giving me the opportunity to meet them. My fellow commissioner, Mr. Kieran FitzGerald, was to be present, but the weather has defeated him. We are to be joined in the future by a third commissioner as the recruiting process finished recently.

Representatives of the Garda Síochána Ombudsman Commission, GSOC, were last before the Joint Committee on Justice and Equality on 21 September 2016, at which stage a number of the issues raised by the commission were discussed. We were glad to see the committee include many of those matters, together with other recommendations, in the report on Garda oversight and accountability published in December 2016.

The Garda Síochána Ombudsman Commission can confirm that since late 2016 the statutory landscape has not changed for it. However, there have been intervening events, some of which were external and others internal to the commission. On 16 May 2017 he then Tánaiste and Minister for Justice and Equality, Deputy Frances Fitzgerald, announced the establishment

of the Commission on the Future of Policing in Ireland. In its terms of reference the commission has been tasked with addressing, with other areas, “the appropriate structures for governance, oversight and accountability, to ensure ... that there are open, accessible and independent means of investigating and adjudicating fairly upon complaints against the police...”.

By May 2017 the Garda Síochána Ombudsman Commission had embarked on its own internal review of its structures as an organisation, while also commencing a review of the current legislative framework. In doing so all staff in the organisation participated in a business improvement process, leading to proposals for adoption by the commission. That was done having regard to the expertise that had grown among the staff, in some instances during the ten years plus of GSOC’s existence. GSOC has a staff who have operated the Garda Síochána Act 2005 with all of its challenges and failings and in so doing have had constant contact with the public. The commission considered it was extremely important to take all views into consideration in looking at how, as an organisation, it could serve the public better and also how it could move forward, with or without legislative change. As a result of the internal work done in 2017, the organisation has revised its working process, although the current statutory requirements dictate how that work is ultimately done. The commission was also conscious, as were staff, that in working better, should there be statutory change, the organisation did not want to have to restructure all over again. Therefore, internal changes were undertaken with a view to being able to adapt to any future legislative developments.

Alongside the internal work, the commission undertook to make a submission to the Department of Justice and Equality on legislative change. That was done in conjunction with the internal work in order that the proposals would not only make sense in terms of good governance and accountability but that they would also make sense in operational terms within the organisation.

Consideration was given to the process of taking back more work from An Garda Síochána under the current legislation which would add to the necessary experience and skills for legislative change in confirming such a change. Again, as part of the business improvement team’s work and the legislative change proposals, consideration was given to strengthening the trained team of investigators who would be available and able to take on existing legislative developments and into the future. To that end, GSOC provided a business case proposal for the Minister for Justice and Equality earlier this month. It envisages both short-term and medium-term staffing demands, with a longer term business case, dependent on legislative change. The business case has been provided for members of the committee.

One of the main concerns of the commission is building an operational team of investigators that will be adaptable enough to allow GSOC to deal with the unexpected. Ten years of experience has shown that there is a relatively constant level of complaints in or around 2,000 per year. What cannot be planned for are incidents that occur unexpectedly – a road traffic incident involving a garda or gardaí, a serious criminal allegation against a garda or gardaí, and a decision to refer matters to the Garda ombudsman by the Minister or the Policing Authority. Let me give an example. In June 2017 the then Garda Commissioner unexpectedly sent the commission correspondence which included an audit report on EU funded training programmes-projects at the Garda College in Templemore. There was a clear public interest in an independent investigation into this matter, but the Garda ombudsman was not in a position to carry out such an investigation on its own. For the first time in its history the commission had to make use of the provisions in section 74 of the Garda Síochána Act 2005 and seek the “special assistance” of An Garda Síochána to move forward the investigation. Otherwise, it would have had to discon-

tinue its involvement. The commission can confirm that five members of the Garda joined the GSOC investigation team, with the final member only joining in December 2017. The services of an accountant from Revenue have been also engaged to assist the investigation team, but that secondment will come to an end on Monday, 5 March. While the involvement of gardaí is not the most desirable way forward, in this instance, the commission has been impressed by the professionalism of the members of An Garda Síochána who volunteered to come to work in this investigation and the skills they have brought cannot be underestimated. The absence of ombudsman investigators in this instance directly illustrates the importance of building a resilient workforce.

The Garda Síochána Ombudsman Commission, GSOC, was not aware that the Garda Commissioner was sending the audit report for investigation or the scope of such an investigation when considering the demands on the organisation at the start of 2017. This is a prime example of the unexpected that can arise in Garda oversight.

The business case proposal seeks a total of 37 extra staff in the short to medium term. Twenty four of that additional staff would be for the investigations-operations side of the organisation with the remaining 13 being the necessary additional administrative staff to support the investigations side. It will be necessary for one of the administrative complement to take on the increasing data protection responsibilities that every organisation has to have regard to, particularly having regard to the implementation in May next of the general data protection regulation, GDPR, through the Data Protection Bill. The cost of employing the additional 37 people is estimated at in excess of €1.7 million per year. In our business case proposal we point to the amount of money spent on tribunals looking at the actions of gardaí over the years as an indication that GSOC's proposals represent good financial value for the proposed investment of public moneys.

As part of the Garda Ombudsman legislative proposals we have sought to be independent from the Department of Justice and Equality. The current legislation provides that the Secretary General of the Department is the Accounting Officer for the organisation. The undoubted benefit of the current position is that the Secretary General oversees the organisation's financial health allowing GSOC to deal with other issues. The organisation is still accountable to the Committee of Public Accounts but, in effect, the Secretary General of the Department minds our money.

After ten years, however, the organisation feels it is time to cut the umbilical cord. We no longer need the parent to decide our funding and our financial planning. GSOC is ready to take on the responsibility of seeking its own budgetary needs and planning and being accountable for its expenditure. It is ready to fight its own corner with other Departments and can answer to the Committee of Public Accounts if so required. We look to the fact that two recent statutory bodies, namely, the Irish Human Rights and Equality Commission and the Policing Authority, have had encompassed in their legislation their own Accounting Officers as part of their corporate structure. GSOC has built up the experience over ten years of accounting for public expenditure and we are ready to take on this role wholly separate from the Department.

Since our last appearance before this committee the Garda Ombudsman has seen significant development in its role under the Protected Disclosures Act 2014. During 2017 the organisation received 22 protected disclosures from Garda members across the country. We currently have 25 protected disclosures undergoing examination or investigation. Contact has continued in 2018. The commission decided that the kind of protections required for such cases and the other work being undertaken within the organisation meant that we needed a dedicated unit for

this work. At this stage it is public knowledge that our proposals for the requirements of such a unit were not met in full and the inability to put our case to the Department of Public Expenditure and Reform directly is an example of the organisation's desire for independence. GSOC became aware only through the freedom of information request made by RTÉ recently that a departmental view had been offered that our proposals were excessive. If we had been in the position of having our own Accounting Officer, GSOC would have been directly dealing with the Department of Public Expenditure and Reform and perhaps in a position to argue why the proposal was not excessive and merited consideration in full by that Department.

The protected disclosure legislation is a new area. Across private and public workplaces people are finding their way. Is a complaint a grievance or a protected disclosure? GSOC has taken legal advice to guide us and some of the people who come to us may find, as will GSOC, that what troubles them is not in law a protected disclosure. At this stage we have a low bar. GSOC feels it is important to build trust, and time will tell how this area of work develops. However, the feedback we have received from the protected disclosers has been positive. Contrary to the view that gardaí would not turn to the body which deals with complaints about gardaí, we have found members have come looking for help and support and when it has been provided it has been embraced. This very important work has been done by a full-time senior investigating officer and two part-time investigators who have other organisational responsibilities to date. Two full-time protected disclosures investigators will finally commence working with GSOC on Monday next, 5 March 2018, with two more in the pipeline.

On 12 October 2017 we provided GSOC's submission to the review of the Protected Disclosures Act to the reform unit in the Department of Public Expenditure and Reform as part of its public consultation. It is clear from the Department's website a number of submissions were received but to date there has been no further contact about the review.

On 17 January 2018 the Garda Ombudsman Commission provided its submission to the Commission on the Future of Policing in Ireland. This is available on the GSOC website and included our proposals for legislative change. Included in that proposal is reference to a new initiative undertaken in consultation with Pearse Street Garda station. I will quote directly from the submission. It states:

GSOC has commenced, in conjunction with the Chief Superintendent from Pearse Street Garda Station, a local intervention initiative from the 1st of January 2018. The objectives of this pilot programme are to reinstate the ability of local garda management to deal with inappropriate behaviour, encourage positive behaviour in gardaí, build and keep public confidence in the Garda Síochána in dealing with complaints, deal with appropriate "service delivery" complaints effectively and efficiently, provide immediate intervention at a local level which will not result in unnecessary, lengthy investigation, and strengthen relationships with GSOC. As part of the pilot, where practicable, all persons that attend at the Garda Stations in the DMR South Central wishing to make a complaint will be dealt with by a member of sergeant rank. The complainant will be given the opportunity to have their complaint dealt with by "local intervention".

Similarly a complainant from the DMR South Central division who contacts GSOC directly will be asked, if appropriate, whether they wish to have their complaint dealt with by way of "local intervention".

In each case if a complainant is willing to deal with their complaint in this fashion, the written complaint is forwarded to a nominated inspector who, having appraised himself/

herself of the matter, will meet with the complainant. Contact is then made with the member concerned who is given an opportunity to provide an explanation and/or offer a solution to the complaint. A timeframe of six weeks is envisaged for the process to resolve matters with all parties' agreement.

Failure to resolve the matter still allows the complainant to continue with the process through GSOC.

The business owner of the pilot programme is the Chief Superintendent. This initiative was agreed between GSOC and the DMR South Central as an effort to meet all the goals of the project and in particular to build confidence in both organisations in the process. There is clear leadership and management envisaged throughout the proposed structure. There is to be an evaluation in June 2018 to see how this pilot is working. Currently it is a project outside the legislative framework but one that leaves open to the member of the public all his/her rights under the legislation.

GSOC sees this as a valuable and worthwhile project to undertake. It is a way forward for both organisations and would be part of a legislative change as proposed by GSOC.

It is also a programme that should instil "ownership" of poor performance and response to the public's needs where it belongs, and will also instil "ownership" in changing that performance and response.

The commission will be reviewing this project over the next few months to see whether it provides a way forward for the public, the Garda and GSOC.

Last year saw our ten-year anniversary. While there has been little Government action in that time, the organisation has used its time to build up its staff, review its practices and propose credible proposals for statutory improvements and the necessary financial consequences in a responsible fashion. A new website went live in 2017 and will be able to provide us with a more user-friendly platform of information for the general public. We have met the Commission on the Future of Policing in Ireland and forwarded to it our proposals for change. Building on ten years of experience, GSOC is in a good position to ensure that, whatever changes come to policing in the future, independent oversight will continue to be an integral part of policing and GSOC will play an important role in providing that oversight.

Chairman: I thank Ms Justice Ring. It was a comprehensive opening statement and I thank her for it. It would be only right to wish everyone on board the GSOC ship a happy birthday, having passed that ten-year milestone.

I will open the floor to members. The first to have indicated was Deputy O'Callaghan.

Deputy Jim O'Callaghan: I thank Ms Justice Ring for attending. I will ask some questions about resourcing. I believe it was November 2016 when GSOC made a business proposal to the Department about a separate protected disclosures unit. Is that correct?

Ms Justice Mary Ellen Ring: Yes.

Deputy Jim O'Callaghan: GSOC wanted 12 people to deal with that because its workload increased after being given responsibility for protected disclosures in 2014. GSOC had a meeting with the then Minister for Justice and Equality on 11 January 2017. What was the response of the Minister and the Department to its request for 12 new staff?

Ms Justice Mary Ellen Ring: A part of the January meeting was to discuss general work for GSOC into the future, in particular the question of legislative change. At that stage, the Minister expressed an interest in stand-alone legislation. In so far as the specific proposals were concerned, we had made our case and there was some contact in return about the nature of the investigative staff, administrative supports and suchlike. It was not until much later in the year - May - that we got any confirmation as to final numbers. There was not a specific reference at the meeting beyond the fact that we were making the proposals and anxious to get a decision on the question of staffing.

Deputy Jim O'Callaghan: There was communication between GSOC and the Department whereby the former was seeking a meeting with the Department of Public Expenditure and Reform. In a letter that Ms Justice Ring wrote on 9 May, she expressed surprise that the meeting had not occurred. Does she have an explanation for the committee as to why that meeting did not take place?

Ms Justice Mary Ellen Ring: No.

Deputy Jim O'Callaghan: Has anyone given GSOC an explanation since then?

Ms Justice Mary Ellen Ring: No.

Deputy Jim O'Callaghan: Is that part of the reason Ms Justice Ring stated that GSOC wanted to cut the umbilical cord, in that it believes it would do better if it were able to meet the Department of Public Expenditure and Reform face to face?

Ms Justice Mary Ellen Ring: We accept that what we are looking for are public moneys. We need to be accountable for them. However, we know the work we do and we are in the position to argue whether we need ten, nine, eight or 12 staff. Regarding protected disclosures in particular, I can accept that there may have been a certain hesitancy in November 2016 on the part of the Departments of Public Expenditure and Reform and Justice and Equality, as no one knew where we were going. By the beginning of 2017, though, we had a clear idea that we were getting a response. If we had sat down with the Department of Public Expenditure and Reform, perhaps we could have put to it information that would have persuaded it.

Deputy Jim O'Callaghan: In early May 2017, GSOC was given notification by the Department that it would not get 12 staff, but five. Did that lead to the establishment of the protected disclosures unit? Do we have it up and running yet?

Ms Justice Mary Ellen Ring: Having been told that we could recruit four investigators and an administrative supporter, we then embarked on the lengthy process through the Public Appointments Service, PAS, of advertising, interviewing and vetting. Our first two investigators, who have been in the vetting phase since last November, will start on Monday.

Deputy Jim O'Callaghan: As and from next month, we will have a protected disclosures unit.

Ms Justice Mary Ellen Ring: We will half of a protected disclosures unit.

Deputy Jim O'Callaghan: GSOC was given a commitment on 8 June by the then Tánaiste and Minister for Justice and Equality that it would have the resources it required. Does GSOC have the resources it requires for the purpose of investigating protected disclosures?

Ms Justice Mary Ellen Ring: No, to be frank. There are 25 current cases and we have had

further contact from Garda members in 2018, and it is only the end of February as we speak. We are clearly going to be very busy with two people now and two further people later in the year.

Deputy Jim O’Callaghan: Does Ms Justice Ring agree that, if a proper protected disclosures unit was in place and gardaí had confidence in the statutory regime that was available, we would not need to have commissions of investigation or tribunals of inquiry?

Ms Justice Mary Ellen Ring: That is why we mentioned in our business case proposal the contrast between the relatively minor amount of money we are looking for and the large amount that has been spent over the years on tribunals.

Deputy Jim O’Callaghan: Obviously, the number of protected disclosures by members of An Garda Síochána may increase or decrease depending on what is happening with certain issues in the rest of the country. Even were that number to decrease, I presume that individuals within the protected disclosures unit could deal with other aspects of GSOC’s work if there was not enough protected disclosure work for them to do.

Ms Justice Mary Ellen Ring: Yes. They are investigators and they can be redeployed within the organisation. It is important to remember that they are also members of the public service and join it at the appropriate grades. Therefore, not only are they available for redeployment within the ombudsman commission, but also throughout the public service.

Deputy Jim O’Callaghan: Due to GSOC’s current resourcing, if I am a member of An Garda Síochána, I want to make a protected disclosure to GSOC and I write it a letter next Monday, when will that matter be investigated and when will that investigation be completed?

Ms Justice Mary Ellen Ring: We have set up contact methods that include writing, a special email address for protected disclosures and telephone calls. A discloser speaks directly to a commissioner. In my case, I have taken in a number of disclosures. We assess as quickly as possible and, in doing that, deal with people’s expectations. Most of the protected disclosers are aware of the delay but have all committed to remain with us despite that.

Deputy Jim O’Callaghan: Due to a lack of resources, there is a delay in the investigation of protected disclosures.

Ms Justice Mary Ellen Ring: Yes.

Deputy Jim O’Callaghan: Under the business plan that GSOC is submitting now, it is seeking 37 additional staff. Is this a separate issue to the establishment of the protected disclosures unit?

Ms Justice Mary Ellen Ring: Yes.

Deputy Jim O’Callaghan: I know one of the units that GSOC wants to establish is a quality assurance and review unit. Will Ms Justice Ring explain to the committee the reason for that and what she believes is the benefit of having such a unit?

Ms Justice Mary Ellen Ring: In terms of criminal allegations and protected disclosures, it is important that we assure the public that the quality of our investigations are of the highest level possible. It is also important in reviewing work done on our behalf by members of An Garda Síochána that we can ensure to the public good quality investigative work. In the current legislative proposals, there is no provision for review and a decision is final. We have seen

dissatisfaction from members of the public in the past, so we are building into our work quality protection and review to ensure that, if we or the Garda investigate something, the investigation will at least have been of the highest quality whatever the outcome.

Deputy Jim O’Callaghan: GSOC is clear as to what the consequence will be if it does not get this resourcing. It wrote at the end of its submission to the Department: “A decision not to increase GSOC’s staffing resources at this crucial time will undoubtedly result in the organisation’s failure to meet its obligations to the public and to its staff.” It is categoric that this increase in resources is required in order to permit it to perform its statutory function.

Ms Justice Mary Ellen Ring: The Templemore example I used showed the difficulty we have in terms of building resilience within the organisation. We made it clear to the Minister last year that without the assistance of the gardaí, we could not have undertaken the Templemore investigation.

Deputy Jim O’Callaghan: When Ms Justice Ring says the assistance of the gardaí, is she talking about when GSOC invokes section 74 of the Act and asks the gardaí to assist it because it does not have the resources? Does GSOC do this on a frequent basis?

Ms Justice Mary Ellen Ring: It is the first time we have used it. It has proved to be very good. The gardaí who have come to us, and I want to publicly pay compliment to them, volunteered to work with us. I am sure that has led to nothing more than slugging from other colleagues. They are working very efficiently and effectively and are making a difference. We could not have advanced both in terms of the time and the level of investigation without their assistance.

Deputy Jim O’Callaghan: Does Ms Justice Ring think it would be preferable if GSOC did not have to avail of Garda resources for the purpose of conducting GSOC investigations?

Ms Justice Mary Ellen Ring: It is the question of independence. If we are going to be an independent body overseeing the actions, obviously, I would prefer if we did it without assistance.

Deputy Jim O’Callaghan: I know GSOC submitted the business case proposal to the Minister on 19 February. Has it received a response as to whether or not its request for further resources will be granted?

Ms Justice Mary Ellen Ring: I understand that it is under consideration.

Deputy Jim O’Callaghan: Would Ms Justice Ring agree with me that there is an urgency in having this matter determined promptly?

Ms Justice Mary Ellen Ring: If we are to move forward effectively, we are going to need assistance.

Deputy Jim O’Callaghan: Could I ask Ms Justice Ring about what she referred to as cutting the umbilical cord with the Department? I could be wrong about this but I do not recall her mentioning that when she was before us previously. I could be wrong about that. Is part of the reason she wants to promote this suggestion because she does not believe the Department is representing the interests of GSOC as well as it could when it comes to fighting for funding?

Ms Justice Mary Ellen Ring: We represent to the public an independent and impartial organisation that provides oversight of An Garda Síochána. As we stand, perhaps our close statu-

tory connection to the Department suggests we are not as independent. If I can use a practical example, when I was on the Bench one day, I was met with enthusiasm by a gentleman who announced to all and sundry, myself included, that the last time we met, he was my client. Having wished him well, I sent him somewhere else. It was not that I was concerned that I could not deal with him independently but rather the impression to somebody looking on that if the sentence was considered to be too soft, it was because he was my client and if it was too harsh, perhaps similarly due to him being my client, I had acted in a certain way. The Department has not caused us difficulties but if we are going to be independent, we should be independent. We recognise the conflicting responsibilities in the Department. It also looks at the financial picture relating to An Garda Síochána and there are huge demands in that regard and, properly there should be. We would like to be able to put our feet firmly in front of the Department of Public Expenditure and Reform or any other Department and say, “This is our brief, this is why we want it”, and argue our corner without any other considerations.

Deputy Jim O’Callaghan: I think Ms Justice Ring mentioned that this is what the Irish Human Rights and Equality Commission does. Is her direct concern with the Department that GSOC deals with the policing division of the Department and the policing division also has responsibility for An Garda Síochána?

Ms Justice Mary Ellen Ring: As I say, it is looking at the funding of An Garda Síochána and when it comes down to moneys, it and many members of the public might feel it is more important to fund An Garda Síochána properly. I would not necessarily argue with that but I have a case to make on behalf of GSOC and I would like to be given the opportunity to make that case without any other demands on me.

Deputy Jim O’Callaghan: There is a proposal that the Government says it will adopt that was put forward in the Toland report, the Mazars report and the Ernst and Young report, which was that the Department would be divided into two portfolios - one concerned with home affairs, which would include the policing division, and the other concerned with justice and equality, which would not deal with the policing division. How would Ms Justice Ring respond if GSOC was put into the latter portfolio under justice and equality away from the policing division? Would that not resolve the problem of perception?

Ms Justice Mary Ellen Ring: It might but at the end of the day, why are we not entitled to an Accounting Officer? The Policing Authority has an Accounting Officer. The Irish Human Rights and Equality Commission has an Accounting Officer. They are both public service bodies with a particular brief that is not that far away from our own brief. I suspect that if we had been set up in 2015 or 2016, we would have had our Accounting Officer.

Deputy Jim O’Callaghan: Ms Justice Ring may say she cannot talk about a case. A woman called Lucia O’Farrell has contacted many members of this committee on numerous occasions. She went through a terrible tragedy with the death of her son. GSOC is producing a report on the role of An Garda Síochána in investigating the events that led to the death of her son. When will that report be available to that family?

Ms Justice Mary Ellen Ring: The report is now with the commission. The investigation is complete. It has now been forwarded to the commission, which has a number of decisions to make. We would hope to have those decisions made in the very near future.

Deputy Jim O’Callaghan: When will the family receive the report?

Ms Justice Mary Ellen Ring: As soon as we make a decision.

Deputy Jim O’Callaghan: So it will be in the very near future?

Ms Justice Mary Ellen Ring: Yes.

Chairman: I thank Ms Justice Ring for her responses, particularly regarding the latter matter. The family is in my constituency and we have regular engagement with a heartbroken mother. That is the only way the committee could describe her so I very much welcome that finality in that matter will present shortly.

Deputy Donnchadh Ó Laoghaire: I thank Ms Justice Ring. I would have had contact with that family and I welcome that news. I know it was a cause of frustration and concern that it has taken a considerable period of time but I welcome that news and hope the report will be with the family as soon as possible.

There has been a fair bit of questioning about resourcing and the ability of GSOC to deal with its workload. One of the points made in the correspondence to the Department that was released under freedom of information was that two of the central objectives of GSOC are to ensure that investigations happen efficiently and effectively, and to promote public confidence in the process. The correspondence stated quite clearly that if Government failed to provide those resources, GSOC would fail in those two central objectives. Is that still GSOC’s position with the current level of resourcing?

Ms Justice Mary Ellen Ring: That is our concern, which is why we have put forward what we feel is a credible case looking for 37 staff, 24 of whom will be on the investigative side of the house. It is because we have seen a build-up of work. Because we have been operating on a part-time basis with regard to the protected disclosures, we are down in terms of personnel because they are working in that area. I am concerned that we cannot meet the demand as it is and any growth in public confidence and turning to us as an organisation to deal with complaints will mean that we are eventually just chasing our tails so we are very concerned that the statutory remit will suffer. I have referred to the programme that has started in conjunction with Pearse Street Garda station. It is a pilot programme. We have already had queries about whether it can be extended. That would take some of the work away from GSOC but also meet the demands of the public so we are looking forward to any of those kinds of initiatives in conjunction with An Garda Síochána that can allow for the needs of the public to be met but also reduce our workload. That is something we see as the way forward in the absence of funding or statutory change.

Deputy Donnchadh Ó Laoghaire: To be clear, is it still GSOC’s view that without the additional resources, particularly with regard to protected disclosures, GSOC will not be in a position to properly fulfil its key objectives?

Ms Justice Mary Ellen Ring: Yes.

Deputy Donnchadh Ó Laoghaire: Further to that, in relation to resources, I wish to get a sense of the level of work that is going on. In her opening statement Ms Justice Ring mentioned that approximately 2,000 complaints are received per year.

Ms Justice Mary Ellen Ring: Yes.

Deputy Donnchadh Ó Laoghaire: In a general sense, how many cases that are received

are brought to a conclusion per annum as far as GSOC is concerned in that there is either a recommendation for a particular action or that a case is dismissed for being vexatious?

Ms Justice Mary Ellen Ring: Obviously that can be difficult to say, but in our business proposal, which we have also provided to the committee, we include at page 11 the work on hand as of December of last year. There were just over 1,000 cases on hand. Some of those will have continued, not only throughout 2017 but previously, but perhaps half of the cases that we get each year we can dispose of within the year. Part of the problem is the backlog that builds up in any given year because of resourcing issues.

Deputy Donnchadh Ó Laoghaire: I suppose that is central to the reason I ask the question, namely, that there is a concern that the time it is taking GSOC to get through the cases is quite long. What is being said is that approximately half of the complaints that are reached - if I understand correctly that is 1,000 cases - that are received are disposed of within the year.

Ms Justice Mary Ellen Ring: Yes.

Deputy Donnchadh Ó Laoghaire: Is it fair to say that the other half would take in excess of a year?

Ms Justice Mary Ellen Ring: Yes.

Deputy Donnchadh Ó Laoghaire: Would it be possible to put a figure on how many cases are in hand for in excess of two years?

Ms Justice Mary Ellen Ring: I could not say that off the top of my head in any secure way but it is of concern and we review it on a regular basis that anything that goes beyond the 12 month period is watched very closely. One can see from the work on hand at the end of December 2017, in terms of the criminal investigation and disciplinary investigation side of the house, there were roughly 489 cases. There are five teams dealing with those cases. We have five senior investigating officers, one of whom has been moved into the protected disclosure unit and we have a vacancy at that level which we are recruiting for. If one takes simply 489 to 500, divided by five, one is looking at teams that have significant caseloads and that contributes clearly to delay in any given case.

I will not look at any particular case but in terms of a serious matter, I would love to have the resilience to take a complaint from a member of the public who has suffered a tragedy, for instance, and say we are going to deploy people to work on that case alone. We cannot do that. That is why we had to bring in the Garda to deal with Templemore. We would not have been able to move that investigation along and I had decided that if we did not have that assistance we were not going to do the Templemore investigation, because otherwise it would be years down the road before we would have any conclusion.

Deputy Donnchadh Ó Laoghaire: Is it likely that there are a few dozen cases there in excess of two years?

Ms Justice Mary Ellen Ring: Yes.

Deputy Donnchadh Ó Laoghaire: I wish to refer to the initiative that is being taken in Pearse Street. If I understand it correctly, I presume that the option always exists for the complainant to bring the case to GSOC.

Ms Justice Mary Ellen Ring: Yes.

Deputy Donnchadh Ó Laoghaire: I welcome that. Does Ms Justice Ring believe there is an issue of almost triaging cases, and identifying ones that are more appropriate for local resolution at a Garda district level, for example, as opposed to perhaps being more suitable for GSOC? Does she think that is a considerable issue? Would resolution of that make a considerable difference in terms of her workload?

Ms Justice Mary Ellen Ring: Yes.

Deputy Donnchadh Ó Laoghaire: Very well. Could Ms Justice Ring elaborate on the extent to which she thinks the work of GSOC is excessively tied up with issues that could be resolved more locally?

Ms Justice Mary Ellen Ring: Perhaps a quarter or more of our cases could be dealt with by the Garda, with the oversight and assistance of GSOC. That is what we are hoping the Pearse Street project will allow, namely, that the Garda will build up its own way of dealing with what would be considered to be low-level complaints that could and should easily be resolved within the station. For instance, we have had complaints that when a person goes to a Garda station to recover a phone, he or she cannot find anyone to answer his or her query. Somebody should be able to meet people at the desk, take their particulars, make inquiries and if the telephone should be returned then they should return it. People should not come to GSOC to have an investigation opened that requires the intervention of a superintendent. If the telephone is there and there is a reason for it to be retained then that should be explained to the member of the public but if there is no reason then it should be given back to the member of the public. Gardaí should be doing that.

Deputy Donnchadh Ó Laoghaire: I wish to move on to a slightly different area. Would it be possible to put a number on the GSOC staff who are members of the Garda on secondment and the number that are former gardaí. They are two separate categories of people.

Ms Justice Mary Ellen Ring: We have five gardaí at the moment working under the supervision of GSOC in the Templemore case. In relation to the remaining staff, I think we have now got perhaps six former members and that is all. They have been there since the outset of GSOC. We have not taken on any former members in recent times.

Deputy Donnchadh Ó Laoghaire: There has been a bit of discussion on independence. I support the point that was made that in the same way as Caesar's wife, not only does GSOC need to function independently but it needs to be seen to be independent. I agree with that. Aside from budgetary independence and having its own Accounting Officer, what constraints does Ms Justice Ring believe exist legislatively currently? There are some elements that have been proposed for legislative change but what are the key issues in relation to legislative constraints on GSOC's independence?

Ms Justice Mary Ellen Ring: At the moment we send a significant amount of our work to the Garda to investigate - the low level disciplinary-type matters. We deal with all criminal matters. That often comes as a surprise to members of the public - that they have come to us with a complaint but in fact it is being investigated by a superintendent and his or her team. We would like to be able to take and deal with all complaints. Where local intervention of informal resolution is appropriate then that path should be open, so if we feel that in fact a case can go back to the Garda we make that decision and that is done with the consent of the member of the public. Otherwise, after that, we should be in a position to take and investigate the 2,000 complaints, for instance, that we get every year. At the moment we cannot do that, both in terms

of the legislation and in terms of our own staffing requirements.

Deputy Donnchadh Ó Laoghaire: One of the points in the legislative proposal relates to section 103A of the Garda Síochána Act, and that is in relation to the ability to secure co-operation from the Garda. Is it possible to explain the proposals to the committee?

Ms Justice Mary Ellen Ring: In so far as we carry out investigations, we have certainly had differing levels of co-operation over the years from the Garda. Where we send work to the Garda, it must be carried out and it is carried out. That is not the issue, but we have found, for instance, getting information has not always been easy. We have explained the process we have set up to allow for information and documents to be provided to us. In the main we get our information within a 30-day period, but where it is outside of the 30-day period, it is problematic and we have often said, including to this committee, that it should be clear to the Garda that if we ask for matters to be provided it is not a question of it being provided when they are ready but rather that they provide it. In the North I have heard the Chief Constable state that if the Police Ombudsman for Northern Ireland makes a demand, the PSNI does not ask why but provides what is demanded because it is of the view that if the police ombudsman wants something, it must be relevant. Here, it is more fluid and we often have to explain in detail and a number of times why we want something before we get it. In fairness, the system in place has proved to be much more effective than it was at the beginning. However, we are often still left to make repeated requests for documents or information that should be provided as of right.

Deputy Donnchadh Ó Laoghaire: There are instances where information is not delivered promptly or it is not complete.

Ms Justice Mary Ellen Ring: Yes.

Deputy Donnchadh Ó Laoghaire: Aside from budgetary matters, in which areas of work does the Garda Síochána Ombudsman Commission still require ministerial approval in terms of its powers and so forth?

Ms Justice Mary Ellen Ring: In terms of the Garda Commissioner, in a general sense, one would expect the head of any police force not to be the subject of investigation. In so far as that has arisen, we have not had that difficulty here. If one is talking about an independent oversight body and a complaint is received or the Garda Síochána Ombudsman Commission decides it is in the public interest to carry out an investigation into personnel, including the Garda Commissioner, that should be a decision for the commission, not one that requires the involvement of the Minister of the day. We do not expect this to be an issue with which we would deal on a regular or even an irregular basis. However, if one is structuring an independent organisation, it should be independent. If a complaint is made, whether about a newly promoted or newly initiated member of the Garda or the Garda Commissioner, it should be investigated, or if the Garda Síochána Ombudsman Commission decides in the public interest that someone, including the Garda Commissioner, should be investigated, that should be a decision for it. Obviously, any decision we make is challengeable through the courts. It is not as if we would go off and do things irrationally or unreasonably. However, whether the complaint involves a new garda or the Garda Commissioner, if it is an appropriate decision to make, we should be able to make it unfettered. That would be in keeping with having a fully mature independent body.

Deputy Donnchadh Ó Laoghaire: I agree that one hopes it would never be necessary to investigate a Garda Commissioner. However, it is appropriate that the Garda Síochána Ombudsman Commission should have full independence in the matter.

While the circumstances are not the same as in the case of section 103, would access to information be improved if GSOC's ability to access the PULSE system was strengthened and perhaps placed on a statutory footing?

Ms Justice Mary Ellen Ring: That is a matter on which we need clarity. The first issue is to get the Garda to use the PULSE system properly, which is a matter for Garda management, having established its proper use and functioning. Clearly, in so far as we carry out investigations, it seems natural that we should have access to the PULSE system. Again, there has to be clarity between GSOC and the Garda on how it is to be used and who will use it. We would have no difficulty in working out those protocols. Again, it is an investigative tool which would assist in a number of our investigations and answering questions quickly in some instances.

Deputy Donnchadh Ó Laoghaire: Another tool which would presumably be relevant in carrying out investigations is the ability of the Garda Síochána Ombudsman Commission to carry out unannounced inspections of Garda stations. What is the position on GSOC's ability to undertake unannounced inspections? Are there exceptions and should this power be strengthened?

Ms Justice Mary Ellen Ring: Fortunately, in the main, inspections are made by our colleagues in the Garda Inspectorate. In so far as we can go into Garda stations to carry out searches, there is provision to do so and we have had to use it sparingly. As I stated, in the main, we have had no difficulty in going into Garda stations where we have been required to do so. We would, however, like more clarity between GSOC and the Garda on the actual carrying out of these procedures. This has been a matter on which we had to negotiate in the past.

Deputy Donnchadh Ó Laoghaire: There is a difference between an announced and unannounced inspection. I am specifically asking whether GSOC believes there are excessive constraints on its ability to carry out unannounced inspections of Garda stations.

Ms Justice Mary Ellen Ring: We do not inspect, except within the terms of a complaint. If the Garda Síochána Ombudsman Commission receives a complaint and we believe there is in a Garda station evidence that will assist in its investigation, that is the time we will go into a station. We do not carry out general inspections.

Deputy Donnchadh Ó Laoghaire: I appreciate that, but I have in mind the circumstances Ms Justice Ring described. Are there constraints on the ability of GSOC to carry out inspections in such circumstances and, if so, should they be altered?

Ms Justice Mary Ellen Ring: As I stated, our experience has been that when we have needed to carry out inspections, we have done so on foot of the necessary authorisation and not had difficulties on arrival.

Deputy Donnchadh Ó Laoghaire: Ms Justice Ring referred to the need for gardaí to use the PULSE system properly. What proportion of the complaints received by GSOC relate to Garda handling of data?

Ms Justice Mary Ellen Ring: We have not received many complaints of that nature. Where they have been received, they have been about the leaking of information to the media or other parties. Investigating leaks to the media is challenging and difficult and many of our investigations have been discontinued because it has not been possible to resolve them. We advise people to deal with data protection personnel when there are personal data leaks. While this has not been a particular issue of concern, it may become more of a concern with new demands

under the general data protection regulation.

Deputy Donnchadh Ó Laoghaire: I had intended to conclude on that point, but I wish to return to an issue because I was not fully satisfied with the answer given. I will frame my question differently. In the course of an investigation is it possible for GSOC to visit a Garda station as part of an investigation without giving prior notice?

Ms Justice Mary Ellen Ring: Yes, but, fortunately, we have not had to do so very often.

Deputy Donnchadh Ó Laoghaire: That is what I wanted to find out.

Deputy Jack Chambers: I thank Ms Justice Mary Ellen Ring for attending in difficult weather conditions. My first question relates to an issue I raised with her when she last appeared before the joint committee. I have received feedback from some people who made a complaint to the Garda Síochána Ombudsman Commission that they have hit a brick wall. They have been frustrated and delayed and waited years without a conclusion to their case. When does GSOC expect this to change in order that there are outcomes? I am aware that the commission is engaged in a process with the Department. Has there been any improvement in the past 18 months?

Ms Justice Mary Ellen Ring: To what specifically is the Deputy referring?

Deputy Jack Chambers: I refer to the resolution of complaints for people who have been waiting for long periods to have them addressed.

Ms Justice Mary Ellen Ring: We review complaints on a regular basis, particularly certain types of complaint, namely, those involving either criminal or complex disciplinary allegations. We can work as fast as our personnel are available to work. That is the reality.

Deputy Jack Chambers: Does GSOC feel it is being used as a delaying tactic by any organisation or group in the public service?

Ms Justice Mary Ellen Ring: I cannot speak for others.

Deputy Jack Chambers: In the knowledge that there are significant delays at times, does Ms Justice Ring feel they are used to prevent due process for those involved?

Ms Justice Mary Ellen Ring: It is well known that we have a problem investigating quickly. Anyone sending a complaint to us must be aware of that. Why they do it is for them to answer.

Deputy Jack Chambers: At a previous justice committee meeting, I asked about resourcing and then Carmel Foley responded how GSOC determines it can maximise its resources to ensure the better use of public funds. There was a standard response that we received from other agencies as to how they would do with what they have. GSOC was not overtly explicit about increased staffing requirements and resources before. However, today, and in the intervening period elsewhere, GSOC has become explicit in expressing its difficulties with its operational concerns. What triggered that? Was there an accumulation of frustration?

Ms Justice Mary Ellen Ring: Last year, as we indicated, it was our ten-year anniversary and we had an opportunity to review several matters. The commission decided the time had come to accept we could not move forward in any efficient or effective way as we stood. We started looking at what we could do internally. Then there was the realisation, which had been growing over several years, that we needed more help and staff, as well as statutory change.

Soon after GSOC started in 2007, considerations of financial circumstances across public expenditure changed dramatically. For a significant number of years in GSOC, there was either no movement in staff because people were not being hired in the public service or people in the organisation could not move out. It is only in the past two years that one has seen changes in these matters. With those changes, came optimism. That has led to what we have done in the past year. We realise we need a voice and cannot expect others to speak for us.

Deputy Jack Chambers: The opening statement referred to breaking the umbilical cord between GSOC and the Department. Is that based on formulating an idealistic governance arrangement, which GSOC would prefer, or is it based on the experience GSOC has had with the Department?

Ms Justice Mary Ellen Ring: In fairness, the Department's personnel we deal with are professional and have quite significant experience on the policing side.

If the House was setting up an independent oversight committee for policing, what would Members do? As the Policing Authority and the Irish Human Rights and Equality Commission have been established by more recent legislation, I assume one would make the same provision for a new oversight commission. GSOC is a creature of its time from 2007. We would like the Deputy and his colleagues to revisit that.

Deputy Jack Chambers: Is Ms Justice Ring happy with her recent experience of the Department and requests to it?

Ms Justice Mary Ellen Ring: We make our case in good faith. As we are hampered in terms of the structures, we depend on the Department to take our case further. It often meets our demands, while in other cases, it has not.

Deputy Jack Chambers: When it has not, what reasons did it give?

Ms Justice Mary Ellen Ring: We got a letter last May stating five people were being made available to us.

Deputy Jack Chambers: In the media and elsewhere, GSOC has been referred to as a watchdog on a tight leash. Has GSOC felt the leash at times?

Ms Justice Mary Ellen Ring: We put our case and we did not get our case met. We did not receive an explanation but we have to carry on operationally day-to-day.

Deputy Jack Chambers: The Minister has said he has an open mind on GSOC's independence, as well as providing it with sufficient resources and staff numbers. Has GSOC received anything recently from the Minister which would give it confidence that it will have its requests met?

Ms Justice Mary Ellen Ring: I would be optimistic on what I have heard but, like everyone else, I watch the television regularly.

Deputy Jack Chambers: Would Ms Justice Ring say she is not fully optimistic?

Ms Justice Mary Ellen Ring: I live in a state of perpetual hope and expectation.

Deputy Jack Chambers: GSOC has requested that section 103A of the Garda Síochána Act, whereby the Garda Commissioner can censor information for the purpose of investigation,

be amended in line with the Police (Northern Ireland) Act 2000. Does that happen much?

Ms Justice Mary Ellen Ring: No. As I said, we have set in place a system that in the main works efficiently, although it can take 30 days or more. The difficulty arises where we do not get what we look for. We are then dependent on the provision of the information at the time the Garda is willing to make it available. It means that often delays attributed to us are actually due to delays coming from the Garda.

Deputy Jack Chambers: Is information being withheld under the exemption of section 103A which, in turn, prevents GSOC from investigating properly?

Ms Justice Mary Ellen Ring: It can be difficult to know why there is a delay. When we get the information, there is nothing apparent as to why it has taken so long. For instance, it is not that there are security considerations. I do not know why there can be a delay. It gets down to time and individuals deciding whether they should make the information available. We just have the frustration of the delay. Ultimately, it becomes our delay when it is not our fault.

Deputy Jack Chambers: GSOC has also requested section 102B be amended around the censuring of the Garda Commissioner. Is that based on having a proper legislative framework in place or does GSOC have recent examples where it felt this needs to be changed?

Ms Justice Mary Ellen Ring: No, we sat down and looked at what it would mean to be independent. If an occasion arises, we should be able to investigate the probationary garda right through to the Commissioner. It is not because of recent events but because if we are going to be independent, then we should be independent.

Deputy Jack Chambers: GSOC is contacted by the Policing Authority on the promotions list. Where there has been a delay to a complaint made, how does GSOC respond to that?

Ms Justice Mary Ellen Ring: We give whatever information is relevant to the Policing Authority at the given time we are asked. We have already indicated that we would give information on the type of complaint and the stage of investigation, if relevant. The Policing Authority can come back to us with any information it needs.

Deputy Jack Chambers: Has GSOC had issues with that process?

Ms Justice Mary Ellen Ring: In the main, I am happy to report that the names we have had are people about whom we have had nothing to say. A difficulty has arisen and we have both addressed it in our proposals to the Department of Public Expenditure and Reform on information which might be in GSOC which relates to a protected disclosure. We cannot give that information to the Policing Authority without risking a breach of the Protected Disclosures Act. We put forward proposals so that the legislation might be made more workable. We would then be in a position to deal more efficiently with the Policing Authority. It is aware of this and has also made proposals in that regard.

Deputy Jack Chambers: Could a protected disclosure be made and information withheld which would allow the person to effectively be promoted despite the seriousness of a particular complaint? What proposal has Ms Justice Ring put to the Policing Authority to rectify that?

Ms Justice Mary Ellen Ring: We have not put it to the Policing Authority because it cannot change the law.

Deputy Jack Chambers: What has she put to the Department in terms of a legislative

framework?

Ms Justice Mary Ellen Ring: We have given the committee our proposals. We want the ability to share information which does not breach other legislative provisions. As I said, I understand the Policing Authority had sought similar permission to share information because it also receives information under the Protected Disclosures Act. The Department also receives information under that Act. At the moment, the three bodies cannot discuss those cases even though we know the other bodies have received the same information.

Deputy Jack Chambers: That is a very serious issue. A number of State bodies are involved in oversight and inspection. People are being promoted despite complaints of a serious nature, which a protected disclosure warrants, having been made about them, and that is concerning. At the same time, everyone is entitled to his or her fair name. A careful balance is required. That is an issue, as is how careful people are with the sharing of information.

Ms Justice Mary Ellen Ring: It is a matter we were anxious to bring to the attention of the Department of Public Expenditure and Reform, which carried out a review of the Protected Disclosures Act. The Deputy may be in a position to find out what has happened with all of those submissions and what work is being undertaken to amend the Act.

Deputy Jack Chambers: My colleague, Deputy O'Callaghan, put forward proposed legislation to try to amend the workability of the current Act. The Government has not shown due urgency, which is unfortunate. I again thank Ms Justice Ring.

Senator Frances Black: I thank Ms Justice Ring for coming before the committee today given the weather. I appreciate her presentation. I picked up on her sense of frustration with the work she is doing. It must be very frustrating. The ombudsman in the North is able to get information and documentation very quickly. It must be very frustrating when GSOC does not get such information. Why does Ms Justice Ring think the Garda delay in giving her the information she needs? What is her experience of that? When GSOC approaches the Garda for information and documentation and it does not get it, what supports does it have? Can it go to the Department of Justice and Equality and advise it is not getting the required information? Is it inclined to put pressure on the Garda? How does all of that work?

Ms Justice Mary Ellen Ring: There is a lot in that. In terms of information provision generally from the Garda, it is moving forward on that in a general sense and is working on governance, openness and the need to protect people as well as its responsibilities to the public. We are seeing an understanding in terms of openness. In the past, it was more reserved in that regard. I am sure the tabling of parliamentary questions and trying to get information has also presented challenges.

As an organisation and institution, it does not have a history of making itself as free with information as other institutions and bodies. There are, perhaps, some good reasons for that. We have found that there are people who respond really well in terms of individual superintendents and gardaí, and others who require more persuasion. Ultimately, it has to come internally from within the organisation. It needs to decide how it responds to requests from GSOC, members of the public, parliamentarians or anyone else.

It is difficult to say why we do not get documentation. It may be because of an inherent distrust in our work or a lack of guidance from management on the requirement to provide information. We are trying to work with management and individuals on these issues. Given that

there is no uniformity it can be very frustrating. It is sad that there is a reliance on individuals knowing that if a particular superintendent is in charge it will be very easy to deal with him or her while another may be less easy to deal with.

We do not go to the Department. Rather, we tend to go to the Commissioner and escalate something in order to seek senior involvement to perhaps deal with a logjam. We prefer not to have to go to the Commissioner with every problem we have. I suspect the Commissioner would prefer we did not go to him. We have escalation procedures, but we try to deal with matters internally because the Minister should not be involved in this kind of situation.

Senator Frances Black: Does Ms Justice Ring think, following her experiences of trying to get information, that comes from a place of fear, people not caring or arrogance? Does she think that people are trying to hide something?

Ms Justice Mary Ellen Ring: In the main, there is no big surprise in anything one has waited a while to receive. There is distrust, a lack of guidance and, perhaps, work pressures in terms of the day-to-day caseloads gardaí have. We recognise that they have worked under very constrained circumstances over the past number of years. It is only recently that they have been able to increase their numbers. Perhaps it is simply down to the priority list on any one person's desk.

Senator Frances Black: Can GSOC go anywhere else for support to try to get information? It is very important, in particular in cases like that of Lucia. Families are impacted and people are anxious and worried. GSOC is trying to do its job and is not getting the information which it needs to determine what is going on. What supports does GSOC have?

Ms Justice Mary Ellen Ring: As has been said, ultimately it has to be down to the investigators and the various procedures we have in-house, as well as the escalation process to try to bring about movement where there has been none. We want to set up a proper quality review because we are conscious that due to our own demands we may not be communicating with people properly. We may not be telling complainants that the problems which have arisen are due to gardaí not giving us information, a lack of complete information or people not turning up for appointments, thereby extending the time involved. We need to look at our work in that regard and determine whether we are keeping people properly abreast of what is happening in an investigation.

Senator Frances Black: I thank Ms Justice Ring for her responses.

Chairman: I wish to make a last few points, Ms Justice Ring. In December 2016, we made recommendations and we are now very anxious. We have made it a priority job of work, at the commencement of 2018, to review progress on our recommendations that cover the areas of GSOC, the Policing Authority and the Garda Inspectorate. We will meet each of those entities, respectively, over the coming period, and then with the senior management of An Garda Síochána. As it is, to my best recall, there has been no amending legislation in the period since. Therefore, the critical elements of our first recommendation cannot have been substantively addressed to any level of satisfaction. The Garda Síochána Act 2005, and specifically Part 4, remain absolutely in situ. The reference to some of the minor complaints, and I know some of my colleagues have referred to them, remains the case. GSOC has been unable to jettison primary responsibility back to An Garda Síochána in terms of these matters.

Ms Justice Mary Ellen Ring: We are hopeful that the Pearse Street project, if I can call it

that, may provide a way forward for both ourselves and the Garda while we await legislative change.

Chairman: That is more legislation. In terms of informal resolution, GSOC does not yet have the power to decide whether informal resolution should be attempted.

Ms Justice Mary Ellen Ring: No.

Chairman: Our recommendation No. 1 refers to the improved oversight of complaints for investigation under the Act referred to An Garda Síochána and reads:

At present, only when the complaint indicates a member of An Garda Síochána may have committed a criminal offence does GSOC investigate directly, investigation of other complaints is undertaken by a Garda Síochána Investigating Officer.

Has any of that changed?

Ms Justice Mary Ellen Ring: None of that has changed.

Chairman: Our recommendation No. 1 continued:

Enhancing powers for GSOC in relation to reviewing investigations. In unsupervised investigations, a complainant has a right to have GSOC review the investigation. However, the outcome stands.

Has anything changed?

Ms Justice Mary Ellen Ring: Nothing has changed.

Chairman: That remains also the case. It still is the case that there is a requirement for “a second senior Garda officer to review the investigation file in supervised investigations”. That also stands.

Ms Justice Mary Ellen Ring: Everything stands.

Chairman: In that case I shall move on from those latter number of bullet points in recommendation No. 1. It is more than past time that we sought an update from the Minister for Justice and Equality on his intentions and that of his Department regarding the recommendations. I would like to share with the delegation the fact that we have had significant success with a number of other reports, that we have produced, that have led to very substantial changes in terms of societal attitudes and the official societal disposition towards Irish Sign Language and Traveller ethnicity, to name but two. We are very anxious that the work of this committee is not just a foolhardy exercise with no consequences. We want to see results.

Recommendation No. 2 refers to former members of An Garda Síochána. I note from the report compiled by GSOC last December that there is a slight variation in the solutions or recommendations. We have indicated in our recommendation No. 2 that “the Police Ombudsman in the North can investigate officers who have retired”. In the solution offered by GSOC on page 26 of its submission entitled Proposal for Legislative Change, solution No. 10.3.2 it states: “In other jurisdictions it is permissible to delay the retirement of a member under investigation, including non-criminal investigation. Consideration should be given to such a provision.” Did this committee adopt the wrong position in terms of the situation north of the Border? I understood that retired members could be investigated. Is it only the mechanism of delaying the submission or intention to retire that applies?

Ms Justice Mary Ellen Ring: I understand that north of the Border it is clear that they can investigate all existing or retired members. One of the practical realities that we have seen over time is that we have started investigations and in the course of the investigation someone retires, whether he or she retires as always planned or whether the investigation has caused him or her to reconsider his or her career options. They go outside the Garda service and that often brings an investigation to a halt. We seek both. In the Metropolitan Police Force, for instance, if an investigation has commenced and somebody decides that it is an appropriate time to retire he or she can have his or her retirement delayed so that a full investigation can take place. Such a provision here would deal with a lot of issues. Sometimes the problems about retired members, who are already retired, is there are old complaints. The investigation may grind to a halt in any event because of the delay in making the complaint. We would like more flexibility across the board. We would like clarity so that we can carry out an investigation on retired people. Delayed retirement is an issue that can also be considered. What we have done in our proposals throughout is indicate a problem and a solution. We are open to discussing how that is put into some sort of statutory framework. We thought it was important to set out in our submission what we have seen as a problem and what we suggest is a solution. Ultimately, it will be up to the committee members and their colleagues to decide what to do with the proposals.

Chairman: Yes. Our recommendation was, nevertheless, based on fact. It is just in terms of the passage of time element that GSOC felt that the catch-all situation was that someone under investigation should not find a bolthole to exit.

Ms Justice Mary Ellen Ring: Yes.

Chairman: That is literally what the recommendation made by GSOC is all about.

In terms of recommendation No. 3, there is a call for GSOC to be empowered to accept and undertake to investigate matters dated beyond the current timeline limitation. If I remember correctly that may be six months.

Ms Justice Mary Ellen Ring: Under the statute it is 12 months. GSOC has the power to decide, if there is a good reason for the delay, to extend the time limit and we do so on a regular basis. As lawyers will know, this is a continuing issue because the later one leaves any complaint the harder it gets to investigate it properly. We believe 12 months is a reasonable amount of time but that period takes into account a belief that the public knows about GSOC. Many members of the public are unaware of the existence of GSOC or they do not see it as being a separate and independent authority but attached to the Garda Síochána and will not come to us. There have been delays due to ignorance, and I do not mean that in a pejorative sense, but ignorance of our role and independence. There have been delays because of personal circumstances. For example, people have been traumatised by something and have had poor Garda reaction. By the time they were in a position to think about thinking matters further 12 months have elapsed.

On the other hand, one should be in a position to act on a complaint promptly because a good investigation usually arises following a prompt complaint. That applies to Garda investigations as well as our own investigations. Twelve months is, in the main, a more than sufficient period. The commission can extend the time if there is a good reason. We have extended a number of cases for that reason.

Chairman: Did that empowerment arise over the period since we last met here?

Ms Justice Mary Ellen Ring: No, it is in the Act and has occasionally been used. We do not have and have not had cause to have a provision to deal with historical complaints about actions of the police service, North or South. We have considered the practice across the Border to see the challenges faced in that regard. In the main, we have had great difficulty in dealing with such cases because of practical issues such as the retirement of gardaí or loss of evidence. It is an issue to which we might be able to give more consideration if we had more personnel. Extending the time limit would clearly be of importance in such cases.

Chairman: On that point, was it always 12 months over the-----

Ms Justice Mary Ellen Ring: No, it was six months initially, but it was extended to 12 months. In the main, most people make a complaint soon after an event has occurred.

Chairman: Yes. I recall that it was a six-month period. It is welcome that it at least has been extended, but our recommendation still stands. My questions in that regard are to help the committee in pressing these matters with the Minister, which we hope to do at the end of this series of engagements.

In her opening statement Ms Justice Ring indicated that, contrary to the view gardaí would not turn to a body which dealt with complaints about them, members had gone to GSOC to look for help and support in the making of protected disclosures. She indicated a sense or an awareness of some not presenting because the process might take too long. An examination of the pattern in the conclusion of critical investigations indicates that matters referred to GSOC take a significant amount of time to complete because of the inadequate resourcing for the work that must be undertaken. Has Ms Justice Ring been made aware of cases in which protected disclosures might have been sought to be made that were not referred to GSOC from within An Garda Síochána because GSOC was not geared to take on and conclude necessary investigative work within what would generally be considered to be a reasonable timescale?

Ms Justice Mary Ellen Ring: I am happy to say what we have, we have held, but we have made it clear that there will be a delay and, touch wood, nobody has left us. Some of those who have indicated an willingness to work with us have brought others to us. Therefore, whatever we are doing has impressed people enough to stick with us and refer others to us. I hope that positive word of mouth will continue and that people will still come to us, despite the delay. Those to whom I have spoken who have raised these issues within An Garda Síochána have been so frustrated by the process within the organisation that, despite the delays in GSOC, they are willing to come to and stick by us. I do not know who is not coming to us, but those who have come to us and been told there may be a delay have decided to stay with us and, more importantly, brought others to us, which is a good sign. However, I know that we cannot hold them forever.

Chairman: I accept that and join Ms Justice Ring in welcoming it. I do not wish to put her in an uncomfortable position, but is there any indication, even anecdotally, that there are people who have not taken the first step?

Ms Justice Mary Ellen Ring: There is not. However, things being what they are in life, there may be people who would come to us if they thought matters would be progressed more quickly in GSOC. However, it is significant that people have come to us because they are frustrated with the alternative internal arrangements in An Garda Síochána. It is to be hoped gardaí will take this on board.

JJE

Chairman: On behalf of the committee, I thank Ms Justice Ring for her attendance against a very difficult weather backdrop. I thank her for her opening statement and very insightful responses. Such an insight was expected as it has been well established in her previous attendances at the committee. I thank her colleague, Ms Claire Grady, for joining us and wish both of them well in their continued efforts to help ensure GSOC will be able to tick the necessary boxes. It is to be hoped it can do so more speedily than we will be able to tick the boxes in making our recommendations. I once again extend our thanks and good wishes to Ms Justice Ring and her team.

The joint committee adjourned at 11.05 a.m. until 9 a.m. on Wednesday, 7 March 2018.