

DÁIL ÉIREANN

AN COMHCHOISTE UM DHLÍ AGUS CEART AGUS COMHIONANNAS

JOINT COMMITTEE ON JUSTICE AND EQUALITY

Dé Céadaoin, 12 Nollaig 2018

Wednesday, 12 December 2018

The Joint Committee met at 9 a.m.

MEMBERS PRESENT:

Deputy Jack Chambers,	Deputy Jim O'Callaghan,
Deputy Clare Daly,	Deputy Mick Wallace.

In attendance: Senator Colm Burke.

DEPUTY CAOIMHGHÍN Ó CAOLÁIN IN THE CHAIR.

Business of Joint Committee

Chairman: I thank Senator Colm Burke for facilitating the committee's commencement of business. Apologies have been received from Deputy Brophy and Senator Black. I propose we go into private session to deal with housekeeping matters. Is that agreed? Agreed.

The joint committee went into private session at 9.08 a.m. and resumed in public session at 9.25 a.m.

Commission on the Future of Policing in Ireland: Discussion (Resumed)

Chairman: The purpose of this meeting is to consider the recent report of the Commission on the Future of Policing in Ireland and to have an exchange of views between the Minister for Justice and Equality and the members on the report. I welcome the Minister for Justice and Equality, Deputy Flanagan, and his officials.

Before we begin, I must remind members they should be aware that, under the salient rulings of the Chair, they should not comment on, criticise or make charges against a person outside the House or an official by name in such a way as to make him or her identifiable. I invite the Minister to make his opening statement.

Minister for Justice and Equality (Deputy Charles Flanagan): I am very pleased to accept the Chairman's invitation to be here this morning to have an opportunity to hear his views and those of members of the committee on the report of the Commission on the Future of Policing in Ireland. I am joined by senior officials from the Department of Justice and Equality: Ms Anne Barry, Mr. John O'Callaghan, and Ms Mary McKenna. We are also joined by Ms Niamh Callan.

I take this opportunity to acknowledge the great level of commitment, experience and expertise the chairperson of the Commission on the Future of Policing in Ireland, Ms Kathleen O'Toole, and members of the commission brought to the major task of undertaking a fundamental review of all aspects of policing in Ireland. I know the chairperson had an opportunity of exchanging views with the committee a few weeks ago. The committee will have seen that the report addresses in a comprehensive way the wide-ranging terms of reference agreed by the Government, which had the active input of Deputies and Senators, and presents a new framework for policing to meet not only the current challenges, with which we are all familiar, but new and complex challenges that will undoubtedly emerge in the future. I am pleased to note the broad welcome that the report has received, including from members of this committee.

The report demonstrates the value of bringing people together, all of whom come from diverse backgrounds, to look at an area of public policy afresh, particularly an area that has been as contested as policing has been over recent years. It is clear the report is the richer for the diverse expertise of the members in policing, human rights, victims' rights, business, governance and right across public affairs. It is also clear that the report is the richer for the wide-ranging consultation process undertaken by the commission. It held extensive public meetings, visiting all regions of the country, and it also engaged with a wide range of interested stakeholders, including the workforce of An Garda Síochána at all levels, members of this committee, other Members of the Oireachtas, and practitioners in the area of policing and academia, not only within the confines of this jurisdiction but also abroad.

The commission has completed its task and passed the baton, so to speak, to the Government, the Oireachtas and An Garda Síochána to implement its transformation programme for the policing sector. It is important that we move quickly. Members will be aware that, on the publication of the report, I made a commitment to revert to Government by the end of the year with my substantive response and a high-level implementation plan. With this in mind, the report is receiving detailed consideration within my Department and across Government at present in consultation with the relevant bodies. I welcome the opportunity this morning to hear the views of the members of the committee on the report as an important input to that ongoing process of consideration. I know that they met the chair of commission and a number of her colleagues last month. I understand they had a very useful exchange exploring various aspects of the report and clarifying how some of the recommendations might work in practice, especially those that may come before this committee in the form of legislative proposals, which will happen next year. I also set out my intention in September to move quickly on setting up the implementation structures recommended by the commission to drive forward a transformation programme. Much work has already been done in that regard.

As I stated when the report was published, it provides a new blueprint for the transformation of policing in Ireland. At its core is a new and expanded definition of policing as a multidisciplinary, cross-agency effort in partnership with communities and built on the foundation of protecting human rights. Of particular note is the emphasis on understanding policing as including not only the prevention and detection of crime, which all present expect, but also the prevention of harm and protection of people at risk, be they people experiencing mental health challenges, homelessness or drug addiction. The assessment of the commission that 80% of Garda time may be concerned with harm prevention has given many people considerable pause for thought.

Grappling with this reality and designing and planning our services to support front-line gardaí in their work will require a whole-of-Government commitment to policing and community safety. I am heartened that the report highlights some good examples of inter-agency co-operation on the ground. These can be built on, but if we are to bring about the transformation envisaged by the report, such co-operation must become embedded in the system in order that it is sustainable over the longer term and not reliant on the dedication of individual public servants. The enthusiasm for and support of the report by my Government colleagues and their senior officials, many of whom do not consider themselves as having any significant role in regard to policing, has been striking. It is clear that there is a strong desire to take on board and work with this expanded definition of policing and community safety.

The report makes many more innovative proposals among its 50 key recommendations, but in the time available to me this morning, I wish to deal in a little more detail with a small number of the commission's recommendations that have attracted most attention to date.

On national security, the commission was tasked with considering the dual role of the Garda as the State policing and security service. Although it recognises advantages and disadvantages to this arrangement, the commission concludes that, in the current circumstances, it is not convinced of the value of creating a separate security agency, and I share that view. However, it identifies a need to enhance and modernise the skills and resources available to An Garda Síochána in the security and intelligence area. It also recommends the establishment of a structure to bring agencies together to improve the co-ordination of threat assessments and to provide better and more comprehensive information to Government. This proposal does not aim to take over the functions of the Garda, Defence Forces or other agencies which have clear lines of command and accountability set out in law for their activities. Rather, the proposed strategic

threat analysis centre, STAC, is intended to collate or synthesise intelligence inputs from the bodies and agencies which will be seconded to it to generate threat analyses. The commission also considered the issue of the oversight of national security and makes recommendations to enhance the current arrangements in this area, including the establishment of an independent examiner who would have a function in carrying out ongoing reviews of how security legislation is being used.

It is important that I refer to the commission's package of recommendations aimed at ensuring a well-managed police service with robust and independent external oversight. These recommendations have been the subject of most public commentary on the report to date, some of which appears to be based on a misunderstanding or misreading of the report and, in particular, a sense that public scrutiny of policing would disappear. It is clear from the report that public scrutiny, which is perhaps the strongest tool at the disposal of the Policing Authority, would continue under the commission's proposals. I understand that the chair of the commission and her colleagues emphasised this point in their recent engagement with this committee.

It is important to recall the rationale behind the commission's proposals. The commission's strong view is that our existing oversight arrangements are confused and lacking in clarity, with overlapping responsibilities between the various bodies. This view is shared by some of the oversight bodies and by the independent effectiveness and renewal group established in regard to my Department. The commission also views the lack of distinction between the roles of some of the oversight bodies and the responsibilities of An Garda Síochána for its management and governance as problematic. Its overall view is that our arrangements act to the detriment of a clear and effective mode of accountability for policing and sometimes lead to responsibility lying elsewhere or nowhere.

The commission's proposals are threefold. In the first instance, it locates responsibility for democratic accountability with the Minister of the day and his or her Department. It endorses the view of the effectiveness and renewal group, as accepted by Government, that my Department should step back from its involvement in managing An Garda Síochána and not seek to compensate for a lack of capacity in that organisation by inserting itself into day-to-day management of the Garda. Instead, my Department should focus on three key tasks in addition to securing the resources for the police, namely, providing transparent and timely communication of information required in the public interest, providing structural oversight of the police and oversight bodies, and developing policing and security policy and legislation. Of course, the commission also refers to the important role of Oireachtas committees, this one in particular, and their suggestions for how that role might operate to best effect, which gives food for thought.

Second, there are two elements to the commission's proposals on external independent oversight. It proposes a reformed independent complaints body that would supersede the Garda Síochána Ombudsman Commission, GSOC, and a new independent oversight body to be named the policing and community safety oversight commission or similar. That body would build on the good work of the Policing Authority and the Garda Inspectorate. It would absorb the oversight functions of the authority and the inspection functions of the inspectorate, and it would have a greatly enhanced role in promoting accountability at local level and standard setting at national level. Unlike the current situation, it would concentrate solely on exercising independent external oversight and would not undertake executive functions.

Third, the commission recommends that the Garda Commissioner, in his role as chief executive officer with responsibility for a workforce of 16,000 and rising and a budget that will

exceed €1.7 billion next year, should be fully empowered to run the organisation with the support of a non-executive board. Although the recommendation for such a board is novel in the policing sector, such boards are best practice in corporate governance teams across the private and public sectors. Indeed, in its submission to the commission, the Policing Authority suggested that it should be seen as akin to the non-executive board of An Garda Síochána. The commission came down in favour of separating internal governance and external oversight. It recommends that internal governance be provided by the non-executive board, while external oversight be provided by the policing and community safety oversight commission. Of relevance to this issue is the most recent report of the effectiveness and renewal group which was presented to Government in October. It strongly welcomes the recommendation by the commission for the establishment of a statutory board to strengthen the internal governance and management of the Garda Síochána.

My overriding interest and, I am sure, that of the committee is to ensure an effective, accountable police service. That requires a police service that is well managed and has robust structures and processes in place such that risks are identified at an early stage and not allowed to develop into controversies which envelop the entire organisation and serve to undermine public confidence and morale in An Garda Síochána. It also requires robust and independent external oversight.

I look forward with interest to the committee's response to the proposals in the commission's report. The Government will decide on its preferred solution shortly. Of course, given that the oversight architecture will have to be legislated for, the Oireachtas will ultimately decide the issue and this committee will have a very important and fundamental role to play in the development of that legislation.

Before outlining the work under way in regard to implementation, I wish to comment briefly on some of the other recommendations in the report. Of particular note are the innovative recommendations in regard to recruitment and the need to create a more diverse workforce in terms of socio-economic and educational background as well as gender and ethnicity. There is also a welcome focus on improving the well-being of the Garda workforce, including through improved rosters, more appropriate uniforms, and more psychological support services.

Many of the 50 key recommendations form part of the existing reform programme for An Garda Síochána, such as those relating to improved workforce planning, better deployment of personnel, increased focus on training and continuing professional development, improved data quality, and improved ICT, including mobile technology. It is fair to say the results of that programme have been mixed. Some good work has been done, but overall there is a consensus that the pace of reform has been too slow. This concern brings me to the commission's recommendations to ensure that its programme can be substantially implemented by 2022, which of course is the 100th anniversary of the establishment of An Garda Síochána.

I am pleased to say that the implementation group for policing reform, IGPR, has been established with an independent chair as recommended by the commission. Ms Helen Ryan, a member of the commission and former chief executive officer of Creganna Medical, has agreed to serve as chair. Her expertise will be invaluable in driving forward the implementation plan to be agreed by Government. The implementation group is supported by an implementation programme office set up in the Department of the Taoiseach. The first meeting of the IGPR took place in early November, and the group, which includes representatives of a number of Departments and An Garda Síochána, has met on four occasions since.

In addition, a high-level steering board for policing reform chaired by the Secretary General of the Department of the Taoiseach has been established. Membership of this board includes the Secretaries General of my Department and the Department of Public Expenditure and Reform, the Garda Commissioner and the chair of the IGPR, Ms Ryan. Secretaries General from other Departments will also be involved as required. The role of this steering board will be to support the work of the implementation group, including by acting as a clearing house for issues that cannot be resolved by the implementation group.

I am sure the Cathaoirleach will agree that the speed at which my Department and the Department of the Taoiseach have moved to set up these structures demonstrates my commitment and that of the Government to meeting the ambition in this report. The Government is deeply committed to the meaningful reform of An Garda Síochána and policing in Ireland. This is evident through the provision of in excess of €1.7 billion to An Garda Síochána for 2019, an increase of €110 million over this year's budget. In addition, the Garda capital allocation will increase to €92 million, much of it for ICT infrastructure, over the course of next year. Furthermore, dedicated funding of €10 million has been provided to my Department to support the transformation process in the justice sector, including An Garda Síochána, next year.

This is an important report that has the capacity to transform policing in this country. It is the outcome of serious deliberations over a lengthy period and its conclusions and recommendations deserve to be carefully considered. This committee, under your Chairmanship, has always shown a keen interest in policing matters and I know your commitment to improving An Garda Síochána is to the fore. This committee has much to contribute to the successful implementation of the commission's report and I look forward not just to hearing the committee's response to it now but also to working with the committee as it is implemented over the coming years.

Chairman: Gabhaim buíochas don Aire. We will open up the discussion to members for their observations and questions, as appropriate. Deputy O'Callaghan was the first to indicate.

Deputy Jim O'Callaghan: I thank the Minister for coming in. It is important that we all consider the report that has been prepared. A lot of work went into it. It is also important that Government makes a decision on where it is going early in the new year because the longer this drifts on, the more of a question mark there will be over the existing oversight bodies. I am sure that is a concern that the Minister probably has himself.

We agree with much of what is in this report and the commission did very good work, but I want to concentrate on the areas where there is some concern. The commission has recommended that there be an internal board within An Garda Síochána, the purpose of which would be to strengthen internal governance and accountability and to support the Commissioner and his leadership team. The Minister may recall that, back in 2007, legislation was introduced establishing a Garda Síochána executive management board and that was an amendment to the Garda Síochána Act 2005. It was never commenced and, when the Minister introduced the Policing Authority, that section was repealed. Does the Minister envisage that the board recommended by the commission would be similar to the board that was provided for in legislation by the Oireachtas back in 2007 or does he see it operating differently?

Deputy Charles Flanagan: Anything I say this morning is, of course, subject to the assent of Government, but I agree with the Deputy when he mentions the importance of ensuring that the momentum which has been built following the publication of the recommendations in the report is maintained. I intend to publish an avenue for implementation in the near future and

I welcome the Deputy's support in that regard. I intend to bring my proposals to Government very shortly.

The statutory Garda Síochána board will have a significant role to play in ensuring that the organisation is both effectively and efficiently run. The board would be responsible, as other State boards are, in ensuring that the systems and procedures in place to direct and control the organisation are consistent with the statutory responsibilities of the organisation so that the public interest is served. There is also obviously the issue of value for money which has featured at the committee time and again, and risk management must be done in an effective way. In short, the board will hold senior management of An Garda Síochána to account for the performance of their functions. The board will agree the policing strategy and the policing plan and it will have a role to play in the budget being proposed by the Commissioner, subject of course to the approval of the Minister. The board would have a role to play in the nomination of the Commissioner and the deputy commissioner and the matter of appointments to the senior management team.

My overriding view of the board is that it would operate along the lines of how many State boards effectively operate in terms of providing support for the chief executive officer and his or her team.

Deputy Jim O'Callaghan: I know the Minister will do this but it is important that we are careful about the make-up of this board. The legislation that was introduced in 2007 proposed a board of six people, three of whom would be members of the Garda - the Commissioner, the deputy commissioner and a member of the civilian staff of An Garda Síochána. There were to be three non-executive members as well who were not going to be members of the Garda or Garda civilian staff.

I was looking at the board recommended by the commission and I am not sure from the recommendations produced whether, for instance, the Commissioner and senior figures within An Garda Síochána would be members of the board. Maybe that is in there but I have not been able to locate it, so that is an issue that Government will have to consider. My reading of it is that it may be that senior Garda figures would not be on the board, which would be different from many other boards where senior figures from the executive end of the business are also on the board and there is a mix of non-executive and executive members. The Minister needs to be careful about that.

The recommendation in respect of the new board is that it should be able to make nominations to Government for the appointments of Commissioners and deputy commissioners, which is something that is done by the Policing Authority at present, but also the board could recommend the removal of a Commissioner. The Minister needs to think about having an internal body that could recommend the removal of a Commissioner. I do not know whether the Commissioner will be a member of that board but it needs to be carefully thought out before giving those strong powers to a board that is within An Garda Síochána.

I refer to the issue of the Policing Authority. I know that the Minister is here to hear our views on this as well. One of the successes of the Government has been the establishment of the Policing Authority. It has worked well. Changing An Garda Síochána is a slow process, but the Policing Authority, through its public hearings, is having a role in achieving that. The point is made by the commission and the Department that the policing and community safety oversight commission, PCSOC, which will replace the Policing Authority and the Garda Inspectorate, would also have public hearings. Does the Minister have any concerns about terminating the

Policing Authority, which has been quite effective, and replacing it with PCSOC?

Deputy Charles Flanagan: On the first issue of the board, I am not really sure if it is the intention of the committee to commit something to writing by way of recommendations to Government. If it is minded to do that, I would be very happy to give full and detailed consideration to such a paper. In the meantime, I thank Deputy O’Callaghan for his commentary. If the committee is not in a position to furnish a paper which might amount to its view or response to the Commission on the Future of Policing in Ireland, I would welcome contact from individual Deputies in whatever form they deem appropriate.

I thank Deputy O’Callaghan for his helpful comments on the matter of the board. It is not envisaged there will be members of the Garda Síochána on the board. It is not part of the plan. The entire board will be selected on an independent basis and will comprise members other than those who are members of An Garda Síochána. It will be made up of people of standing in the community, public affairs and beyond who will bring a measure of independence. I take on board the point raised by Deputy O’Callaghan in that regard.

On the second point on the Policing Authority and the Garda Inspectorate, I also acknowledge they have done good work. The role of the authority in scrutinising policing performance has been very useful. I assure members of the committee - it is a point that was dealt with in some detail by the chair of the commission - that the new body will continue to exercise a very high degree of oversight of policing through public meetings with Garda management, access to a high degree of information through its inspection function, and through a stronger role in research, for example, and the matter of local accountability. The functions of the Policing Authority and the Garda Inspectorate, having regard to their importance, will form the basis of the new legislation for the new body. They are issues we will be charged with responsibility for teasing out in the context of the legislation.

Deputy Jim O’Callaghan: The Minister has clarified the board will not include any members of An Garda Síochána. That is different from how semi-State bodies or corporate boards operate. There are non-executive members from outside who bring independence and external knowledge but there are also internal people. There are executives on the board who are directly involved in the management of the entity. It is different. The board is within An Garda Síochána and the proposal is to transfer some of the important functions, which are at present practised by the Policing Authority, back into the Garda. For instance, senior appointments are at present dealt with and recommended by the Policing Authority. That function will be going back within An Garda Síochána. I note the point the Minister made about how PCSOC will continue the functions carried out by the Policing Authority and the Garda Inspectorate, but what is the benefit of it? I am not holding the Minister to his answer because he has to formulate proposals for Government. What is the benefit of getting rid of the Policing Authority other than merging the Garda Inspectorate with it and replacing it with PCSOC? Is there any benefit other than being able to say we implemented the recommendations of the Commission on the Future of Policing in Ireland?

Deputy Charles Flanagan: There is a view, which has been expressed at the committee, that there is a lack of clarity or an overlap between the roles, functions and operations of the bodies as currently structured. What I say is subject to Government approval but I expect that approval very shortly. In the event the Government decides to proceed with the new framework as proposed by the commission, a programme of legislation will be required. The legislation will need to be very carefully crafted to ensure we have a clear delineation of the roles of the various bodies. I am very keen to continue to hear the views of the committee as we proceed.

In the new year, I hope to have a very clear pathway by way of a time-sensitive implementation plan. We will provide the committee with the proposals for the legislative framework and the implementation of the recommendations as accepted within a clearly defined timeframe divided up into quarters for next year.

Deputy Mick Wallace: I do not have many questions. We teased out many of the issues with Kathleen O’Toole. The Minister stated our existing oversight arrangements are confused and lack clarity. He stated the commission also views the lack of distinction between the responsibility of An Garda Síochána for its own management and governance on the one hand and the roles of some of the oversight bodies on the other as problematic. The Minister probably noticed that Mr. Justice Charleton went out of his way to emphasise that creating new structures will not fix anything and that the culture was more of a problem than the structures. It is as if we are trying to reinvent the wheel.

The Minister is right that we have highlighted issues with GSOC, the Policing Authority and the Garda Inspectorate. We do not think it is a good idea to get rid of any of them. We think they need to be strengthened. There was some overlap in responsibility but it is something that can be cleared up. It can be fixed. We have been recommending for a long time that the Garda Inspectorate should be able to follow up on its recommendations and see where they are going. The Garda Inspectorate did some great work and produced some powerful reports that were the blueprint of where we should be going with policing. It was obviously a problem that the inspectorate could not follow up on what was happening to its recommendations. It also did not have the power of inspection, which we recommended. They are areas where the Garda Inspectorate could have been strengthened. The Policing Authority was finding its feet. It seemed to be getting better all the time with a bit of experience. We also felt it did not have enough powers but it did well given the powers it had. It would be better to give it the extra powers it needs to make it even more effective. We have said for a long time that GSOC was designed to fail. It is not funded properly. The structure is wrong. There are too many gardaí inspecting each other, but it is fixable if one had the appetite to fix it.

We find it strange the Government is moving away from that. Instead of strengthening and improving the three organisations, its move away is watering down external oversight. In his opening statement, the Minister made the point that “Unlike the current situation, [the new body, the policing and community safety oversight commission] would concentrate solely on exercising independent external oversight and would not undertake executive functions.” We thought the fact the Policing Authority was engaged in executive functions was a positive. As Deputy O’Callaghan pointed out, we thought that giving it a role in the appointments process was a positive move. I find it strange that the Minister is rowing back on that now. When we put these points to Kathleen O’Toole when she appeared before the committee, she did not really make a good case against them.

My main point is that we do not have to reinvent the wheel. We believe this is a watering down of external oversight. Did the gardaí not like that oversight by the Policing Authority? Was it bothering them? I do not want to knock the report too much because there are many good proposals in it, and many recommendations that were discussed in recent years are included in it. There are plenty of positives in it but the oversight issue in particular would be an area of concern from our point of view.

Deputy Charles Flanagan: I would be concerned if there is a view, and I have read reports of some people forming a view, as the Deputy said, that the proposals are in some way weakening or diluting oversight rather than developing or enhancing it. I would be concerned

if people were of the view that there is a weakening of oversight because I do not see that as being the case. There is no question of any weakening of the role or function of the bodies. I would accept there is a strong case for a form of rationalisation, but that should not be seen as taking back power or in any way reducing a level of oversight. In fact, the report is clear on additional functions regarding in the matter of research and the setting and maintenance of standards, and all that will continue. I acknowledge there was a lack of clarity on the part of some of the structures between the authority, on the one hand, and the inspectorate and GSOC on the other. In terms of GSOC, what we see in the report is along the lines of what many Deputies were seeking, namely, changes for GSOC and a greater measure of independence, and this is in tandem with the extra level of resources that have been made available to GSOC. As we speak, it is recruiting a further complement of staff that will allow it to do the job that the legislation requires of it in a timely and effective manner.

It is important to note, and again I would ask the committee to agree with me on this, that all the investigations of the oversight body or the independent complaints body must be engaged in from an independent perspective rather than referring complaints of a serious nature back to the Garda Síochána for investigation. It is important that the jurisdiction of the independent complaints body be extended to involve non-sworn personnel and that it would also assume the Accounting Officer function. The response on the matter of the independent complaints body is along the lines of what the Deputy is on record as having said on a number of occasions.

The new terms of reference of the role and function of the oversight bodies must be read in the context of what is a holistic examination of the current system. The Deputy should remember this independent commission of experts was charged with responsibility to look at the current bodies with a fresh pair of eyes. I would be reluctant to depart from the main recommendations but let us see what the Government finally proposes by way of recommendation to the Dáil.

Deputy Mick Wallace: Does the Minister believe it is a good idea to take the appointments area away from a body like the Policing Authority? Was there a problem with how it was doing that?

Deputy Charles Flanagan: The proposed recommendation is to the effect that the selection process for both officers and staff would be conducted with standards that apply across the public sector and, in that regard, there would be a function for such a board, namely, the Garda Commissioner under the supervision of the Garda board. I see it as being an important aspect of the recommendations for change that the responsibility for all human resources, HR, matters would rest with the Garda Commissioner. Remember it is the Garda Commissioner who will ultimately be accountable in any event. If we are to vest responsibility for HR matters in the chief executive, that would see the appointment function and the transfer of such functions to the Commissioner.

Deputy Mick Wallace: We saw in the past there were times where the Garda Commissioner of the day promoted friends and cronies around him and now we are moving back to a position where we are going to give more power to the Commissioner again. It is all very well if the Commissioner is good, and perhaps Drew Harris will be very good, and that is fine if it works well, but if the Commissioner has a tendency to circle himself with his friends, it might not work out quite so well.

In terms of the board, it is as if the commission is recommending that it be set up like a commercial organisation, but the point we made to Kathleen O'Toole when she appeared before

this committee is that An Garda Síochána will not be run for profit. It is run to serve the public. This board is probably more suited to working with a commercial entity rather than a public body like An Garda Síochána. What does the Minister think of that point?

Deputy Charles Flanagan: I would not accept that ultimately we will have something of a soft or cosy relationship between the Garda Síochána board and the Garda Commissioner as CEO. As the chair of the Commission said at this committee a few weeks ago, there must be a level of professional tension, as is the case with all relationships between a board and a chief executive officer. That is important to ensure there would not be that type of soft relationship to which the Deputy quite rightly adverted, and that there would be a limited term appointment. In the event the Government does decide to proceed along the lines of the board-CEO relationship, a precedent for that would be the Legal Aid Board within our own area of specialisation, and the relationship there between the CEO and the board members. If we proceed along the lines of legislating for the new board, having regard to the relationship between the board members and the CEO, it is important to remember that another arm of the new proposals in relation to the new PCSOC, or such name as legislators will decide ultimately, will be an element of oversight ensuring probity in all appointments. I do not share the view that what we are doing is bringing back power to An Garda Síochána to ensure that the relationship is either less than accountable or less than transparent. What we are doing is recognising what is accepted practice right across the public sector. We will have a further opportunity to tease out the detail of that, should the Government decide to proceed.

Deputy Jack Chambers: I thank the Minister for coming before the committee. I wish to ask him about the high-level steering board he mentioned at the end of his statement. He said that it was established in September. How often has that met?

Deputy Charles Flanagan: Four times.

Deputy Jack Chambers: The Minister mentioned who is the chair of the implementation group for policing reform. Who else is in the group?

Deputy Charles Flanagan: There are a number of Departments involved. One of the most reformist aspects of this report is the fact that the group looks at police and security from a cross-Government perspective. On the implementation group there will from time to time be Secretaries General from a wide range of Departments, namely, the Departments of Health, Employment Affairs and Social Protection, and Housing, Planning and Local Government. On a more permanent basis there will be representation from the Department of the Taoiseach, the Department of Justice and Equality and the Department of Public Expenditure and Reform. The group looks at ways of involving the oversight bodies in an advisory capacity.

Deputy Jack Chambers: In terms of the implementation programme office, will the Minister comment on the overlap between the high-level steering board and the implementation group for policing reform? The Minister said the steering board is to support the implementation group and to act as a clearing house, but I would welcome more detail on the difference.

Deputy Charles Flanagan: The objective is to ensure there is a parallel process. I envisage that there will be at least four pieces of legislation required should the Government decide to adopt the recommendations in their entirety. The important thing is to build on the current momentum. We will have the implementation group and a steering committee thereof to ensure a parallel process is fully under way across a number of recommendations at the same time. Once I have the approval of the Government on the matter of the prioritisation of the recom-

mendations, then I will be in a position to advise the committee as to the priority recommendations with a timeframe, the medium-term recommendations with the timeframe, and the recommendations that still require further consideration. The target is to ensure that, by the 100th anniversary of An Garda Síochána, the recommendations of the report will be implemented.

The Secretaries General involved in the group will meet to ensure that any blockages that might arise along the way are addressed. The implementation group will oversee the work of the programme office. The programme office will meet regularly and will drive the management of the programme of reform. It will be the engine room, so to speak.

Deputy Jack Chambers: Are the two groups formulating the recommendations with the Government? The Minister has yet to set out fully the recommendations or how he will mould the plan around Government policy. Are the groups collaborating with the Minister to develop an agreed approach? What is the current position? When will the Minister formally announce the approach?

Deputy Charles Flanagan: My objective is to announce the full details of the implementation plan and the Government's response in respect of recommendations by the end of the year.

Deputy Jack Chambers: I also wish to ask about a point that has been mentioned by my two colleagues on the proposed board. Has the Minister read the dissenting remarks made by two members of the commission? It is reported that they said in their view it does not offer the best prospects of achieving the goal of unambiguous independent, empowered and transparent accountability. It was said that they believe that external accountability should be developed and matured through the structure of the Policing Authority. What are the Minister's views on what they had to say?

Deputy Charles Flanagan: I read those views and I listened to what the dissenting members had to say. In the first instance, I must state that all the members of the commission appended their names, signed off on the report and fully endorsed it. I am grateful to all the members for their commitment and their work. I note that two members of the board diverged somewhat on a particular recommendation concerning the formation of the Garda Síochána board. It is important that we look at the commission report in its entirety and the fact that all of the members signed off on the report and endorsed it in full. There has been a significant amount of commentary.

Deputy Jack Chambers: It states in the report that the two members stated their disagreement with the recommendation relating to a board. That is very clear.

Deputy Charles Flanagan: I am grateful to all the commission members for the time, expertise, experience and insight that they have brought to what is an important report. I am reassured that the members to which Deputy Chambers referred endorsed the report as a whole. That is the important thing.

Deputy Jack Chambers: Reference was made to the fact that the intention is to align internal governance with a non-executive board and replace it with a process of external accountability that is being developed. The Minister mentioned that there had been public commentary about the concerns about the overall policing architecture and the extent of it in terms of the Garda Inspectorate, GSOC and the Policing Authority itself. Is the Minister concerned that by taking out part of the functions of the Policing Authority and replacing them with a new merged structure composed of the Policing Authority and the Garda Inspectorate, we could cre-

ate confusion about the policing architecture rather than consolidating where there have been difficulties by splitting the accountability roles?

As my colleague said, if there are no executive members on the board, it may be that not all the relevant parties are involved. How then do we have a true process of openness whereby it is ensured the board is given the relevant information? It is an important part of corporate governance to have external oversight within the board but also to include executives to develop a process of openness around the board. Does the Minister have any thoughts on that? We could be creating further difficulties around accountability rather than consolidating the existing structures.

Deputy Charles Flanagan: I repeat in brief terms what I said to Deputy Wallace who asked the same question. My view is in line with the commission's which pointed to a certain lack of clarity under the current structure. What is designed here will not add further to that lack of clarity but will rather enhance governance for An Garda Síochána. That is not only the view of the Commission on the Future of Policing but of the effectiveness and renewal group in my own Department. The nature of the existing arrangements has meant that they were often seen to work contrary to the objective of clear and effective accountability. Should these proposals be implemented, we will have an external oversight body in common with what exists across the public and semi-State sectors. If we proceed along those lines, legislation will be required. I hope that whatever legislation is enacted will ensure that what Deputy Chambers refers to will not come to pass and that we will have a greater level of clarity and delineation of roles, functions and responsibility rather than the type of overlap evident in the current structure.

Deputy Clare Daly: I apologise for having had to leave the meeting briefly. I was dealing, coincidentally, with gardaí at the time. I record that when we are talking about future policing and the need for change, we must acknowledge the great work done by many gardaí. I record in particular my gratitude to the excellent Dave Malone in Terenure Garda station with whom I have been dealing while this meeting has been going on.

There is not much point asking many questions, partly as I missed the questions of other members and partly because, from what I have heard, we are not getting any answers. Given that this is a longer body of work, the current Minister will probably not be at the helm when some of these things come into being, if they ever do. The Minister was at pains to say the members endorsed the full report, including the two who had the minority view. Does he not agree, however, that their point was pretty pivotal? Their point of disagreement was not a minor one but rather one that gets to the heart of a lot of this. The process of external oversight, which took a long time to put in place and which was implemented in an inadequate way, is now being watered down by this proposition. While the Minister has said he thinks that is great, which is nice, any attempt-----

Deputy Charles Flanagan: I did not use the word "great".

Deputy Clare Daly: Okay. I am sorry. "Great" is probably too strong a word. What the Minister actually said was that he supported the recommendations of the commission on the new structure, which has been asserted, correctly in my opinion, to be a dilution of the external oversight we had begun to move towards implementing and a serious step backwards. In the context of all of the experts in this area, including Dermot Walsh and others in that vein, who look at serious reform of policing being of a different view, that concerns me. It gets to the heart of it.

Why does the Minister not think the adequate beefing up of the Policing Authority to make it genuinely accountable is sufficient? He thinks the report is fine but there is nothing new around the GSOC recommendations. There is nothing new in a lot of the report, which is not a criticism of it. It is a pulling together of ideas which have been out there for a very long time. It pulls together and includes many recommendations our committee put forward. The report also pulls together recommendations GSOC made to improve its role and make it a proper, fit-for-purpose complaints structure. The only thing changing here is the name. Why has the Minister not enacted legislation then? What are his plans and what is he waiting for before he enacts what everybody recommends, including this body the Minister thinks is fine? Why has that legislation not been tabled before us? We should not have to wait for it. I see no merit in that. We can tease it out in the Chamber if legislation comes forward.

Deputy Charles Flanagan: I have already dealt in her absence with all of the issues raised by Deputy Daly. I intend to bring forward legislative proposals on the independence and greater authority of GSOC. I acknowledge that GSOC is recruiting extra staff and expertise to allow it to deal adequately with its responsibilities and obligations in law. I expect to have the programme of legislative change on foot of the report charted early in the new year. Of course, I bring the matter to the committee. I do not accept that what we are doing in any way weakens or dilutes the powers of the authority and inspectorate. Rather, it is about further clarity on an issue that exercised this committee and many of its members in recent times. I expect that clarity will emerge in the context of the legislative proposals for the new bodies.

Deputy Clare Daly: As a very brief follow-on, has the Minister had any discussion with the Policing Authority in this limbo? Given that it is for the chop, it must make life very difficult while it awaits the Minister's new legislation. Does the postponement of the decision to replace someone in the authority, which was supposed to be before the committee this week and which is not now being taken, have anything to do with this or will the Policing Authority be beefed up to its full complement while we await the legislation? What is the story there?

Deputy Charles Flanagan: That will be done early in the new year. I meet the Policing Authority regularly and intend to meet it again between now and the Christmas vacation.

Deputy Clare Daly: Is the authority happy enough with its uncertain future? Is it impacting on its job now?

Deputy Charles Flanagan: These are issues which are the subject matter of discussions between my Department and myself and the authority.

Deputy Clare Daly: Then, it is not happy, and understandably so.

Chairman: I thank Deputy Daly. In his opening remarks, the Minister indicated that he was heartened that the report highlighted good examples of inter-agency co-operation. Deputy Jack Chambers touched on a whole-of-Government commitment which we all accept is essential to policing and community safety. If this is to be built on, co-operation must be embedded in the system. These were the Minister's own words and I concur absolutely. I ask the Minister to elaborate on the areas he referenced in that regard and how he sees that coming into effect. I expect this is a development of the cross-departmental approach.

The committee has highlighted today, and in recent engagements with the Commission on the Future of Policing and senior management of An Garda Síochána, concerns regarding the availability of other key service providers. Unlike An Garda Síochána which is available 24

hours a day 365 days of the year, for some critical services with a very relevant role a 9 a.m. to 5 p.m. five-day week is the norm. Members of the committee, myself included, as elected public representatives have raised difficulties which have been encountered in dealing with problems in the evening time and, in particular, at weekends. I ask the Minister to elaborate on that issue and on how he envisages it being addressed.

Deputy Charles Flanagan: The most striking aspect of the report is the manner in which it regards policing as involving far more than justice and security. It emphasises the importance of multi-agency groups and inter-agency responsibility. There will be a role for the agencies to which the Chair referred without naming, such as the HSE, homeless services and Tusla. It is very important that national protocols be established to ensure the level of service available on a 24-7 basis is raised. Co-operation and co-ordination will need to be further developed and supported, which is why there is active engagement on the part of Departments which might not heretofore have been readily associated with crime, justice and security, in particular, the Department of Housing, Planning and Local Government in regard to homelessness as well as the Departments of Health, Children and Youth Affairs and the HSE in regard to the association between vulnerability, disadvantage and crime. The report also recommends that the Garda should have ready access to and support from other agencies to ensure a very active level of connectivity. Resources will be required to achieve those aims. As I am very keen that the availability of resources not be an issue in terms of the implementation of the recommendations of the report, money has been made available for implementation next year.

Chairman: I thank the Minister for his response. Independent of the report of the Commission on the Future of Policing, all members are very conscious of the need to ensure inter-agency co-operation in terms of responses to specific cases. The Minister rightly referenced several agencies with particular responsibility in that area. There is a need for work-life changes to ensure greater availability. That is an absolute requirement. We cannot continue to depend on members of An Garda Síochána to respond to situations with which they may not be properly trained and equipped to deal. The Garda is repeatedly used almost as a crutch in situations where more experienced or better trained and better equipped public servants would be the appropriate first responders. One such area is mental health. If the Minister is indicating that there will be progress in that area in the coming year, that is to be welcomed.

The Minister queried whether the committee will produce a report. We have decided that we will not do so. However, in the light of the indications he has given, we may offer some observations on our engagements with Ms Kathleen O'Toole and her colleagues and the Minister. We will determine that over the coming week following discussion of the matter. The Minister's indication of interest in that regard is noted.

There is nothing further in regard to this matter which we can address at this point. On behalf of the committee, I thank the Minister and his officials for their attendance.

The joint committee adjourned at 10.35 p.m. *sine die*.