

Dé Máirt, 11 Aibreán, 2017
Tuesday, 11th April, 2017

2 p.m.

ORDUITHE AN LAE
ORDERS OF THE DAY

- a9.** Ráitis maidir le hUisce.
Statements on Water.
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GNÓ COMHALTAÍ PRÍOBHÁIDEACHA
PRIVATE MEMBERS' BUSINESS

Fógra i dtaobh leasuithe ar Thairiscint : Notice of amendments to Motion

- 98.** “That Dáil Éireann:

notes that:

- members of An Garda Síochána play a hugely important role in Irish society and that public trust and confidence are crucial elements of effective policing;
- there is an immediate need to reassure the public that urgent action will be taken to implement real reform, cultural change and oversight of the management of An Garda Síochána;
- the final Report of the Fennelly Commission of Investigation (Certain Matters Relative to An Garda Síochána and other persons), has been published and its findings are alarming;
- accountability structures within An Garda Síochána are inadequate and need to be strengthened and made more transparent so that there is real accountability for Garda wrongdoing and/or mistakes;
- section 11(1) of the Garda Síochána Act 2005 stipulates that a person who holds the office of Garda Commissioner can only be removed from office by the Government for stated reasons, including where the person’s removal from office would in the Government’s opinion be in the best interests of the Garda Síochána; and
- section 11(2) of the Garda Síochána Act 2005 (as amended by the Garda Síochána Policing Authority Act 2015) provides an important and unique role for the Policing Authority in respect of the person who holds the office of the Garda Commissioner;

condemns that:

- there were 146,865 District Court summonses for road traffic offences wrongly issued and that 14,700 convictions were wrongly imposed upon members of the public as a result of shameful errors by An Garda Síochána;
- there were 937,000 breath tests that never occurred but which were falsely, and probably dishonestly, recorded by members of An Garda Síochána on the Police Using Leading Systems Effectively (PULSE) system as a result of deplorable wrongdoing by An Garda Síochána;
- the members of the public who were wrongly convicted were not informed directly by An Garda Síochána or any other agency of the State about their wrongful convictions, notwithstanding the fact that An Garda Síochána and the State were aware from July 2016 that members of the public had been wrongly convicted of these offences;
- An Garda Síochána was notified of discrepancies in its breath test data by the Medical Bureau of Road Safety in 2014, by an audit in its southern region in 2015, and by a national audit that commenced in 2016 (which revealed in 2016 that its data could not be reconciled), but did not inform the public or the Policing Authority of these discrepancies until its press conference on 23rd March, 2017; and
- there has been a lack of progress on implementing reforms recommended by several Garda Inspectorate reports;

acknowledges that:

- the Garda Commissioner has accepted that An Garda Síochána recorded numbers that were false and, that this was at worst deception and at best incompetence, but either way it was individually and organisationally shameful;
- the Garda Commissioner believes that this falsification may not be confined to traffic data and that there may be more revelations;
- such dishonest and unethical behaviour by An Garda Síochána is totally unacceptable;
- these revelations have raised very serious issues about the management of An Garda Síochána;
- there is increasing public concern and diminishing public confidence in the management of An Garda Síochána;
- there is increasing public concern and diminishing public confidence in the administration, direction and supervision of An Garda Síochána;
- there is an urgent need to strengthen the management of An Garda Síochána;
- there is an urgent need to strengthen the oversight of An Garda Síochána; and
- there is a radical need to provide for ongoing professional development to ensure that members of An Garda Síochána are trained for the challenges posed by policing in the 21st century;

calls for:

- the Government to take immediate steps to rectify this real and substantial crisis in confidence in An Garda Síochána;
- the Government to request the Policing Authority to assess the role and capacity of the Garda Commissioner to restore public confidence in An Garda Síochána;
- the Government to empower the Policing Authority so that:
 - it will supervise the functioning of the Garda Commissioner's Office and supervise the discharge of these functions by the Commissioner;
 - it will oversee the performance by An Garda Síochána of its functions relating to policing services; and

- it can establish and impose policies and reform measures for An Garda Síochána which shall be binding on all members of An Garda Síochána; and
- the implementation of the recommendations of the Report of the Fennelly Commission; and

further calls for the Government to establish an Independent Commission of An Garda Síochána that would examine and report on:

- (a) the adequacy and appropriateness of the policies and procedures which underpin the operation and performance of An Garda Síochána;
- (b) the full implementation of the Garda Inspectorate Reports of 2014 and 2015, within a tight time-frame;
- (c) improvements to basic Garda training;
- (d) the recruitment of civilians at senior managerial levels of An Garda Síochána;
- (e) the recruitment of persons directly at Sergeant, Inspector or Superintendent level;
- (f) the introduction of practices to allow Gardaí to be promoted internally, without being required to return to uniform duty;
- (g) the extent of the responsibilities that the Department of Justice and Equality has for An Garda Síochána and whether this should be reduced;
- (h) the separation of security matters from An Garda Síochána;
- (i) the strengthening of the role of the Garda Síochána Ombudsman Commission;
- (j) the ongoing training of members of An Garda Síochána on basic core skills of ethical policing;
- (k) improvements to professional development and progression within the force; and
- (l) the introduction of a professional development structure that would allow better supervisory mechanisms and more accountable management structures to be put in place in order to improve Garda services to citizens, boost morale and build up public trust and confidence.” — *Jim O’Callaghan, Bobby Aylward, John Brassil, Declan Breathnach, James Browne, Mary Butler, Thomas Byrne, Jackie Cahill, Dara Calleary, Pat Casey, Shane Cassells, Jack Chambers, Lisa M. Chambers, Niall Collins, Barry Cowen, John Curran, Stephen S. Donnelly, Timmy Dooley, Sean Fleming, Pat the Cope Gallagher, Seán Haughey, Billy Kelleher, John Lahart, James Lawless, Marc MacSharry, Micheál Martin, Charlie McConalogue, Michael McGrath, John McGuinness, Aindrias Moynihan, Michael Moynihan, Eugene Murphy, Margaret Murphy O’Mahony, Darragh O’Brien, Éamon Ó Cuív, Willie O’Dea, Kevin O’Keeffe, Fiona O’Loughlin, Frank O’Rourke, Anne Rabbitte, Eamon Scanlon, Brendan Smith, Niamh Smyth, Robert Troy.*

Leasuithe:

Amendments:

1. To insert the following after “challenges posed by policing in the 21st century;”:

“declares its conviction that:

- the systems, structures and processes of Garda management are not fit for purpose and no longer command or deserve the confidence of the public, or of public representatives; and
- a transformative programme of renovation, reorganisation and reformation under

statutory external direction and oversight is urgently required;” — *Brendan Howlin, Joan Burton, Alan Kelly, Jan O'Sullivan, Willie Penrose, Brendan Ryan, Sean Sherlock.*

2. To delete all words after “Dáil Éireann” and substitute the following:

“recognises that:

- the recent controversies surrounding An Garda Síochána are of the utmost seriousness and go to the heart of policing in the State;
- it is essential that the Government, this House and all our citizens can trust members of An Garda Síochána to carry out their duties fairly, impartially and in accordance with the law;
- while members of An Garda Síochána continue to perform very good work and put their lives at risk on a daily basis keeping communities safe and protecting the security of the State in the face of major challenges, including the threats from organised crime, subversion and international terrorism, deep-seated organisational problems which have not been properly addressed over a number of decades, such as those exemplified in the recent report by Mr. Justice Fennelly, must be urgently and fully addressed;
- in particular, there is understandable public concern arising from recent very serious issues about the administration by An Garda Síochána of mandatory alcohol testing and fixed charge notices;
- the most effective way of addressing issues of concern which have arisen is to ensure that the issues in relation to road traffic matters are comprehensively and independently assessed, a major programme of reform is completed as quickly as possible and there is a fundamental review of the future of policing in Ireland;
- the resolution of the serious issues facing An Garda Síochána cannot be achieved by measures which undermine the effectiveness of An Garda Síochána in protecting the community;
- robust and independent oversight of policing is essential to the delivery of policing service in the 21st century and that the Oireachtas enacted the Garda Síochána (Policing Authority and Miscellaneous Provisions) Act in 2015 and that the independent Policing Authority was established on 1st January, 2016;
- at the heart of the establishment of the Policing Authority was a desire, on the part of the Oireachtas, to remove politics from policing to the extent possible consistent with the Constitution of Ireland and that nothing said or done in this House should detract from the work of the Policing Authority, undermine its independence in doing that work or to politicise An Garda Síochána; and
- there is a legal framework of accountability in which public servants perform their duties and it would be a dangerous precedent for this House to target individual public servants, by way of resolution, in a departure from that framework;

notes that:

- the Policing Authority is chaired by the former Chairman of the Revenue Commissioners and that the other eight members of the Policing Authority were appointed by the Government on the recommendation of the Public Appointments Service which had invited applications for membership of the Policing Authority;
- the nine members of the Policing Authority are persons who independently bring a range of valuable experience and expertise to bear on the work of the Policing Authority and that even though the Policing Authority has only been in existence for 15 months, it has in that time established itself as a robust and independent oversight body;

- the House should support the Policing Authority fully in its very important work; and
- the Policing Authority has specific statutory responsibilities, including in relation to the appointments to the higher ranks of An Garda Síochána and continuation of persons in office, the exercise of which must not be interfered with or improperly influenced in any way;

supports:

- the request made by the Tánaiste and Minister for Justice and Equality to the Policing Authority under the Garda Síochána Act 2005 to report on recent road traffic issues and the fact that an investigation will be conducted by the Policing Authority with the assistance of external expertise which will examine all issues arising, addressing, to the greatest extent possible, the reasons why the issues have arisen, the incidence and scale of the issues and the solutions implemented to ensure there is no reoccurrence;
- the strengthening of Garda management capacity by the early appointment of three additional civilian leaders to the senior management team, Executive Director – Strategy and Transformation, Executive Director – Legal and Compliance and a Chief Information Officer;
- the completion as soon as possible by the Garda Inspectorate of an examination, at the request of the Tánaiste and Minister for Justice and Equality, of entry routes to An Garda Síochána from other police services and the opening up of promotion opportunities within An Garda Síochána to non-Garda personnel, whether policing professional or otherwise;
- the completion, under the oversight of the Policing Authority, of the urgent implementation of extensive reforms to the administration of, and operation of, An Garda Síochána under the Garda Síochána Modernisation and Renewal Programme, 2016-2021, incorporating recommendations of the Garda Inspectorate report ‘Changing Policing in Ireland’;
- the specific monitoring and assessing by the Policing Authority of the implementation of recommendations of the Garda Inspectorate report ‘Changing Policing in Ireland’, and the Policing Authority reporting to the Tánaiste and Minister for Justice and Equality quarterly on this matter, who will publish these reports;
- the cultural audit of An Garda Síochána which will commence shortly;
- the provision of any additional resources to the Policing Authority which may be necessary to ensure it is able to carry out its work effectively, including a review of the legislation governing its operation which is due to be undertaken this year under the terms of the Garda Síochána Act 2005; and
- the intention to implement in full the recommendations made by Mr. Justice Fennelly in his recent report;

agrees that, notwithstanding the significant programme of reform that is already underway and the central role of the Policing Authority in overseeing the implementation of that programme, the time is right to undertake a ‘root and branch’ review of all aspects of policing in Ireland; and

further notes that:

- the Government agreed at its meeting on 11th April, 2017, to establish a Commission on the Future of Policing in Ireland and to circulate the draft terms of reference to other parties;
- the Commission’s draft terms of reference, while subject to further consultation, are intended to be comprehensive and provide for a thorough review of all aspects of

- policing including appropriate accountability mechanisms, with a view to resolving policing issues outside the realm of political controversy;
- the draft terms of reference will address:
 - structures, leadership and management arrangements required for the most effective delivery of policing, including all functions currently carried out by An Garda Síochána – community safety, security and immigration;
 - appropriate composition, recruitment and training of personnel;
 - culture and ethos of policing;
 - appropriate structures for oversight and accountability (including all oversight bodies, the Department of Justice and Equality and Government); and
 - the legislative framework for policing;
- the draft terms of reference will take account of:
 - existing and emerging issues identified as key challenges for Ireland’s model of policing;
 - best practices in the policing models of other countries focused towards greater effectiveness and efficiency, and fostering public confidence in policing;
 - previous reports concerning policing in Ireland; and
 - any specific challenges to delivering consistent structural and cultural reform in policing;
- once this consultation process has been completed, the Tánaiste and Minister for Justice and Equality will revert to Government with proposals for the establishment of the Commission and draft terms of reference; and
- the establishment of the Commission on the Future of Policing in Ireland should not delay or detract from the implementation of the ambitious programme of reform underway which should continue unimpeded.” — *An Tánaiste agus Aire Dlí agus Cirt agus Comhionannais*.

3. To delete all words after “Dáil Éireann” and substitute the following:

“notes that:

- 937,000 breath tests that never occurred were falsely recorded on the Police Using Leading Systems Effectively (PULSE) system, and that the existence of a problem in this regard was communicated to the Garda Commissioner, Nóirín O’Sullivan in 2014;
- there were 146,865 District Court summonses for road traffic offences wrongly issued and that as a result 14,700 people were subject to wrongful convictions due to shameful Garda error and were never informed of the error, nor received an apology directly from An Garda Síochána;
- the Garda Commissioner was notified of discrepancies in Garda breath test data by the Medical Bureau of Road Safety in 2014 but did not inform the public or the Policing Authority of these discrepancies until 23rd March, 2017;
- the Garda Commissioner has accepted that An Garda Síochána recorded numbers that were false, and believes that this falsification may not be confined to traffic data;
- the Garda Commissioner failed adequately to explain the cause of these errors;

- high-ranking members of An Garda Síochána, including the Garda Commissioner, have recently been accused of engaging in a systematic campaign to smear the character and reputation of Sergeant Maurice McCabe and other Garda whistleblowers; and
- there has been an erosion of public confidence and trust in An Garda Síochána including a lack of public confidence in the Garda Commissioner and senior Garda management to investigate possible Garda malpractice or corruption;

acknowledges that:

- An Garda Síochána should be held accountable in terms of their adherence to professional and ethical standards;
- section 11 of the Garda Síochána Act 2005 states that:
 - a person who holds the office of Garda Commissioner may be removed from office by the Government but only for stated reasons, including:
 - the person has failed to perform the functions of the office with due diligence and effectiveness; and
 - the person's removal from office would, in the Government's opinion, be in the best interests of An Garda Síochána;
 - on notifying under section 12 (1) a person who holds the office of Garda Commissioner that the Government intends to consider removing him or her from office, the Government may immediately suspend the person from duty; and
- section 12 (1) (b) of the Garda Síochána Act 2005 further allows that the Government shall give the person an opportunity to make representations as to why he or she ought not to be removed from office;

further notes that Garda Commissioner Nóirín O'Sullivan has stated that she plans to continue in her position even if there is a Dáil vote of no confidence in her; and

calls on the Government to:

- immediately use the powers available to them under the Garda Síochána Act 2005 to notify Garda Commissioner Nóirín O'Sullivan that they intend to consider removing her and to suspend her from duty while she receives an opportunity to make representations as to why she ought not to be removed from office;
- independently investigate the involvement of members of senior Garda management in malpractice, corruption and/or the harassment or smearing of whistleblowers;
- urgently review the situations in which people may be convicted for certain crimes on the word of a Garda Superintendent; and
- urgently review how An Garda Síochána can be made democratically accountable to the communities they serve, including the election of democratically accountable bodies empowered to decide on how policing is implemented, how policing resources are spent, and to hold An Garda Síochána accountable for their actions." — *Richard Boyd Barrett, Bríd Smith, Gino Kenny.*

4. To delete all words after "Dáil Éireann" and substitute the following:

"notes that:

- members of An Garda Síochána play a hugely important role in Irish society and that public trust and confidence are crucial elements of effective policing;

P.T.O.

- there is an immediate need to reassure the public that urgent action will be taken to implement real reform, cultural change and oversight of the management of An Garda Síochána;
- the final Report of the Fennelly Commission of Investigation (Certain Matters Relative to An Garda Síochána and other persons), has been published and its findings are alarming;
- accountability structures within An Garda Síochána are inadequate and need to be strengthened and made more transparent so that there is real accountability for Garda wrongdoing and/or mistakes;
- section 11(1) of the Garda Síochána Act 2005 stipulates that a person who holds the office of Garda Commissioner can only be removed from office by the Government for stated reasons, including where the person's removal from office would in the Government's opinion be in the best interests of An Garda Síochána; and
- section 11(2) of the Garda Síochána Act 2005 (as amended by the Garda Síochána Policing Authority Act 2015) provides an important and unique role for the Policing Authority in respect of the person who holds the office of the Garda Commissioner;

expresses serious concerns that:

- there were 146,865 District Court summonses for road traffic offences wrongly issued and that 14,700 convictions were wrongly imposed upon members of the public as a result of shameful errors by An Garda Síochána;
- there were 937,000 breath tests that never occurred but which were falsely, and probably dishonestly, recorded by members of An Garda Síochána on the Police Using Leading Systems Effectively (PULSE) system as a result of probable wrongdoing by An Garda Síochána;
- the members of the public who were wrongly convicted were not informed directly by An Garda Síochána or any other agency of the State about their wrongful convictions, notwithstanding the fact that An Garda Síochána and the State were aware from July 2016 that members of the public had been wrongly convicted of these offences;
- An Garda Síochána was notified of discrepancies in its breath test data by the Medical Bureau of Road Safety in 2014, by an audit in its southern region in 2015, and by a national audit that commenced in 2016 (which revealed in 2016 that its data could not be reconciled), but did not inform the public or the Policing Authority of these discrepancies until its press conference on 23rd March, 2017; and
- there has been a lack of progress on implementing reforms recommended by several Garda Inspectorate reports;

acknowledges and agrees that:

- the Garda Commissioner has accepted that An Garda Síochána recorded numbers that were falsified and that this was at worst done deceptively or was at best a result of wilful incompetence, but that either way it was individually and organisationally shameful conduct that has greatly discredited the operational integrity of An Garda Síochána;
- the Garda Commissioner has stated that this falsification may not be confined to traffic data and that there may be more revelations pending;
- such dishonest and unethical behaviour by An Garda Síochána is totally unacceptable;
- these revelations have raised very serious issues about the management of An Garda Síochána;
- there is increasing public concern and diminishing public confidence in the management of An Garda Síochána;

- there is increasing public concern and diminishing public confidence in the administration, direction and supervision of An Garda Síochána;
- there is an urgent need to strengthen the management of An Garda Síochána;
- there is an urgent need to strengthen the oversight of An Garda Síochána; and
- there is a radical need to provide for ongoing professional development to ensure that members of An Garda Síochána are trained for the challenges posed by policing in the 21st century;

calls on the Government to:

- take immediate steps to rectify this real and substantial crisis in confidence in An Garda Síochána;
- immediately implement outstanding provisions of the legislation governing the Policing Authority in order to further empower it so that the Policing Authority:
 - has responsibility for determining the priorities of An Garda Síochána and works in conjunction with the Garda Commissioner in the preparation of annual policing plans;
 - consults with local communities and obtains their views and experience of policing and Joint Policing Committees;
 - conducts its functions without needing the consent of the Tánaiste and Minister for Justice and Equality;
 - holds the Garda Commissioner to account and the Commissioner to keep the Policing Authority fully briefed on relevant matters;
 - has full independent capacity regarding the appointments of the Garda Commissioner, the Deputy Commissioner and the Assistant Garda Commissioner following open competition by the Public Appointments Service based on best practice in recruitment;
 - has the independent power to remove these senior officers;
 - can deal with complaints against and discipline senior officers (Garda Commissioner, the Deputy Commissioner and the Assistant Garda Commissioner);
 - can monitor and address human rights and equality compliance by An Garda Síochána at every level of its operations and ensure issues identified by the Garda Síochána Ombudsman Commission are dealt with;
 - membership is increased to 21 and includes members with a variety of backgrounds and expertise including legal, human rights, academic, civil society and law enforcement;
 - is diverse in its membership and should include political representation decided using the d'Hondt method, independent members should be recruited through fair and open competition;
 - membership, by statutory requirement, be representative of society;
 - is supported in its work by a number of advisory groups e.g. on equality, human rights and youth affairs; and
 - conducts unannounced visits in Garda stations and inspects any documentation relevant to their investigation;
- immediately implement the recommendations of the Report of the Fennelly and

Morris Commissions and fully implement the Garda Inspectorate reports of 2014 and 2015;

further calls on the Government to establish an independent Patten style commission of An Garda Síochána;

further agrees that:

- Patten-style thresholds are the minimum reforms necessary and that the terms of reference establishing the Commission on the Future of Policing in Ireland must reflect, at a minimum, the standards of policing, police accountability and responsiveness to community concerns contained within the terms of reference of the Independent Commission on Policing for Northern Ireland established by the Good Friday Agreement;
- the Commission on the Future of Policing in Ireland must, at a minimum, look at direct political control of An Garda Síochána, best practice in civilian oversight and accountability, independent professional scrutiny and the legislative steps needed to ensure proper professional standards are met;
- the Commission on the Future of Policing in Ireland must be equipped to look at issues of training and possible re-training and the governing, appointment and dismissal of senior Garda officers;
- the Government must ensure that any terms of reference for the Commission on the Future of Policing in Ireland address the workings of the Commission with regard to the widest possible consultation with civil society groups, individuals and non-governmental expert organisations and international expertise;
- the Commission on the Future of Policing in Ireland must ensure that there are clearly established arrangements to enable people and their representatives articulate their views and concerns about policing; and
- it is essential that the Commission on the Future of Policing in Ireland focuses on policing issues, but if it identifies other aspects of the criminal justice system relevant to the Gardaí including their role in prosecution, then this should be highlighted too; and

calls on the Commission on the Future of Policing in Ireland to examine:

- (a) the culture and ethos of An Garda Síochána;
- (b) improvements to basic Garda training;
- (c) the recruitment of civilians at senior managerial levels of An Garda Síochána;
- (d) the recruitment of persons directly at Sergeant, Inspector or Superintendent level;
- (e) the introduction of practices to allow Gardaí to be promoted internally, without being required to return to uniform duty;
- (f) the extent of the responsibilities that the Department of Justice and Equality has for An Garda Síochána and whether this should be reduced;
- (g) the separation of security matters from An Garda Síochána;
- (h) the strengthening of the role of the Garda Síochána Ombudsman Commission;
- (i) the ongoing training of members of An Garda Síochána on basic core skills of ethical policing;
- (j) improvements to professional development and progression within the force; and
- (k) the introduction of a professional development structure that would allow better supervisory mechanisms and more accountable management structures to be put in place in order to improve Garda services to citizens, boost morale and build up public

trust and confidence.” — *Jonathan O'Brien, Gerry Adams, John Brady, Pat Buckley, Seán Crowe, David Cullinane, Pearse Doherty, Dessie Ellis, Martin J. Ferris, Kathleen Funchion, Martin Kenny, Mary Lou McDonald, Denise Mitchell, Imelda Munster, Carol Nolan, Eoin Ó Broin, Caoimhghín Ó Caoláin, Donnchadh Ó Laoghaire, Louise O'Reilly, Aengus Ó Snodaigh, Maurice Quinlivan, Brian Stanley, Peadar Tóibín.*