

Joint Committee on Public Petitions

Garda Síochána Ombudsman Commission

Annual Reports 2018, 2019 and 2020, and other related matters

Briefing Material April 2022

Background

The Garda Síochána Ombudsman Commission (GSOC) is an independent statutory agency set up in May 2007 under the Garda Síochána Act, 2005, as amended ('the 2005 Act'). GSOC's primary function is to deal with complaints involving possible misconduct by members of the Garda Síochána, in an efficient, effective and fair manner.

Structure

The Ombudsman Commission consists of three members, one of which is appointed as Chairperson. The current Ombudsman Commission is comprised of:

- Mr Justice Rory MacCabe, Chairperson, (Mr Justice MacCabe took up his appointment in January 2022),
- Mr Hugh Hume (Mr Hume took up his appointment in February 2021),
- Ms Emily Logan (Ms Logan took up her appointment in February 2021).

Governance

The Ombudsman Commission is responsible for the control and direction of the Garda Síochána Ombudsman Commission, and for ensuring good governance for which it is accountable to the Minister for Justice. GSOC operates under the Code of Practice for the Governance of State Bodies.

Finance

GSOC is funded through the provision of an annual grant from the Vote for the Department of Justice. There has been a small increase in the level of funding provided over the period 2018 -2021 as shown in Table 1.

Table 1 shows the funding allocations made to GSOC from the Department of Justice Vote in each of the years from 2018 to 2021. This also gives the total expenditure by GSOC in each year, analysed by pay and non-pay costs, showing that pay accounts for the vast majority of GSOCs costs, accounting for an increasing proportion of total expenditure, standing at two thirds of total expenditure in 2021.

	2018 €000	2019 €000	2020 €000	2021 €000
Funding Allocation	10,048	10,658	11,181	11,272
Expenditure:				
Pay	6,066	6,918	7,638	7,801
Non-Pay	3,781	3,771	3,792	3,904
Total Expenditure	9,847	10,689	11,430	11,705*

**GSOC received a funding allocation of €11.272 million from the Department of Justice Vote for 2021. During 2021, discussions took place with the Department regarding the need for additional resources to meet significant additional workload arising from an increase in the number of complaints and the growing complexity of the matters being investigated by GSOC. It was agreed that the Department would manage overall funding within the Vote such that GSOC could incur additional expenditure in the region of €300,000 in 2021. The total amount of expenditure incurred by GSOC in 2021 came to €11.705 million.*

The non-pay costs were incurred on the leasing of GSOC's Office accommodation in Dublin and Cork, and through the general day to day operation of the organisation and the expenses arising from the management and investigation of complaints.

Staff

GSOC currently has a staff complement of 135 full time equivalent staff, an increase of 43 over the period 2018-2022. This increase was on foot of sanctions received after the submission of a business case to the Department of Justice and Equality and the Department of Public Expenditure and Reform in 2018 outlining the urgent need for additional staff to allow the organisation fulfil its current remit and to conduct its core function of complaint handling and investigation.

Table 2 shows GSOC's staffing resources in place at the end of each year from 2018 to 2021.

Year End	2018	2019	2020	2021
Headcount	92	127	127	123

Overview of GSOC operations from 2018 to 2021

2018

The publication of the report of the Commission on the Future of Policing in Ireland (CoFPI) was a significant development. GSOC welcomed the report, which recognised the importance of independence when dealing with complaints about police conduct and which set out a number of key reforms which has been sought by GSOC and which are necessary to improve public confidence in police oversight. These recommendations included that GSOC should be superseded by a new complaints body with greater independence and an expanded remit. The Government endorsed the CoFPI report and accepted all of its recommendations, and in December 2018 announced an implementation plan for the report.

The issue of resources was a major issue for GSOC during 2018, with concerns that under-resourcing over the years since GSOC's establishment in 2007 had adversely affected the organisations ability to provide the service and meet the objectives set for it. In February 2018, GSOC submitted a business case to the Department of Justice and Equality and the Department of Public Expenditure and Reform outlining the urgent need for additional staff to allow the organisation fulfil its current remit and to conduct its core function of complaint handling and investigation. Following discussions with both Departments throughout 2018, sanction was received in November 2018 for the full complement of 42 additional staff sought.

2019

2019 saw the nationwide roll-out of a local intervention process designed to resolve less serious service-level complaints about garda members outside of the formal investigation and disciplinary processes. This followed a successful pilot project on local intervention which had been run by GSOC and the Garda Síochána in 2018, which had proved successful in providing an informal resolution process.

During 2019 GSOC also initiated its preparations for the reforms recommended by the Commission on the Future of Policing in Ireland. While legislation giving effect to the recommendations of CoFPI had not been published at year end, GSOC prepared and submitted a strategy document to

the Department of Justice and Equality in July 2019 setting out our initial assessment of the impacts for GSOC.

2019 also saw the expansion in the staffing numbers with the recruitment of the additional staff which had been sanctioned in November 2018. The recruitment process continued through much of 2019.

2020 – Impact of COVID on GSOC operations

The COVID-19 pandemic and the need to adapt GSOC's operations dominated 2020. The onset of the pandemic in March 2020, and the resulting public health advice and safety measures, rapidly and fundamentally changed the working practices of GSOC, with remote and virtual working becoming the norm for most GSOC staff.

As an essential service, GSOC offices remained open and accessible for staff 24 hours per day, however, it was necessary to reduce attendance in the office, with attendance consistent with the provision of essential service. Our Public Office was closed in March 2020 and remained closed for the remainder of that year. Instead, GSOC promoted alternative means of taking complaints such as through our website, by email, by phone, etc. While complaints could still be made at Garda Stations, we asked people to have regard to the health of everyone and avoid attending garda stations to make complaints unless absolutely necessary.

All of our staff were set up to work remotely with adaptations to ICT hardware, software, security and data protection matters put in place. Only staff considered absolutely essential to day-to-day activity were present within the office. Staggered working patterns were introduced to keep physical contact to a minimum and allow for resilience in the event that key personnel became ill.

All non-critical / non-essential face to face interviews were deferred and alternatives were offered including the use of telephone interviews and interview via video conferencing. When face to face interviews had to take place, all current health advices were followed and implemented.

There was daily communication with An Garda Síochána to ensure coordination of business and consideration of “easing measures” to take pressure off front-line policing activity whilst maintaining and delivering statutory responsibilities for both agencies. For instance, an extension of 3 months for the timelines for S.94 disciplinary investigations was agreed with AGS subject to certain criteria.

GSOC's on-call teams remained active and operational as usual for deployment 24/7 to cases referred involving death or serious harm. New additional measures were introduced for out of hours response including enhanced PPE, social distancing, single-occupancy in GSOC response vehicles and the deployment of minimum team numbers to referrals to allow for resilience.

As a result of the actions taken by GSOC, our central functions of receiving and investigating complaints were maintained, despite a significant increase in complaints received in 2020 (1,955 compared to 1,756 in 2019).

The local intervention initiative, begun as a pilot in 2018 and rolled out nationally in 2019, again produced positive results. The process resulted in 175 complaints being resolved or otherwise closed (up from 119 in 2019) and had the benefit – for both the complainants and the garda members about whom complaints were made – of bringing a speedy resolution to complaints without lengthy formal investigation.

The Ombudsman Commission and senior staff engaged with the Department of Justice and Equality throughout 2020 in relation to the drafting of the general scheme of the Policing and Community Safety Bill.

2021

GSOC's Statement of Strategy 2021-2023 was published in March 2021. The statement sets out a high-level roadmap for how we will deliver services to the public over the period in addition to preparing for the transformation required to make the organisation fit for purpose to meet future needs. It points to the centrality of human rights in the work that GSOC does and re-states our commitment to fair, timely and independent complaints handling, excellent customer service, innovation and a culture of high performance.

In 2021, GSOC made significant inroads into completion of investigations despite the fact that the organisation recorded a further increase in complaints received (2,189 compared to 1,955 in 2020). There was also a significant increase in the number of referrals received from An Garda Síochána in accordance with section 102 of the Garda Síochána Act 2005 (59 compared with 43 in 2020). These cases involve any matter that appears to the Garda Commissioner to indicate that the conduct of a member of the Garda Síochána may have resulted in the death of, or serious harm to, a person.

The year also saw the publication of the general scheme of the Policing, Security and Community Safety Bill which will, when implemented, impact the structure and scope of oversight and establish a new Garda Ombudsman with significantly enhanced functions and independence. Transition has, therefore, been a core focus of GSOC's work in 2021 and will continue to be a primary focus going forward. A cross-organisational transition project group has been established to coordinate the work that needs to be done.

2021 saw the COVID-19 pandemic continuing to pose significant challenges for GSOC and its staff. GSOC's priority was to ensure continuity in the taking and investigation of complaints while at the same time safeguarding the health and welfare of GSOC staff, members of the public, Gardaí and all other people who interact with GSOC. Throughout this time, our staff have remained totally dedicated to continuing their work and have made the continued provision of our statutory functions possible.

GSOC Workload 2018-2021

Table 3 shows the volume of complaints and other matters dealt with by GSOC in the years from 2018 to 2021:

	2018	2019	2020	2021
Complaints Opened	1,921	1,756	1,955	2,189
Allegations Within Complaints	2,944	2,885	3,089	3,760
Complaints Closed	1,897	1,896	1,724	2,078
S102 Referrals*	38	40	43	59
Public Interest Investigations Opened**	17	44	26	13
Protected Disclosures Opened	24	31	19	20
Criminal Investigations Opened	415	485	572	557

**S102 referrals from the Garda Síochána of matters where it appeared 'the conduct of a member of the Garda Síochána may have resulted in the death of or serious harm to a person'.*

***These are investigations undertaken in the absence of a complaint or a referral from the Garda Commissioner.*

The level of complaints received in 2020 (1,955) represented an increase of 11% on the number received in 2019 (1,756). This trend has continued in 2021 when the number of complaints received by GSOC rose to 2,189 which represents a 12% increase on 2020 and an overall increase of 14% over 2018 levels.

Similarly, the number of referrals under section 102 of the 2005 Act which GSOC received from An Garda Síochána has risen from 40 in 2019 to 43 in 2020 (an 8% increase) and 59 in 2021 (a 37% increase) – an increase of 55% over 2018 levels.

Table 4 shows a comparison in the number of complaints received and closed by GSOC in the period 2018 – 2021.

	2018	2019	2020	2021
Complaints Received	1,921	1,756	1,955	2,189
Complaints Closed	1,897	1,896	1,724	2,078

Table 5 gives greater detail on the caseload handled by GSOC in each year.

Nature of Activity	2018	2019	2020	2021
No. of queries handled	3,036	3,457	3,908	4,615
No. of calls answered by caseworkers	3,107	4,026	1,132	3,286
No. of people met in public office	375	290	51	11
No. of complaints determined admissible	1,270	1,153	1,264	1,332
No. of complaints determined inadmissible	551	584	688	855
No. of criminal investigations opened	415	485	572	557
No of disciplinary investigations opened	833	658	688	752
Referrals from the Garda Síochána under section 102(1)	38	40	43	59
Investigations opened in the public interest under section 102(4)	17	44	26	13
No. of allegations dealt with in complaints closed	3238	2,232	1,989	2,902

Resourcing

GSOC continues to face challenging demands within its current operational environment. The increased work levels over 2020 and 2021 have come at a time when there was no resulting increase in personnel and at a time when COVID restrictions challenged the work of GSOC staff in keeping with the rest of the country. This has had an impact on the conduct of investigations, which are increasingly challenging due to their inherent complexity, for example Article 2 investigations which may arise relating to a referral of death or serious harm, have implications for the State's obligations under the European Convention of Human Rights and their investigation can be complex and time-consuming.

GSOC welcomes the additional funding secured by the Department which has seen GSOC's funding allocation rise by €2.133 million to €13.406 million in 2022. We are currently working to put in place this year the key resource components, e.g. staff expertise, numbers and grades together with systems and supports, with the available funding, which it is hoped will allow us to address backlogs in current cases and to improve our performance in terms of timeliness of our response.

It is important to note that this level of resourcing will only allow GSOC to deal with its current workload under the existing legislation. These resourcing levels do not take account of additional requirements consequent on the intended transition to the successor complaints body being provided for in the draft Policing, Security and Community Safety Bill, the General Scheme of which is currently undergoing pre-legislative scrutiny by the Joint Oireachtas Committee on Justice. It is our strong view that the additional functions and obligations proposed under the new legislation will seriously impact GSOC's capacity and will have to be separately addressed in future Estimates allocations and we are currently working to identify the resourcing implications of these changes and to engage with the Department of Justice, to identify and plan for future staffing requirements

General Scheme of the Policing, Security and Community Safety Bill

Looking to the future, the General Scheme of the Policing, Security and Community Safety Bill, which was published in 2021, proposes sweeping changes which will, when implemented, impact the structure and scope of oversight and establish a new Garda Ombudsman with significantly enhanced functions and independence. GSOC has already commenced preparations for this transition.

These preparations have been a core focus of our work in 2021 and will continue to be a primary focus for the organisation to ensure that the transition to the new structures envisaged will be seamless. Planning the consequential organisational transition will be a task for everyone in the organisation and a cross-organisational transition project group is coordinating this work. As part of this, GSOC has engaged with policy stakeholders and the Oireachtas and set out our observations on the proposed legislation. Chief among these are the need to emphasise our independence, guarantee timely cross-agency cooperation, especially with An Garda Síochána, and lock in adequate resourcing and staffing to ensure an expanded oversight remit can be met in practice.