



Garda  
**Ombudsman**  
INQUIRY INDEPENDENCE IMPARTIALITY

# GARDA SÍOCHÁNA OMBUDSMAN COMMISSION

## **2019 ANNUAL REPORT**



Mr Charlie Flanagan TD  
Minister for Justice and Equality  
51 St. Stephen's Green  
Dublin 2

31 March 2020

Dear Minister,

It is with pleasure that we submit to you the fourteenth Annual Report of the Garda Síochána Ombudsman Commission which covers the period 1 January to 31 December 2019. This Report is submitted in accordance with section 80 of the Garda Síochána Act 2005.

Yours sincerely,



Justice Mary Ellen Ring,  
Chairperson



Kieran FitzGerald,  
Commissioner



Patrick Sullivan,  
Commissioner

Garda Síochána Ombudsman Commission.

## GLOSSARY OF ABBREVIATIONS AND TERMS

<b>(The) Act</b>	The Garda Síochána Act 2005, as amended, is the principal act governing the functioning of GSOC. This can be seen at: <a href="http://www.irishstatutebook.ie/eli/2005/act/20/enacted/en/print">http://www.irishstatutebook.ie/eli/2005/act/20/enacted/en/print</a> .
<b>Admissibility</b>	All complaints are assessed against the criteria listed in section 87 of the Act to decide whether or not they can legally be admitted for investigation.
<b>Advice</b>	This is a sanction, which may be applied by the Garda Commissioner, for breach of the Discipline Regulations – it can be formal or informal.
<b>Allegation</b>	Each complaint is broken down into one or more allegations, which are individual behaviours being complained about. For example, if a person said that a garda pushed them and used bad language, this is one complaint with two separate allegations.
<b>AIO</b>	Assistant Investigations Officer
<b>Article 2</b>	Article 2 of the European Convention on Human Rights (ECHR) states that everyone's right to life will be protected by law.
<b>Complaint</b>	An expression of dissatisfaction made to GSOC by a member of the public about the conduct of an individual member of the Garda Síochána. A complaint may contain one or more allegations against one or more gardaí. Each allegation against each garda is assessed individually for admissibility.
<b>CoFPI</b>	Commission on the Future of Policing in Ireland
<b>Custody Regulations</b>	Criminal Justice Act, 1984 (Treatment of persons in Custody in Garda Síochána Stations) Regulations, 1987 – regulations related to the detention of people in garda stations. It can be seen at <a href="http://www.irishstatutebook.ie/eli/1987/si/119/made/en/print">http://www.irishstatutebook.ie/eli/1987/si/119/made/en/print</a> .
<b>Discipline Regulations</b>	The Garda Síochána (Discipline) Regulations 2007, as amended. These can be seen at: <a href="http://www.irishstatutebook.ie/eli/2007/si/214/made/en/print">http://www.irishstatutebook.ie/eli/2007/si/214/made/en/print</a> .
<b>Disciplinary Action</b>	Sanction which may be applied by the Garda Commissioner following an investigation. There are two levels of action provided for by the Discipline Regulations, relating to less serious breaches and serious breaches of discipline respectively.
<b>Disciplinary Proceedings</b>	These are proceedings that may be instituted by the Garda Síochána following a disciplinary investigation. Recommending the institution of such proceedings is the limit of GSOC jurisdiction. Any sanction arising is a matter for the Garda Commissioner.
<b>DLP</b>	Designated Liaison Person under the "Children First – National Guidance for the Protection and Welfare of Children" guidelines.
<b>DMR</b>	Dublin Metropolitan Region
<b>DOp</b>	Director of Operations
<b>DDOp</b>	Deputy Director of Operations
<b>DO</b>	Designated Officer
<b>DPP</b>	Director of Public Prosecutions
<b>ECHR</b>	European Convention on Human Rights

<b>GSIO</b>	Garda Síochána Investigating Officer
<b>GSOC</b>	Garda Síochána Ombudsman Commission
<b>IO</b>	Investigations Officer
<b>Informal Resolution</b>	Process provided for by section 90 of the Act for dealing with less serious allegations, such as rudeness. A GSOC case officer speaks to the person complaining and the garda member with the aim of resolving the matter. Local intervention (described in Section 4) is now more frequently used to resolve service-type complaints.
<b>Investigation</b>	If a complaint cannot be resolved informally, it must be investigated. Any complaint containing an allegation of a criminal offence is investigated by a GSOC investigator, in line with section 98 of the Act. A complaint containing an allegation of a disciplinary nature is usually investigated by a GSIO (see above), under the Discipline Regulations, in line with section 94 of the Act. If the Ombudsman Commission deems it appropriate, these investigations may be supervised by a GSOC investigator. GSOC may also investigate non-criminal matters, in line with section 95 of the Act.
<b>IRM</b>	The Independent Review Mechanism was established by the Minister for Justice and Equality, in consultation with the Attorney General, in May 2014. Its function was to consider allegations of Garda misconduct or inadequacies in the investigation of such allegations, with a view to determining to what extent and in what manner further action may be required in each case.
<b>Median</b>	When numbers are listed in value order, the median value is the number at the midpoint of the list, such that there is an equal probability of falling above or below it.
<b>Member in charge</b>	The member of the Garda Síochána who is designated as being responsible for overseeing the application of the Custody Regulations, in relation to people in custody in the garda station. This can be a member of any rank. The full legal definition and list of duties of a member in charge can be seen in sections 4 and 5 of the Custody Regulations (see above).
<b>Ombudsman Commission</b>	The three Commissioners of the Garda Síochána Ombudsman Commission.
<b>Out of time</b>	A complaint made more than twelve months after the incident being complained of.
<b>PDA</b>	Protected Disclosures Act, 2014
<b>PD/PDU</b>	Protected Disclosures/Protected Disclosures Unit.
<b>Protocols</b>	An agreed document between the Garda Síochána Ombudsman Commission and the Garda Síochána on operational matters. This requirement was set out in the Garda Síochána Act, 2005.
<b>RTC/RTI</b>	Road Traffic Collision/Road Traffic Incident
<b>SIC</b>	Specialist Interview Coordinator
<b>SIO</b>	Senior Investigations Officer

# GARDA SÍOCHÁNA OMBUDSMAN COMMISSION

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# REVIEW OF THE YEAR

## Introduction

The year under review was characterised by two significant developments for GSOC—a major expansion in the number of staff, and the initiation of planning for a transformed Garda oversight regime as a consequence of anticipated legislative change.

The recruitment of additional staff was sanctioned in November 2018 in response to a business case submitted earlier that year where GSOC had highlighted the adverse impact of on-going under-resourcing of the organisation and had identified a requirement for additional staff to deal with the current workload. GSOC was authorised to take on an additional 42 staff—the number sought in the business case—and that process, begun at the end of 2018, continued through much of 2019. The number of staff grew from 92 at the end of 2018 to 125 at the end of 2019.

GSOC also began making plans for the creation of the new organisation which the Commission on the Future of Policing in Ireland (CoFPI) Report (September 2018) recommended would supersede GSOC in January 2021.

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 setting out the likely requirements of the GSOC successor body. A significant change recommended by CoFPI was that the new organisation would itself investigate all complaints about gardaí rather than have some of them investigated by senior gardaí as is the case under existing legislation.

CoFPI also recommended that all complaints about gardaí should be routed through the new organisation which would determine if the matter was a performance-related issue which could be referred back to the Garda Síochána to review and resolve, or if it required independent investigation. These recommendations have significant implications for the resource requirements of the new organisation.

GSOC was not a member of the Implementation Group on Policing Reform (IGPR) established to implement the CoFPI recommendations, but

did have opportunities during the year to make observations and submissions on elements of the draft legislation relating to police oversight.

The Ombudsman Commission—chairperson Ms Justice Mary Ellen Ring and Commissioners Kieran FitzGerald and Patrick Sullivan—appeared before the Oireachtas Joint Committee on Justice and Equality in May. The Commission expressed concern about the fact that the Garda Síochána continues to conduct criminal investigations of its own members without the knowledge or participation of GSOC.

The Commission made the point that the practice flew in the face of the CoFPI recommendation that all complaints be routed through the Ombudsman organisation.

The issue of the Garda Síochána conducting criminal investigations of its own members without GSOC's knowledge or participation continued to be of concern to the Ombudsman Commission and was raised in discussions with the Garda Commissioner Drew Harris and in the context of discussions on forthcoming legislation.

GSOC believes that the legislation which will replace the Garda Síochána Act, 2005 should make explicit provision for independent oversight of all complaints against garda members, regardless of the origin of the complaint.

In keeping with the view that GSOC should be in a position to investigate complaints without involving the Garda Síochána, the increase in staff in 2019 allowed for more investigations to be undertaken by GSOC investigators. This is reflected in the increase in investigations under section 95 of the Garda Síochána Act 2005 (complaints which do not appear to involve offences) and a resulting reduction in cases investigated by Garda Síochána Investigating Officers under section 94 of the 2005 Act.

The year also saw the roll-out to all Garda divisions of a local intervention process designed to resolve less serious service-level complaints about garda members outside of the formal investigation process. A pilot project on local intervention had been run by the Garda Síochána and GSOC in 2018 and the results were deemed

sufficiently promising to extend the initiative nationwide in 2019. Section 4 of this document describes and reports on the local intervention process.

## Key Figures

**The figures quoted in this report relate to complaints made to GSOC by members of the public and referrals made to GSOC by the Garda Commissioner. They do not include allegations of misconduct by gardaí which may have been reported to the Garda Síochána but were not reported to GSOC.**

- 1,756 complaints received by GSOC in 2019
- 2,885 allegations contained within those complaints
- 40 referrals from the Garda Síochána of matters where it appears “the conduct of a member of the Garda Síochána may have resulted in the death of, or serious harm to, a person”.
- 23 files referred to the DPP, resulting in 5 directions for prosecution, 14 directions for no prosecution and 4 decisions pending.
- 44 public interest investigations (those investigations undertaken in the absence of a complaint or referral by the Garda Commissioner) were opened in 2019
- 31 protected disclosures were made to GSOC by members and / or employees of the Garda Síochána
- 96 sanctions were imposed by the Garda Commissioner on individual gardaí following complaints to and/or investigations by GSOC. The figure does not include sanctions which may have been imposed following investigations in which GSOC had no involvement.

# SECTION 1: COMPLAINTS AND INVESTIGATIONS

## TOP-LINE DATA

### CALLS



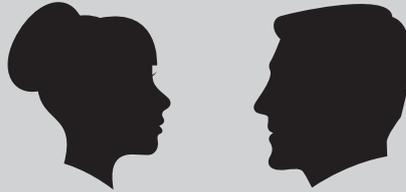
**4,026**

calls to lo-call number, answered by caseworkers.



**98%**

of calls received were answered within 60 seconds.



**290**

people were met face to face in our public office and in scheduled appointments

### QUERIES



**3,457**

of these initial contacts were opened in our case management system, initially as queries. Once sufficient information is received, a query's status is upgraded to become a formal complaint. The number of queries was up almost 14 percent on 2018 figure of 3,036.

### COMPLAINTS



**1,756**

complaints were opened in 2019 – almost 9 percent fewer than the previous year.

**2,885**

allegations within these complaints (because there can be several allegations in one complaint).

## COMPLAINTS

Sections 83 to 101 of the Garda Síochána Act 2005, as amended (“the Act”), set out rules and processes defining how GSOC must deal with complaints.

### 1.1 VOLUME OF QUERIES

In 2019 caseworkers answered **4,026** phone calls to GSOC’s lo-call 1890 600 800 number, **98%** of which were answered within 60 seconds. This number represents a substantial increase on the 3,036 calls received in 2018.

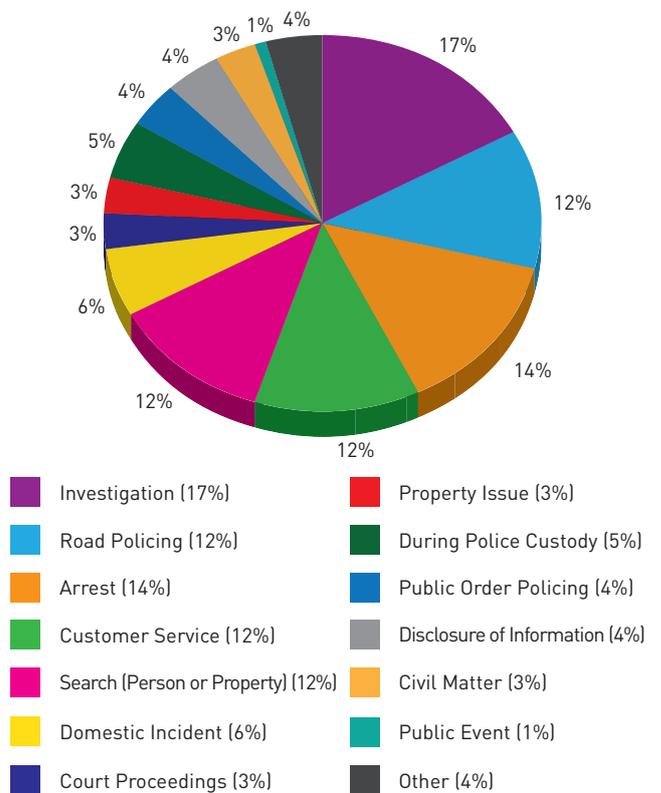
Caseworkers also met **290** people in our public office.

Overall, caseworkers dealt with **3,457** queries via post, email, and correspondence from garda stations. Initially each contact is opened on our system as a ‘query’, until we have sufficient information to upgrade it to a complaint and assess it for admissibility.

### 1.2 VOLUME OF COMPLAINTS AND ALLEGATIONS

A total of 1,756 complaints were opened in 2019, a 9% decrease on the 2018 figure (1,921). At least some of the reduction may be explained by the diversion of many less serious complaints to the local intervention process as explained in Section 4. These complaints contained 2,885 allegations as a complaint may contain more than one allegation.

**Chart 1: Circumstances of Complaints Received (Total Complaints: 1,756)**

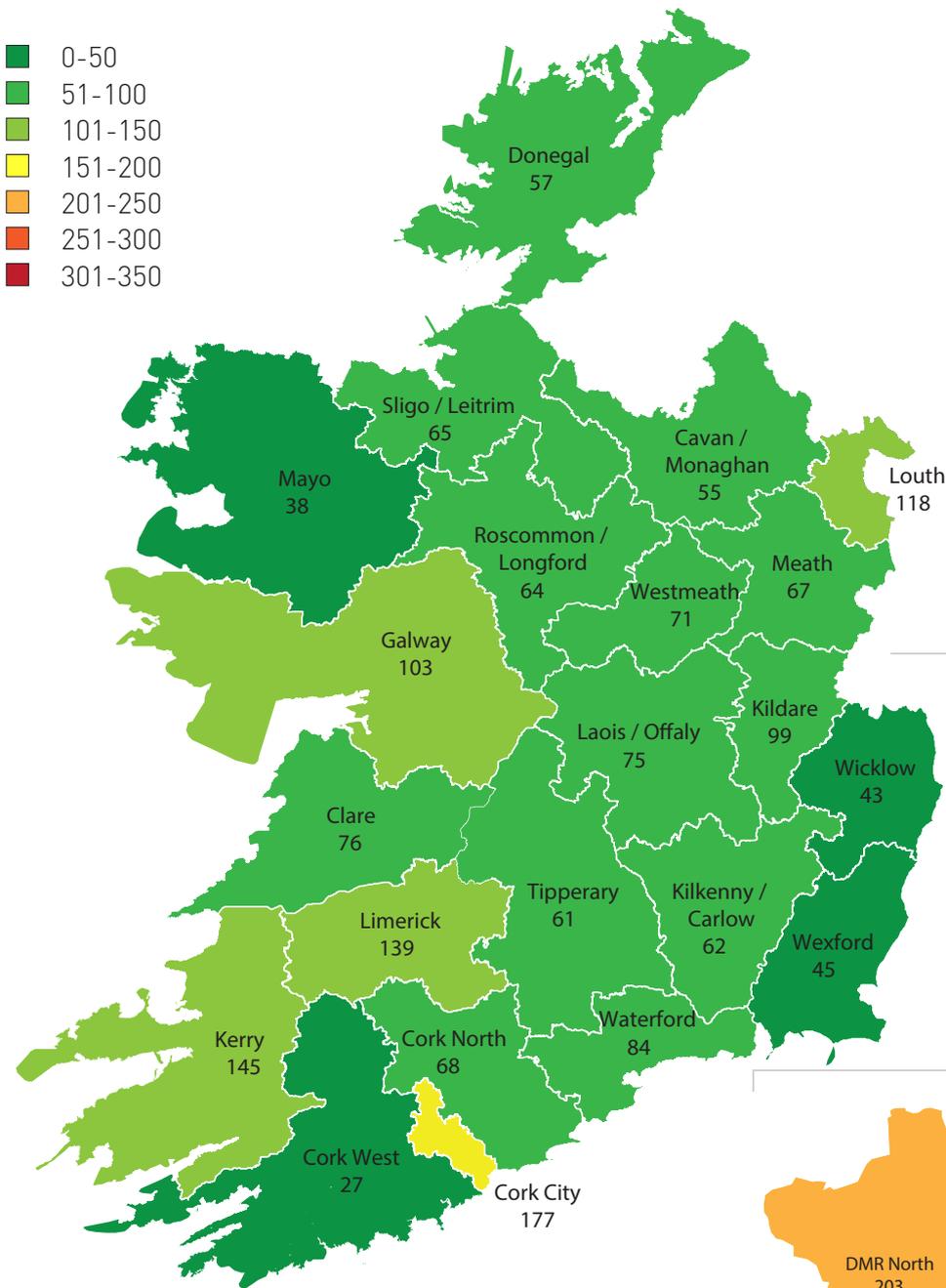


The most common circumstances which gave rise to complaints in 2019 were: the conduct of investigations by gardaí, conduct of gardaí when effecting an arrest, road policing incidents, customer service by gardaí and conduct of gardaí when searching property and/or person.

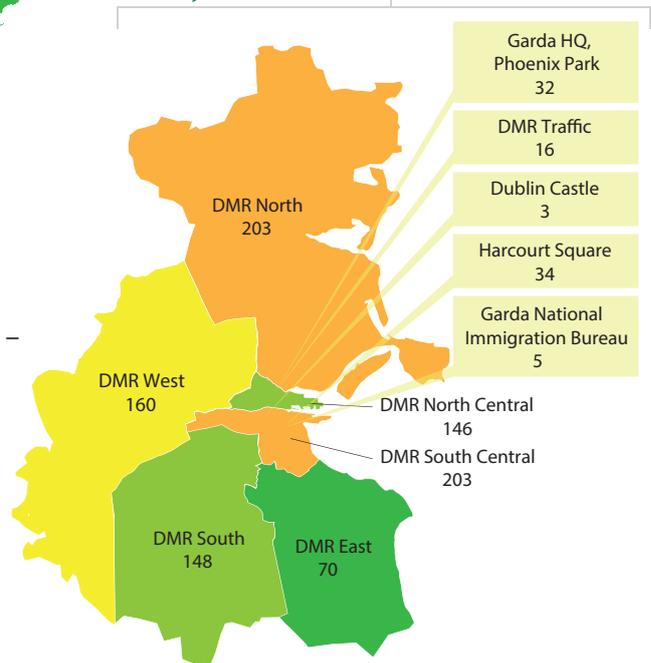
Find out the profiles of people who made complaints, and of gardaí about whom admissible complaints were made, in the Appendices.

**The maps on the next page show the geographical distribution of allegations in complaints made against gardaí in 2019. They show all allegations, those that have been admitted and those on which admissibility decisions had yet to be made by 31 December 2019. Excluded are 126 allegations for which garda divisions had not yet been established by the end of the year.**

**Map 1: Allegations by Garda Division**  
(excluding Dublin Metropolitan Region)



**Map 2: Allegations by Garda Division – Dublin Metropolitan Region (DMR)**



The greatest number of allegations in the country were recorded against gardaí in the Dublin Metropolitan Region (DMR), as could be expected given the population and police activity in the capital. The highest numbers came from DMR North and DMR South Central, both with 203 allegations. Last year DMR North and DMR West had the highest number of allegations.

Outside the DMR, Cork City and Kerry respectively were the divisions with the highest number of allegations made against gardaí in 2019.

### 1.3 WHAT PEOPLE COMPLAIN ABOUT

The matters about which people complain to GSOC tend to stay roughly the same from year to year.

**Chart 2: Allegation Types in Admissible Complaints (Total Allegations: 2,220)**

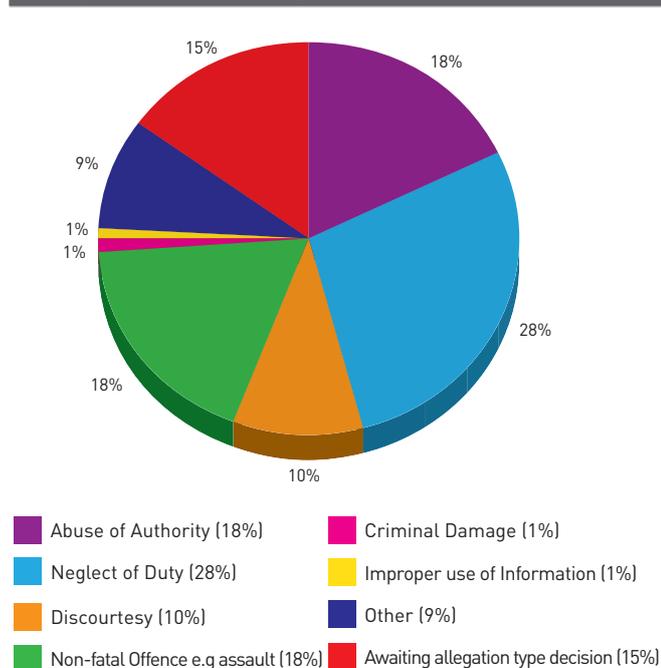


Chart 2 shows that the most common matters about which people complain are:

- Abuse of Authority – excessive use of force, or an instruction to do something which the person making the complaint believes was beyond the garda’s authority to instruct, are the main types of allegation categorised as ‘abuse of authority’.
- Neglect of Duty – allegations that a garda failed to take an action that could have been reasonably expected – such as returning a phone call at one end of the scale, or properly investigating an alleged serious

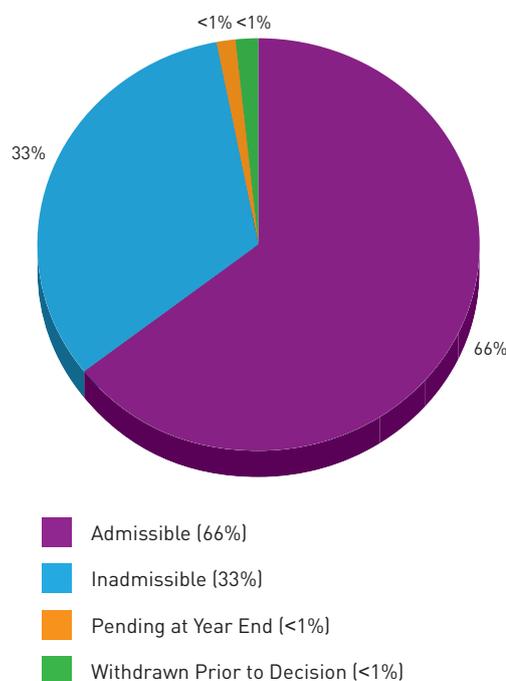
crime at the other end of the scale - would be typical examples of ‘neglect of duty’.

- Discourtesy – complaints around how a garda spoke to or behaved towards a person.
- Non-Fatal Offences – these are allegations of a criminal offence listed in the Non-Fatal Offences Against the Person Act 1997 and include, for example, assault.

### 1.4 ADMISSIBILITY

All complaints received by GSOC are assessed against criteria listed in the Garda Síochána Act 2005 to determine if they are admissible. If they meet those criteria, they can be dealt with by GSOC; if they don’t, they are deemed inadmissible.

**Chart 3: Complaint Admissibility Decisions (Total Complaints: 1,756)**



#### How do we decide if a complaint is ‘admitted’ for investigation?

According to section 87 of the 2005 Act, we can admit a complaint if it:

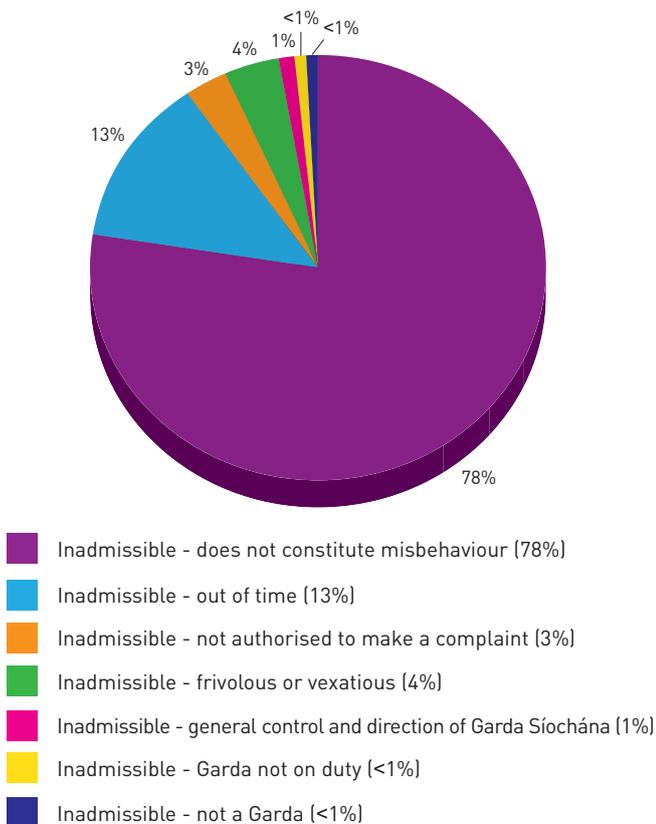
- **is** made by (or, in certain circumstances, on behalf of) a person who is directly affected by, or who witnesses, the conduct subject of complaint; and
- **is** about behaviour which would, if proven, constitute a criminal offence or a breach of Garda discipline by a member of the Garda Síochána; and

- **is** made within the time limit of within one year of the incident subject of the complaint; and
- **is not** frivolous or vexatious; and
- **does not** relate to the general direction and control of the Garda Síochána by the Garda Commissioner; and
- **does not** relate to the conduct of a member of the Garda Síochána while the member was off-duty, **unless** the conduct alleged would, if proven, be likely to bring discredit on the Garda Síochána.

### 1.5 INADMISSIBLE ALLEGATIONS

In 2019, 584 of the complaints received were deemed to be inadmissible, as none of the allegations (648 in total) fulfilled the admissibility criteria laid out in the Act. The chart below shows the reasons.

**Chart 4: Reasons for Inadmissibility of Allegations in Inadmissible Complaints (Inadmissible Allegations 648)**



The most common reason – with **508** allegations was that, even if proven, the alleged behaviour would not be a crime or a breach of the Discipline Regulations.

The second most common reason not to admit a complaint for investigation was because the allegation(s) contained were outside the time limit—12 months after the date of the conduct complained of—specified in section 84 of the Act. In 2019, **87** allegations were determined to be inadmissible for this reason. While GSOC has some discretion to admit complaints outside the specified time period, there is a practical reason for a time limit in the majority of cases; the more time that has elapsed between the incident and the complaint, the more difficult it is to conduct an effective investigation which involves preserving evidence, finding potential witnesses, and securing accurate statements.

### 1.6 ADMISSIBLE COMPLAINTS

In 2019, 1,153 complaints (containing at least one admissible allegation) were received and admitted for investigation and dealt with in one of five ways. The chart below details the type of investigations opened in 1,153 of these cases. Note: 10 cases that were initially deemed admissible were discontinued before an investigation began.

**Chart 5: Investigations Opened by Type (Total Complaints Admitted for Investigation: 1,153)**

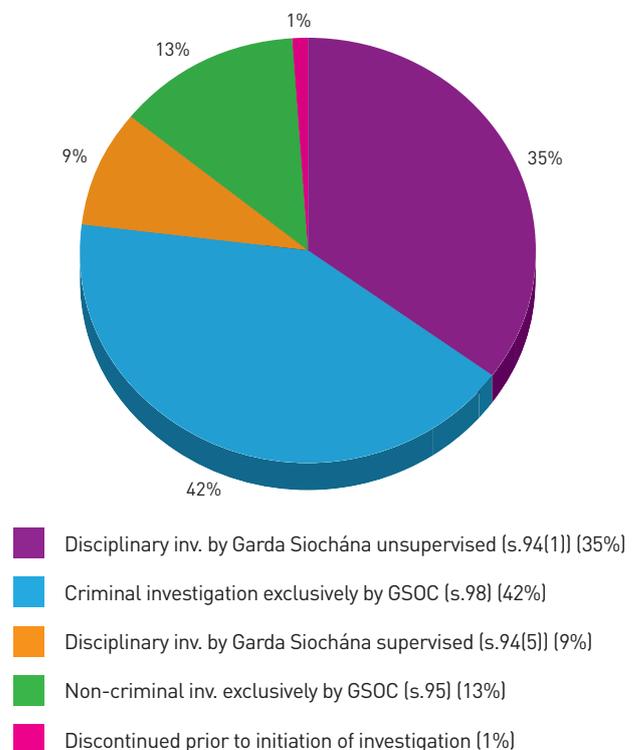


Chart 5 shows how each admitted complaint was initially dealt with. This can change during the lifetime of the case. For example, an unsupervised

disciplinary investigation can be escalated to a supervised investigation or to a non-criminal investigation undertaken by GSOC investigators. Once the criminal aspects of a complaint have been investigated, any non-criminal aspects may then be examined and/or investigated.

### 1.6.1 Criminal Investigations

Criminal investigations by GSOC are conducted in accordance with Section 98 of the Act. All allegations of criminal offences by gardaí (for example assault) are investigated by GSOC's own investigators. As a result of complaints received in 2019 there were **485** criminal investigations opened.

### 1.6.2 Disciplinary Investigations

There are **three** ways allegations of breaches of discipline can be handled:

- **Unsupervised disciplinary investigations** (under section 94 (1) of the Act) are conducted by Garda superintendents in line with the Garda Discipline Regulations. The Protocols between GSOC and the Garda Síochána say that unsupervised investigations must be completed and a final report issued to GSOC within 16 weeks. An example of the kind of case that is investigated in this way is an allegation that there was abuse of authority in the manner in which an arrest was conducted. There were **405** such cases opened in 2019. This compares with 598 such investigations opened in 2018 and reflects the introduction of the local intervention process (described in detail in **Section 4**). The local intervention process allows for the resolution of some complaints at a local level; complaints resolved in this way do not become the subject of the type of formal investigation described in this section.
- **Supervised disciplinary investigations** (under section 94(5) of the Act) are also conducted by Garda superintendents but are supervised by GSOC investigators who meet with the Garda superintendents to agree an investigation plan. The GSOC investigator can direct and partake in the investigative actions, and must receive interim reports. The Protocols say that

supervised disciplinary investigations must be completed and an investigation report provided within 20 weeks. Supervised investigations are appropriate in more serious allegations of neglect of duty, for example, lack of, or insufficient, investigation of a serious crime reported to gardaí. There were **105** such cases opened in 2019.

- **Non-criminal investigation** by GSOC (under section 95 of the Act) – Certain cases which do not appear to involve criminal offences, but which may involve disciplinary and/or systemic matters, are undertaken by the Garda Ombudsman's own investigators. Disciplinary investigations which follow on from criminal investigations would be among this kind of non-criminal investigation undertaken by GSOC investigators. There were **148** such cases opened in 2019. This represents an increase of almost 50 percent on the number of section 95 investigations opened in 2018 (100). It reflects the commitment by GSOC to start giving effect to a recommendation by the Commission on the Future of Policing in Ireland (CoFPI) that the GSOC successor body would not give back complaints to the Garda Síochána to be investigated. The increase in staff numbers in GSOC in 2019 facilitated this move towards conducting more non-criminal investigations.

#### Case summary

A garda was sanctioned for discourtesy after a person who was involved in a minor car collision complained about how the garda had spoken to her and the other driver.

The garda came on the scene and instructed the two drivers to move their vehicles out of the way of a bus lane. The complainant said that »

» as she was driving up the road to where she thought the garda had told her to pull in, the garda used abusive language towards her.

The complainant said that as she and the other driver, who had difficulty understanding the garda, swapped details, the garda continued to shout at the two of them.

The complainant said that while she was grateful the garda had arrived at the scene, the way he shouted repeatedly and used bad language was unnecessary. She and the other driver were calm and not arguing.

A Garda Síochána Investigating Officer (GSIO) was appointed to investigate under section 94 (1) of the Garda Síochána Act, 2005.

When the garda was interviewed for the investigation, he said he was not aggressive but was firm and professional. He acknowledged that he had a motorcycle helmet on and earplugs in at the time of the incident. He should have removed the helmet and ear plugs when dealing with the members of the public.

He was found to have been in breach for discourtesy and the sanction imposed by the Garda Commissioner was advice.

» The complainant alleged he had no contact from the gardaí after making an allegation of assault. The complaint was deemed admissible and an investigation into the complaint was conducted by a Garda Síochána Investigating Officer (GSIO). The GSIO investigating on behalf of GSOC interviewed the garda who, when questioned, stated he took the original account of an allegation of assault at the station. He said he explained to the complainant what a garda investigation would entail. The garda said that the man was due to call back to the station the following day to make a formal complaint.

The garda did not make any record of the incident on PULSE. The garda retrospectively provided rationale, stating the man who reported the allegation of assault was due to return to the station but he did not. The garda accepts he should have recorded the incident on PULSE.

The garda was found to be in breach of the Garda Síochána (Discipline) Regulations 2008 for failure to record incident on PULSE system – the sanction given was advice.

### Case summary

A garda was found in breach of discipline for failure to record an allegation of assault on the PULSE system. A man alleged he was verbally abused and physically assaulted by two passengers while working for a transport company.

The man reported the incident to his local garda station and said he was told by a garda that 'someone would call out the next day to take a statement'. The man heard nothing further from the garda member or any other garda members. »

### Case summary

A garda was sanctioned for neglect of duty for failing to investigate a taxi-driver's complaint that a passenger had refused to pay a fare. The taxi driver told GSOC he was left short after bringing a person home and being told to come back the following day for the balance of the fare. When he returned the next day, he was not given the outstanding fare. The taxi driver complained to GSOC that when he first rang the garda station to report the matter, he was told by the person who answered the phone that it wasn't a matter for gardaí and hung up. He called again and a different person answered who told him to come into the garda station. When he arrived at the station, he was told that the gardaí were not debt collectors and wouldn't help. »

» A Garda Síochána Investigating Officer (GSIO) was appointed to investigate the complaint to GSOC. The person who answered the initial call by the taxi driver was not identified, but the second respondent was interviewed. While the garda couldn't fully recall the specifics of the incident, he admitted to a breach of the disciplinary regulations—neglect of duty for, “without good and sufficient cause” failing to investigate a complaint of non-payment of a taxi fare.

The sanction applied was a warning. The GSIO later forwarded the matter the taxi driver had attempted to report for investigation by the Garda Síochána.

### Case summary

A motorist complained to GSOC after he was summonsed to court for not having insurance even though he had produced his documents at a garda station when asked to.

The motorist told GSOC that his car was seized by gardaí. He said he told the garda who was taking his car that he would bring his documents to a particular garda station. He said he got his car back after he produced the documents, but a few months later he was summonsed for not having insurance.

The investigation found that the garda who had created the release incident on PULSE—that is, the garda who had ‘released’ the car—omitted to place the details of the insurance policy on PULSE. This meant the garda about whom the complaint was originally made had not been able to see such documents had been produced, thus leading that garda to summonsing the complainant.

The Garda Síochána Investigating Officer (GSIO) noted in the GSIO's report that the member who was found to be in breach of the discipline regulations for not recording the insurance details on PULSE had less than a year's »

» service at the time of the omission—in the circumstances, the superintendent issued a caution. The prosecution of the complainant was withdrawn and so the complainant was not brought to court.

### Case summary

A garda member was found to be in breach of the Discipline Regulations for neglect of duty and disobedience of orders over a failure to investigate in a timely fashion a complaint of sexual assault of a minor and failure to update the complainant on the investigation.

The investigation began after a member of the public complained to GSOC about the length of time it took for gardaí to investigate allegations he had made. He also complained he had not been kept informed of the investigation into his complaint nor had he been updated as to the direction of the Director of Public Prosecutions (DPP).

The complainant alleged that a relative, who was a child, was being groomed by a man. The complainant claimed that the garda he spoke to said he would send a file to the DPP. However, when the complainant contacted the DPP, he was told a file had not been sent. The garda had interviewed the child who said the relationship was consensual, and did not want garda involvement.

A Garda superintendent was appointed to conduct a supervised investigation—that is, an investigation supervised by a GSOC investigations officer. The investigation found that the person accused of the offence was not arrested for more than two years after the complainant reported the matter to gardaí. It was only after the man's arrest that a file was sent to the DPP. The investigation also found that the garda member had failed to keep notes on the investigation and had failed to keep the complainant updated. »

» The garda member had a duty to investigate a potential offence under section 3 of the Criminal Law (Sexual Offences) Act, 2006 and submit a file for consideration of the DPP in a timely manner—but he had not done so.

GSOC recommended that disciplinary proceedings be instituted against the garda on the basis that he failed to investigate a serious matter in a timely fashion. He also admitted that he kept no notes on either the investigation or his alleged contact with the person who had made the complaint.

Disciplinary proceedings were taken by the Garda Síochána and the garda member was sanctioned.

### Case summary

A garda was found in breach of discipline for discreditable conduct and neglect of duty after a complaint by a member of the public that the garda was actively involved in a leisure activity while he was on duty and was using an official vehicle to travel to particular events or sessions connected with that activity.

In all, it was alleged that he had been actively involved in a specific activity while on duty on four occasions and had used an official vehicle without permission on three occasions. It was also alleged that the garda was carrying his official firearm while engaged in this activity.

During the course of the supervised disciplinary investigation, undertaken by a Garda Síochána Investigating Officer, it was confirmed by the garda member's superiors that he had not been given permission to travel to the locations on the dates alleged, and he did not have permission to have an official vehicle with him.

The garda member admitted to attending three of the activity sessions and improperly using an unofficial vehicle on two occasions, noting that it was spare and not required at the time. »

» This was deemed discreditable conduct. On one occasion he attended a session on what he claimed was his refreshment break, though he had not told his superiors. This also amounted to discreditable conduct. The garda member was found in neglect of duty for participating in the activity for a period of three hours while he was on duty. GSOC recommended to the Garda Commissioner that disciplinary proceedings be instituted. The garda was found to be in breach of the Discipline Regulations—three counts of discreditable conduct and one count of neglect of duty and was sanctioned.

There was no evidence to support the allegation by the complainant that the garda member was carrying his official firearm during the leisure activity.

### Case summary

A garda was found in breach on two counts of neglect of duty and two counts of falsehood and prevarication.

A person who reported to gardaí that she'd been 'slapped on the buttocks' by two young men complained to GSOC that her report to gardaí was not investigated properly and she wasn't informed on the progress of the investigation.

The complaint was deemed admissible and a Garda Síochána Investigating Officer (GSIO) was appointed to investigate.

The complainant said she was walking down the street and as she passed two youths one of them slapped her on the buttocks. The complainant went to the local station that evening and made a formal complaint. She identified one of the youths (not the alleged perpetrator) who was a student at a local school and gave his picture to the principal and gardaí. The woman contacted the garda station on a number of occasions for updates and was told by the investigating garda that the youth »

» had been identified. A garda informed her a Juvenile Liaison Officer (JLO) was appointed and the youth was 'severely' cautioned and she would receive a follow up call from the JLO.

The woman contacted the garda station again for a further update regarding the JLO and was informed the investigating garda was currently on leave and that according to the PULSE record, the offender was not identified.

The investigation into the complaint to GSOC established that the garda made no record of the alleged assault on PULSE until four months after the incident. The garda failed to follow up the possible lines of enquiry in identifying the youth and failed to keep the victim of the assault updated on the progress of the investigation. The garda also failed to take any notes of the investigation or take note of any lines of enquiries. When interviewed by the GSIO, the garda refuted the account made by the complainant.

Sanctions were imposed by the Garda Commissioner on the garda member who was found in breach of the Discipline Regulations. The member was found to be in breach for two counts of neglect of duty for failure to investigate an incident and failure to update the complainant, and two counts of falsehood and prevarication for providing misleading information to the member of the public who reported the matter by informing them the offender had been identified and cautioned by a Juvenile Liaison Officer. A monetary sanction and a caution were imposed.

### Case summary

A garda was found to be in breach of discipline for failing to properly account for money or property received in his capacity as a garda member. A woman alleged that a sum of money was missing from her wallet which had been handed in to a garda station and later returned to her. »

» While out walking in the local park, the complainant lost her wallet. Numerous calls were made to her local garda station to find out if anyone found it and handed it in but to no avail.

After a few weeks, the complainant spoke with a woman who she saw in the park the day she lost her wallet. She discovered that the woman had found the wallet and handed it in to the garda station. She confirmed there was cash inside when it was handed in.

Both women then went to the garda station and queried the location of the wallet. At that time it couldn't be found and there was no record on PULSE to say the wallet had been handed in.

The complainant later received a call from the garda station stating they had located the wallet and it was subsequently returned. The complainant discovered a small amount of cash was still in the wallet but a larger sum was missing.

The complainant subsequently made a complaint to GSOC that a specific sum of money was taken from her wallet. The complaint was deemed admissible and a criminal investigation ensued.

The GSOC investigation established the garda member who took possession of the wallet made a notebook entry stating that a small amount of cash was in the wallet when it was handed in. The garda failed to make any record on the PULSE system and failed to record and provide a receipt in accordance with Garda policy, Property and Exhibits Management Systems (PEMS). The garda stated that he intended to return the wallet when back on patrol duty later that day as an address was located in the wallet. However due to the busy evening on patrol duty this did not occur. The garda placed the wallet in a locker and subsequently forgot about it. The garda only remembered the wallet after queries were made by the complainant and the other woman at the station and the wallet was returned to the owner later that day. »

» During the investigation, an account was obtained from the person who handed it in who stated there was a specific sum of money in the wallet. There were no independent witnesses to say what cash was present in the wallet and there was no CCTV footage of the public office in the garda station. GSOC sent a file to the Director of Prosecution (DPP) with a recommendation that she consider an offence contrary to section 4 of the Theft and Fraud Offences Act, 2001. The DPP directed that there be no prosecution brought against the garda.

GSOC decided to continue the investigation (under section 95) as a potential breach of discipline. That investigation found evidence that the actions of the garda may have amounted to neglect of duty, contrary to the Garda Discipline Regulations for failing to properly account for any money or property received by him in his capacity as a garda member. A report was forwarded to the Garda Commissioner identifying this evidence. The garda was found to be in breach of the Garda Síochána (Discipline) Regulations 2007 for neglect of duty and was subject to a monetary sanction.

### Case summary

A garda member was found to be in breach of the Discipline Regulations for sending inappropriate messages to a member of the public.

The complainant told GSOC that she had given her phone number to gardaí in relation to a matter she reported regarding a family member. In the following days, the complainant said she'd received flirtatious and inappropriate messages from the garda to whom the matter had been reported. He alluded to her that he had done so under the influence of alcohol. The garda later sent an inappropriate photograph of himself to the woman on social media. »

» The complainant told GSOC that at this point she told the garda to leave her alone and not contact her again. She did not receive any further contact from the garda member.

GSOC initially began a criminal investigation (under section 98 of the Act) but when it was established that there was insufficient contact between the garda and the complainant to suggest an offence had been committed, GSOC proceeded with a non-criminal investigation.

When interviewed, the garda member admitted to sending the messages and stated that it was an error in judgement. The outcome of the investigation was a recommendation that disciplinary proceedings be taken against the garda member for discreditable conduct. Proceedings were taken by the Garda Síochána and a financial sanction was imposed on the garda.

### Case summary

GSOC launched an investigation after a person complained that gardaí had entered the person's home without cause, that gardaí had assaulted the person, and that some of the complainant's property was damaged/destroyed by the actions of garda members.

Because the person was alleging criminal behaviour by gardaí—as opposed to breaches of the disciplinary regulations—a criminal investigation was carried out by GSOC investigations officers.

During the course of the investigation, GSOC investigators were able to speak with a number of witnesses, apart from garda members, who had knowledge of the event which led to the complainant's allegations.

It emerged that emergency services, including the Garda Síochána, were alerted to attend the complainant's home by friends who had concerns about the complainant. »

» Those concerns led to gardaí forcing their way into the complainant's home, and, because of concerns for the safety of both the complainant and other people, to gardaí restraining the complainant.

The GSOC investigator's report to the Commission said the investigation had uncovered no potential criminal violations or breaches of discipline by members of the Garda Síochána. The investigation was closed by GSOC.

### **1.6.3 Outcomes of Investigations**

1,896 complaints containing 3,038 allegations were closed in 2019.

Of these, 1,210 complaints containing 2,280 allegations were admitted and investigated (the remainder were closed following inadmissibility decisions, withdrawn prior to admissibility decision or closed following the failure of the complainant to engage).

While the 1,210 complaints all contained one or more admissible allegations, 48 of the allegations contained in them were inadmissible, so these were not investigated. In total 2,232 allegations were investigated and the outcomes are described in Table 1.

**Table 1:** Outcomes of complaints closed in 2019

Outcome/ Reason	Explanation	Type of investigation concerned	Number of allegations
Discontinued - Further investigation not necessary or reasonably practicable	The most common scenario here is that an investigation is discontinued because there is no independent evidence to prove an allegation.	All types	1,334
No breach of the Discipline Regulations identified	The allegations were investigated and the garda whose conduct was complained of was found to have acted correctly.	Disciplinary investigation by the Garda Síochána (s.94 <sup>2</sup> ) or by GSOC (s.95)	429
Allegation withdrawn	The person who made the complaint indicated that they would not pursue it.	All types	237
Non-cooperation by the complainant	The complainant failed to engage with investigation.	All types	26
Breach of Discipline Regulations identified and sanction applied	A range of sanctions may be applied depending on the gravity of the breach found (see Table 2). The identification of the specific breach and any sanction to be applied is a matter for the Garda Commissioner under the Discipline Regulations.	Disciplinary investigation by the Garda Síochána (s.94) or by GSOC (s.95)	96
No misbehaviour identified following criminal investigation	The most common scenario here is that there is no independent evidence to prove the allegation(s) made.	Criminal investigation by GSOC (s.98)	83
Garda Discipline Regulations no longer apply	The garda subject of a disciplinary investigation retired or resigned prior to, or during, the investigation.	Disciplinary investigation by the Garda Síochána (s.94) or by GSOC (s.95)	9
Referred to the DPP - No Prosecution Directed	If there is evidence that an offence may have been committed following criminal investigation, the case is referred to the DPP, who decides whether or not to prosecute. In certain cases, the Ombudsman Commission may refer a case to the DPP to ensure full transparency and public confidence. <i>(See further detail in Section 5)</i>	Criminal investigation by GSOC (s.98)	10
Referred to the DPP – Prosecution Directed	As stated above, the DPP may also form a decision based on the evidence to direct a prosecution and a trial will commence <i>(See further details in Section 5)</i> .	Criminal investigation by GSOC (s.98)	8*
<b>TOTAL OUTCOMES</b>			<b>2,232</b>

\* This figure refers here to the number of files, arising from complaints, which were sent to the DPP and for which the DPP directed prosecution. **The trial may not have taken place in 2019.**

2 Either supervised or unsupervised investigations.

## Discontinued Cases

A large number of investigations are discontinued by GSOC every year for a variety of reasons. Cases are sometimes discontinued because a complainant withdraws the complaint or decides not to cooperate. Sometimes a considerable amount of work had been done with statements taken and witnesses interviewed, but there is no independent evidence which would prove or disprove the allegation. Cases are discontinued when it becomes apparent that further investigation is not necessary or reasonably practicable.

Among the investigations discontinued in 2019 were:

- GSOC received a complaint after a man alleged he was stopped and searched 'for no reason' and gardaí broke his phone. The complaint was deemed admissible and a criminal investigation was initiated. The GSOC investigation established the complainant was stopped by gardaí under Section 23 of the Misuse of Drugs Act and during the search the phone was dropped and the screen broke. This record was obtained from the Garda PULSE system. The GSOC investigator made several attempts to contact the complainant to obtain a statement of complaint but to no avail. The case was subsequently discontinued for failure to engage.
- During the execution of a warrant in relation to a road traffic offence the complainant was detained in a cell for a period of time. During this time the garda asked the complainant to remove items of jewellery, which were placed in Property. The complainant alleged that when he was leaving the station his jewellery was not returned to him. The GSOC investigation established that the property section in the custody record listed the jewellery items. The items were marked in the custody record as returned to the complainant however there was no recorded signature from »

- » the complainant. The GSOC investigator made a number of attempts to obtain a statement of complaint but the person declined to engage. There was no independent evidence available to substantiate either versions of events and the complaint was discontinued on that basis.
- A criminal investigation was initiated after a member of the public stated he was wrongly detained and coerced by gardaí into admitting responsibility for criminal damage. The GSOC investigation established that there was a verbal exchange between two drivers regarding access to a car park space. One car was subsequently damaged with a key. The complainant was arrested on foot of evidence available and he subsequently admitted the offence and paid compensation for the damage. The case was discontinued as there was no independent evidence or CCTV to substantiate the complainant's version of events.

## Case summary

A complaint to GSOC from a person who lost a handbag and made numerous attempts to retrieve it after being told it was handed into a garda station was discontinued after an investigation failed to establish the identity of the person to whom the bag was given in a garda station.

However, the Garda superintendent who investigated the matter on behalf of GSOC pointed out failings in the property management system operated in the garda station in question. The complainant also got some of the contents of the bag back.

The person who made the complaint to GSOC said she'd lost the handbag in a particular area. »

» Several weeks later, she received a phone call from a person who had learned that she'd lost a handbag and said that he had handed the handbag into a named garda station the day after it was lost. The complainant made several attempts to retrieve the item from the garda station but there appeared to be no record of it having been handed in.

The person complained to GSOC and also wrote to the local superintendent. She was subsequently contacted by a civilian member of staff who informed her that the bag had been disposed of because of its physical condition but that contents which were undamaged would be returned. A Garda Síochána Investigating Officer (GSIO), appointed to investigate the complaint made to GSOC, sought to establish the identity of the person in the garda station who had taken the item from the person who'd found it. The person who'd found it was unable to say whether or not the woman who'd received it from him was in uniform, and was unable to give a description. The GSIO established that no record of the handing in of the bag was made on PULSE; a civilian worker who saw the bag — which had no identifying documents in it — beside the property safe in the station had placed it in a sergeant's office. The worker, who had no means of identifying the owner of the item, disposed of the bag which was reported to have been badly weather damaged, after removing some of the contents.

The GSIO recommended the investigation be discontinued as the identity of the person who accepted the bag from the person who handed it in, and the identity of the garda who later spoke to the complainant but failed to get back to her, could not be established.

GSOC noted that it was clear there were failings in the property management system operated in the garda station, and was told by the GSIO that he had spoken to the relevant Garda Superintendent about the issue.

### Case summary

A complaint alleging discourtesy by a garda member was withdrawn by a person who said that his recent 'positive experience' of dealing with garda members on a particular matter outweighed the inconvenience which led to his complaint.

The person had complained to GSOC that when he rang a garda office to make an appointment related to an NCT (National Car Test) requirement, the garda he spoke to was 'abrupt' and told him he needed to get the car dealer to sign something.

He complained to GSOC, a Garda Síochána Investigating Officer (GSIO) was appointed, and enquiries were begun. Some time later, the complainant wrote to a Garda superintendent saying the issue for which he had first sought assistance had been resolved. He complimented the superintendent and the garda members with whom he'd been dealing, and said that his positive experiences outweighed the inconvenience which had prompted him to complain to GSOC and he wished to withdraw the complaint.

### Case summary

An investigation into a complaint was discontinued after the complainant failed to respond to several letters asking him to contact the Garda Síochána Investigating Officer (GSIO) who was investigating his complaint.

The complaint to GSOC alleged that gardaí did not get back to the complainant with information to which the complainant believed he was entitled. An unusual feature of the investigation was that the complainant moved from the address which was his original point of contact with GSOC but although the Department of Social Protection knew of his new address, because the investigation did not relate to a criminal matter, the Department was »

» prohibited under GDPR from providing the address to the GSIO.

GSOC subsequently established the person's new address, but while contact was re-established, the person failed to engage with the GSIO and the matter was discontinued.

» she collided a short time later. The GSIO also noted that the complainant said in her statement that she was aware of the poor driving conditions before the collision.

The investigation was discontinued under section 93.

## Case summary

A motorist whose car collided with another vehicle which had run into a ditch in icy road conditions complained to GSOC. The person alleged gardaí had left the scene of the original accident without giving any warning to oncoming motorists about the condition of the roads or about the fact that there was a vehicle crashed on the side of the road.

The complainant said that she'd seen a garda car travelling on the road shortly before she crashed.

A Garda Síochána Investigating Officer (GSIO) was appointed to investigate the allegation of neglect of duty. The GSIO established which gardaí were on duty in the mainly rural area where the road collision had occurred 11 months before the complaint was made to GSOC. Statements were taken from gardaí and PULSE records were reviewed. »

The GSIO established that gardaí in the area sought assistance from another garda station to deal with a number of road collisions at the time in question. The garda who responded to the call about the complainant's crash was found to have been the first garda to attend that scene—the garda car which the complainant reported seeing shortly before the incident in which she was involved had not attended that scene but was responding to a different call.

The GSIO recommended that the investigation be discontinued. The complainant was mistaken in her belief that the garda car she saw was leaving the scene of the vehicle with which »

## Reviews of Disciplinary Investigations

If a complainant is dissatisfied with the result of an unsupervised investigation undertaken by a Garda superintendent, section 94(10) of the Act provides that the complainant can request that a GSOC officer review the matter. In these reviews, GSOC's role is to establish if the investigation was comprehensive enough and the outcome appropriate.

GSOC does not have the power to substitute the decision or finding with a new decision. GSOC provides a report to the Garda Commissioner where concerns in relation to how the investigation was conducted and/or its outcome arose. As the disciplinary process has been concluded in these cases, the case cannot be re-opened or the outcome changed. It is hoped that the feedback may contribute to a reduction in the occurrence of similar issues in future investigations.

GSOC received **52** requests for review in 2019 (in relation to investigations completed in 2019 or other years), of which **40** were completed by year end and **12** remained open.

## Sanctions

Should an investigation by the Garda Síochána under section 94 (either supervised or unsupervised) or by GSOC under section 95 find evidence of a potential breach of the Discipline Regulations by a garda, the Garda Síochána makes a decision on whether or not there has been a breach. A range of sanctions may be applied, depending on the gravity of the breach found. Sanctions are a matter for the Garda Commissioner. The sanctions applied in 2019, following decisions of a breach of discipline, are set out in Table 2.

**Table 2:** Sanctions applied by the Garda Commissioner in 2019, following disciplinary investigations

Sanction	Number
Advice	21
Fine imposed	17
Warning	8
Caution	13
Reprimand	5
Reduction in pay not exceeding 2 weeks' pay	30
Reduction in pay not exceeding 4 weeks' pay	2
<b>TOTAL SANCTIONS</b>	<b>96</b>

In addition to the above outcomes, which were findings in relation to the behaviour of individual gardaí, some investigations highlighted situations where the problem may have arisen due to a systemic or management issue rather than the behaviour of an individual. With a view to reducing or eliminating the incidence of similar complaints in the future, a number of recommendations about policies and/or practices were sent to the Garda Commissioner – please see **Section 6** for details.

### 1.6.4 Time Taken to Close Cases

In 2019 GSOC reduced the time it took to close cases in some investigations but in others, notably disciplinary investigations supervised and unsupervised, the length of time has increased. GSOC is committed to improving the time it takes to close / complete investigations. Chart 6 shows the median time it took to close cases by type by the end of 2019.

### Criminal Investigations

At the end of 2019, the median time taken to close criminal investigations was **140** days, a decrease of 7 days on the 2018 figure.

Criminal investigations are subject to a review process, which includes standard control measures. As part of this process, cases which have been open for 60 days are formally reviewed by Senior Investigations Officers and those which have been open for 90 days are formally reviewed by the Deputy Director of Operations. Cases open for 120 days are brought to the attention of the Director of Operations for appropriate decisions. In parallel, cases categorised as containing a very serious allegation are subject of review on a bi-monthly basis by the Director of Operations and the Ombudsman Commission.

### Unsupervised Disciplinary Investigations

Unsupervised disciplinary investigations are undertaken by Garda Síochána Investigating Officers (GSIOs). The median duration of such investigations at the end of 2019 was **279** days, an increase of 11 days on the 2018 figure. Up until 2018 there was a continued improvement that saw the median time drop by nearly two months in the previous three years.

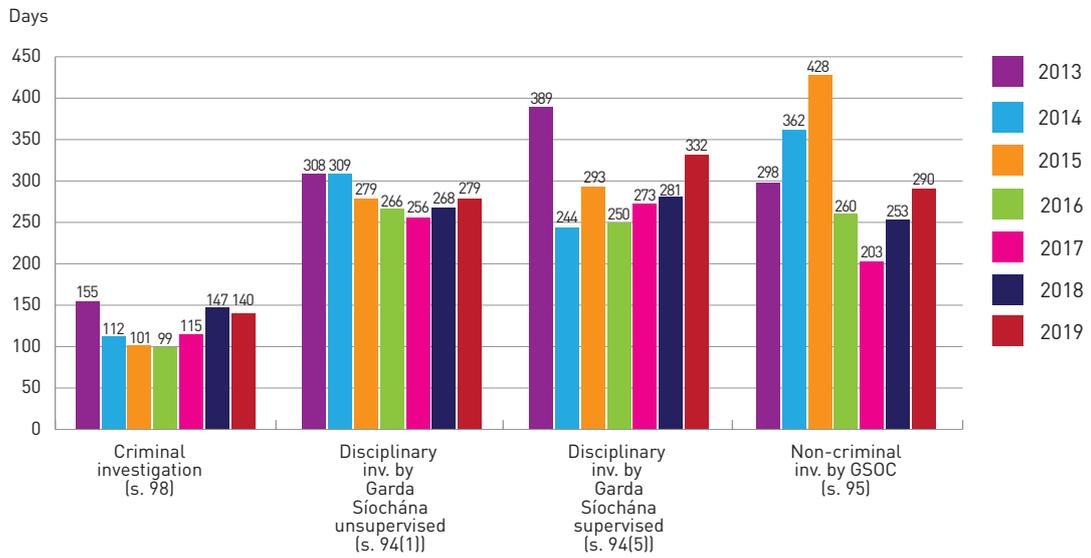
### Supervised Disciplinary Investigations

Supervised disciplinary investigations are undertaken by Garda Síochána Investigating Officers supervised by GSOC investigations officers. The Protocols say that supervised disciplinary investigations must be completed and an investigation report provided within 20 weeks/ 140 days. The median time duration for such investigations in 2019 was **332** days, which is a significant increase of 51 days on the 2018 figure.

### Non-Criminal Investigation by GSOC

Non-criminal investigations by GSOC may, under section 95 of the Act, be undertaken by the Garda Ombudsman's own investigators. The median duration of such investigations was **290** days.

**Chart 6: Time taken to close investigations (in days)**



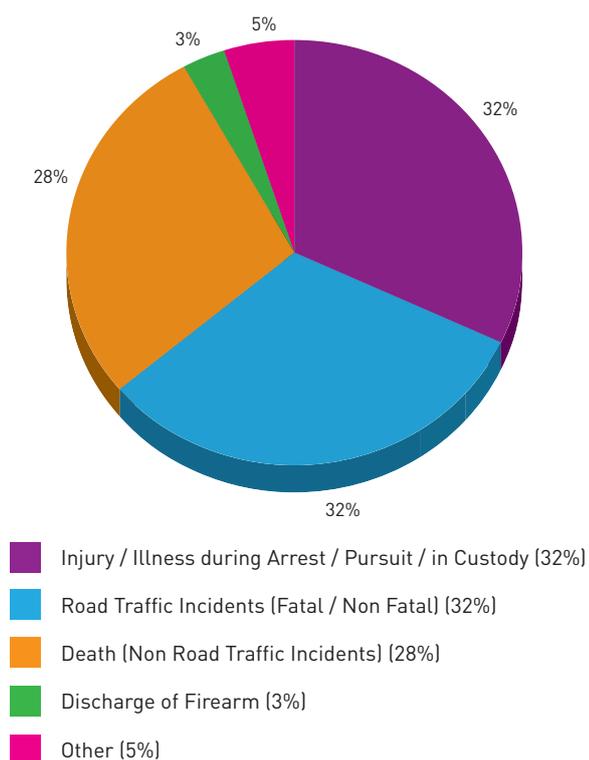
## SECTION 2: INDEPENDENT INVESTIGATIONS FOLLOWING DEATH OR SERIOUS HARM

### 2.1 REFERRALS FROM THE GARDA SÍOCHÁNA UNDER SECTION 102(1)

Section 102(1) of the Garda Síochána Act 2005 provides that “the Garda Commissioner shall refer to the Ombudsman Commission 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”.

GSOC received **40** referrals under this section in 2019, compared with 38 in 2018, and 24 in 2017. The power to refer is delegated by the Garda Commissioner to superintendents whose responsibility it is to decide if it is appropriate to refer an incident, in order that it be investigated independently.

**Chart 7: Circumstances in Referrals**

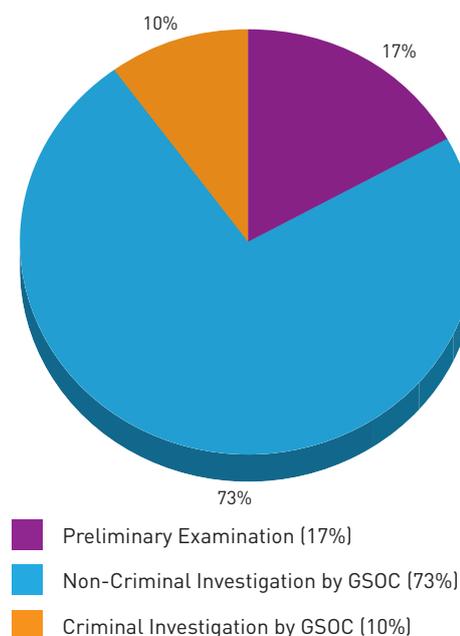


### How GSOC Investigates Matters under Section 102

Once GSOC receives a referral from the Garda Síochána, we must investigate the matter.

We aim to respond proportionately, according to the circumstances. It is sometimes the case that, following an initial examination, it is clear that there is no evidence of misbehaviour or criminality by a garda. At the other end of the scale, sometimes it is appropriate to undertake a full criminal investigation and refer the case to the DPP.

**Chart 8: Investigation Types in Referrals (Total Referrals Received: 40)**



Sixteen of the referrals received in 2019 related to fatalities. Of these, six fatalities related to four road traffic incidents.

If there has been a fatality, there must be particular consideration given to the State’s obligations under Article 2 of the European Convention on Human Rights (ECHR). Article 2 states that everyone’s right to life shall be protected by law. The European Convention on Human Rights Act 2003 requires that Irish state bodies including the Garda Síochána, perform their functions “in a manner compatible with

the State's obligations under the convention provisions".

To be compliant with Article 2, investigations into deaths following police contact should adhere to five principles developed by the European Court of Human Rights. These are:

- Independence
- Adequacy
- Promptness
- Public Scrutiny
- Victim Involvement.

The fact that such investigations are undertaken by GSOC fulfils the requirement for independence. We are conscious of upholding the other four principles too. Victim involvement is directly related to the work undertaken by GSOC to comply with legislation outlining the rights of victims of crime.

### Case summary

A section 95 disciplinary investigation was initiated by the Garda Síochána Ombudsman Commission following the death of a man shortly after his detention in a Garda station. The investigation began after a Garda superintendent made a referral to GSOC.

The investigation found that a 999 call was received from a member of the public who witnessed an elderly man fall and strike his head. An ambulance arrived and an assessment established he had sustained a wound to the back of his head. Attempts were made to take him to the hospital to receive treatment but he refused. He was subsequently brought to the Garda station.

Further pleas were made by gardaí for the injured man to attend the hospital to get treatment but he refused. He was subsequently arrested under section 4 of the Public Order Act, 1994 and section 25 Liquor Licensing Act, 1974 and brought from the ambulance to the Garda station.

»

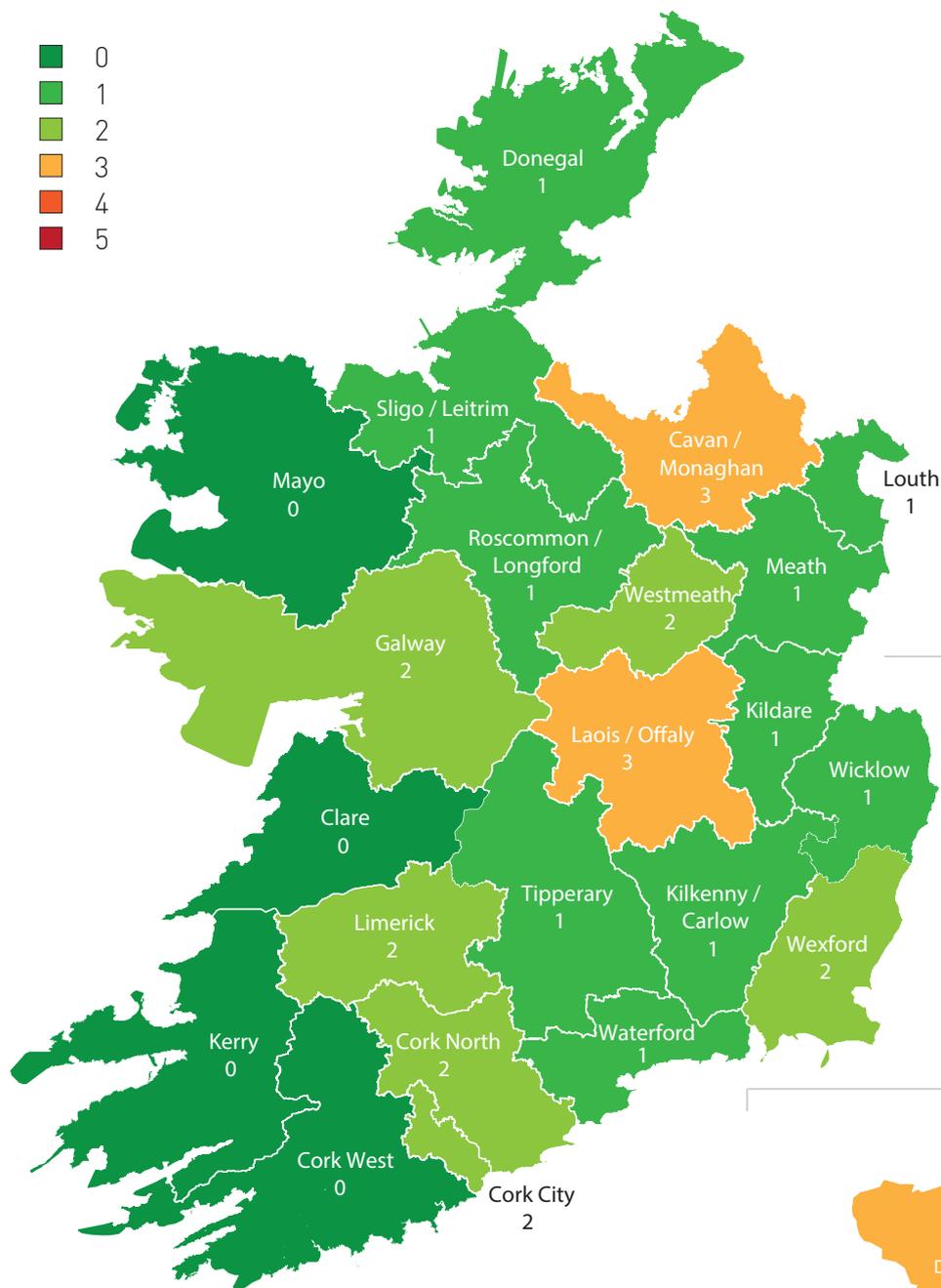
» During his detention he was brought from his cell to the office of the member in charge where he was left lying on the floor for a period of time. A taxi arrived to take the man home, but on seeing the injured man's condition, the taxi driver refused to bring him home and advised that 'this man requires medical attention'. The man was returned to his cell in the Garda station. Later that evening a new member in charge took up his duty. Some time later a check was carried out on the cells and the garda had difficulties rousing the man. An ambulance was subsequently called and he was brought to hospital where he later died.

During the investigation a number of discrepancies were found between, on the one hand, the garda accounts when rousing the male and what was recorded in the custody record, and on the other, the CCTV footage that overlooked the prison cells.

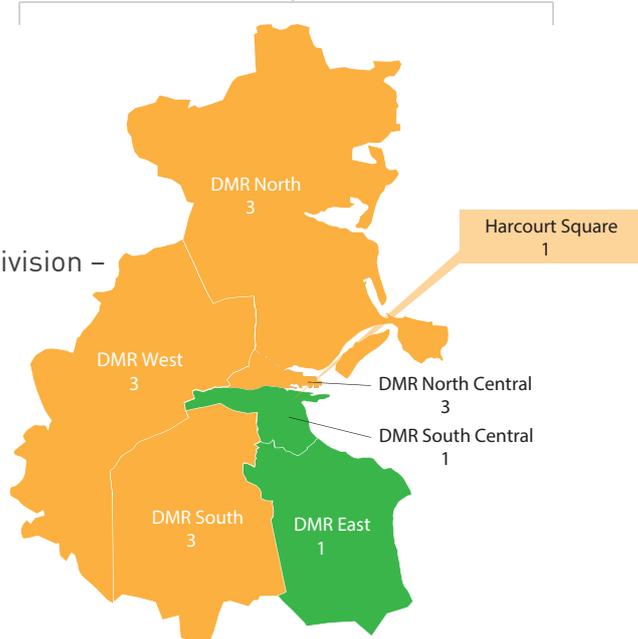
The GSOC report of the investigation, which was sent to the Garda Commissioner, recommended that disciplinary proceedings be instituted against four garda members, including two supervisory sergeants as it appeared they failed to provide effective guidance and direction. A board of inquiry was established in respect of all four garda members. The two sergeants were found not to be in breach of the Garda Síochána (Discipline) Regulations 2007. One garda was found to be in breach of the regulations on two counts of neglect of duty.

The maps below show the geographical distribution of referrals made by the Garda Síochána in 2019.

**Map 3:** Referrals by Garda Division  
(Excluding Dublin Metropolitan Region)



**Map 4:** Referrals by Garda Division – Dublin Metropolitan Region



NB. The total number in the maps above is slightly higher than the total number of referrals (40) because a small number of referrals involved gardaí from more than one division.

## 2.1.2 Outcomes of investigations following referrals

**Table 3:** Types of investigation and their outcomes (investigations closed in 2019)

Type of investigation and outcome	Cases
Case closed after initial examination showed no evidence of misbehaviour or criminality by a garda.	15
Non-criminal investigation undertaken and concluded, finding no evidence of misbehaviour by a garda – no further action taken.	7
Non-criminal investigation undertaken and concluded – Garda Discipline Regulations no longer apply to member.	1
Non-criminal investigation undertaken and concluded – sanction applied by the Garda Commissioner.	1
Non-criminal investigation undertaken and concluded – no sanction applied by the Garda Commissioner.	1
Criminal investigation undertaken and concluded, finding insufficient evidence of criminal misconduct by a garda – no further action taken.	4
Criminal investigation undertaken and concluded – referred to the DPP – prosecution directed.	2
Criminal investigation undertaken and concluded – referred to the DPP – no prosecution directed.	0
Case discontinued due to lack of cooperation from the injured party and no other issues of concern.	1
<b>TOTAL</b>	<b>32</b>

## SECTION 3: INVESTIGATIONS IN THE PUBLIC INTEREST

In addition to providing for the referral of matters to GSOC by the Garda Commissioner, section 102 of the Garda Síochána Act 2005 provides for investigations to be undertaken in the public interest, even in the absence of a complaint or a referral by the Garda Commissioner.

The Minister for Justice and Equality and the Policing Authority can request GSOC to investigate certain matters, and can also ask GSOC to consider whether it should investigate a matter.

GSOC can also decide to conduct public interest investigations in the absence of complaints or referrals.

Section 102 (4) of the Act provides that:

*“The Ombudsman Commission may, if it appears to it desirable in the public interest to do so and without receiving a complaint, investigate any matter that appears to it to indicate that a member of the Garda Síochána may have-*

- a) committed an offence, or*
- b) behaved in a manner that would justify disciplinary proceedings”.*

Section 102 (5) adds that:

*“The Minister may, if he or she considers it desirable in the public interest to do so, request the Ombudsman Commission to investigate any matter that gives rise to a concern that a member of the Garda Síochána may have done anything referred to in subsection (4), and the Commission shall investigate the matter.”*

In addition, the Policing Authority may request GSOC to investigate matters in the public interest. Under section 102 (7) both the Policing Authority and the Minister may refer a matter to GSOC for the Ombudsman Commission to consider whether it should investigate it in the public interest.

In 2019, the Policing Authority made its first referral under section 102 (7), and after considering the matter referred, GSOC decided to open a section 102 (4) investigation in the public interest. Forty-four (44) public interest investigations were opened in 2019 and 15 were closed.

Public interest investigations have been opened on foot of media reports about alleged misconduct by gardaí. If the matters which are the subject of media reports have been notified to GSOC by either a member of the public or the Garda Síochána, investigations may already have been opened. However where neither a member of the public nor the Garda Síochána have reported the alleged misconduct, the Commissioners review the available information in each case. This has led to an increase in the public interest investigations opened in 2019.

Among the public interest investigations opened by GSOC in 2019, some are described briefly here:

- The Garda Ombudsman received a referral from a Garda superintendent after a person suffered a seizure while in custody. In the course of the investigation, GSOC uncovered apparent discrepancies between the written custody record at the garda station in which the person had been detained the night before the seizure, and what was recorded on CCTV. The discrepancies related to the number of times the person had been checked by gardaí during the night. The Commission decided to open a public interest investigation into whether a member of the Garda Síochána had behaved in such a manner as to justify disciplinary proceedings. The investigation is ongoing.
- The Ombudsman Commission initiated an investigation in the public interest on foot of media reports that an inquiry had commenced internally in the Garda Síochána into allegations that a senior garda had sent inappropriate text messages to a female member of staff. The Commission received neither a complaint nor notification about the alleged behaviour. It also appeared that while a disciplinary investigation had taken place, it was not clear whether a criminal investigation had taken place. The Commission concluded that an investigation should be commenced in the public interest as it appeared a criminal offence may have been committed. The investigation is ongoing.

- The Ombudsman Commission initiated a public interest investigation on foot of information received about the death of a person who had been in garda custody for a period prior to the person's removal to prison where the person attempted suicide and died some days later. The person had been arrested on foot of a bench warrant and was remanded in custody in a garda station. The person was taken to hospital by gardaí after self-harming and subsequently brought to prison. The Ombudsman Commission decided to open an investigation in the public interest to examine whether gardaí fulfilled their duty to alert prison staff to the mental state of the prisoner. The investigation is ongoing.

## **INDEPENDENT REVIEW MECHANISM**

In addition to the above, three investigations which came to GSOC from the Independent Review Mechanism (IRM) remained open at the end of 2019.

The IRM was established by the-then Minister for Justice and Equality in 2014. Its purpose was to consider allegations of Garda misconduct, or inadequacies in the investigation of such allegations, with a view to determining to what extent and in what manner further action might be required in each case. A panel of two senior and five junior counsel was established to review allegations.

Under section 102(5) of the Garda Síochána Act, the Minister requested GSOC to carry out public interest investigations of a total 21 cases arising from the IRM. Ten of the investigations were opened in 2015 and 11 in 2016. Of the 21 investigations received, three remained open at the end of 2019.

## SECTION 4: LOCAL INTERVENTION INITIATIVE

### INTRODUCTION

Local Intervention (LI) is a process whereby complaints made by members of the public to GSOC about the service which they have received from the Garda Síochána may be resolved at a local level. The process (described in the panel below) entails nominated Garda inspectors contacting the person making the complaint, establishing what the issues are, and attempting to resolve matters to the complainant's satisfaction.

It is a relatively new process for resolving service-type complaints about gardaí. GSOC had long sought a way of bringing matters to an early resolution without the full investigative procedure, and the introduction of local resolution followed an approach by the Garda Síochána to GSOC at the end of 2017 with a proposal for such a process.

The background to the local intervention proposal was an awareness—by GSOC and the Garda Síochána—that existing mechanisms for dealing with complaints about, for example, discourtesy, failure to return phone calls, or delays in keeping people informed about investigations, were unsatisfactory for complainants and likely to cause considerable stress for garda members.

Under existing legislation, a complaint to GSOC about a non-criminal matter would, once deemed admissible by GSOC, entail the appointment of a Garda superintendent, often assisted by a Garda inspector, to investigate the matter. The person making the complaint and the garda subject to the complaint would likely have to wait nine months or more for the investigation to be completed. As the investigation could only address whether or not there had been misbehaviour (a breach of the Discipline Regulations) on the part of the garda, it is unlikely that the issue which gave rise to the complaint would be resolved or remedied to the complainant's satisfaction.

Several hundred investigations into allegations of discourtesy and low-level neglect of duty (for example, failure by garda members to keep people informed about investigations) are opened by GSOC every year with a considerable deployment of resources by both GSOC and the Garda Síochána required.

A local intervention pilot scheme was begun in Dublin early in 2018 and extended to the South Eastern Region—comprising Carlow/Kilkenny, Tipperary, Waterford and Wexford—later in the year. By August 2019 the scheme had been rolled out nationwide.

The aim of the process is to achieve satisfaction for complainants who are dissatisfied with the level of service received from the Garda Síochána. Equally important is the opportunity for Garda management to monitor and improve customer service.

The key to the entire process is the agreement of the complainant to engage in the process, without which LI cannot be attempted. Also critical are the personal attributes of the Garda inspector designated as the nominated inspector in each division. Prior to LI being rolled out in the different divisions, the inspectors attended a training module/introductory module delivered by the Garda Síochána's Internal Affairs unit at which GSOC was also present.

### How it works

Note: All cases received by GSOC are recorded initially on the Case Management System (CMS) as 'queries'. These cases are not upgraded to complaints until such time as there is sufficient information available to allow GSOC make an admissibility determination, that is, to decide if the complaint meets the criteria set out in the legislation to be investigated or not. The local intervention process applies to complaints which are at the 'query' stage, that is, before they are considered for admissibility.

- ▶ When a complaint is received by GSOC, GSOC decides whether or not the matter is suitable for local intervention. As mentioned previously, only service-level issues, such as discourtesy or low level neglect-of-duty type complaints, are considered for local intervention. The types of issues which are considered include:
  - Poor quality or standard of service provided
  - Inefficient or no service »

- »
  - Incivility/impoliteness/rudeness
  - Lack of response to communications
- ▶ If the issue is suitable for this process, GSOC contacts the person making the complaint, explains the local intervention process and asks if the person will consent to having the matter dealt with in this way.
- ▶ If the complainant consents, GSOC refers the matter to a nominated Garda inspector who manages the process on behalf of the Garda Síochána. (If the person does not consent, GSOC will decide if the allegation will be admitted for investigation in line with the criteria and processes described in Section 1 of this report.)
- ▶ The nominated Garda inspector contacts the complainant by phone to identify what actions or outcomes he/she is seeking to achieve. The Garda inspector then has a discussion with the garda member concerned to explore what may have led to the issue. **This process is not about apportioning blame—it is about addressing the issue raised and learning from what has happened in order to prevent a reoccurrence.** The inspector contacts the complainant again to advise on the action taken to address the matter. If the complainant is satisfied with the response, the Garda inspector notifies GSOC and GSOC confirms with the complainant that he or she is satisfied. GSOC then closes the file. If the attempts to resolve the matter through local intervention are unsuccessful, the complaint is referred back to GSOC which decides if the complaint should be admitted for investigation.

**Table 4:** Outcomes under the Local Intervention Process 2019

Local Intervention 2019	No. of Cases
Referred by GSOC for Local Intervention	237
Resolved/closed following LI process	119
Referred back to GSOC for admissibility decision	58
Still with Garda inspectors at end of 2019	60

Of the 58 that were sent back for admissibility:

- 9 were determined as inadmissible
- 11 were awaiting decision at the end of 2019
- 38 were admitted and forwarded for investigation

### IMPACT

The fact that 50 percent (119 out of 237) of complaints were resolved or closed following the LI process is viewed as very positive. From complainants' perspective, they are more likely to have had their complaints addressed quickly and resolved to their satisfaction than if LI was not available. The resource implications are also significant for both GSOC and the Garda Síochána. The type of investigation usually undertaken in service-type complaints—the matters covered by local intervention—is investigation under section 94 (1) of the Act which entails GSOC recording the complaint, a Garda superintendent being appointed to investigate it, and the results of the investigation being reported back to GSOC. This requires many hours work over months and sometimes years on the part of a Garda superintendent or inspector who investigates on behalf of GSOC. It also places demands on GSOC staff who have responsibility for managing the complaints process.

While it is not possible to definitively attribute the significant fall in the number of section 94(1) investigations opened by GSOC in 2019—405 in 2019, down from 598 in 2018—to the national roll-out of LI, there is a strong correlation between the two.

The number of complaints opened by GSOC in 2019 was markedly lower than in previous years—1,756 complaints were opened in 2019 down from 1,921 in 2018 and 1,949 in 2017. But the fact that the number of queries—contacts by members of the public indicating they want to make a complaint—increased by 14 percent while the number of complaints went down suggests that the availability of LI is at least partially responsible for the fall in the number of complaints.

Among the cases resolved by local intervention in 2019 were:

- A person who had to go to court on a number of occasions because a garda failed to deal properly with the cancellation of an invalid Fixed Charge Penalty Notice (FCPN) agreed to have the matter dealt with through local intervention. A Garda inspector met the person, apologised for what had happened and assured the person that it would be explained to the garda—and to other members—the correct procedures for dealing with FCPNs which should not have been issued. The person was satisfied with that and the case was closed.
- A person who had not succeeded in getting the witness expenses to which he was entitled for attending a court case two years earlier agreed to local intervention. The person said that gardaí involved in the case had not assisted him in claiming the expenses. The designated Garda inspector contacted the person and the Garda member in question and reported to GSOC four weeks after the LI process started that the person's expenses were being processed. The expenses were paid shortly afterwards and the person reported to GSOC that he was satisfied with the outcome and happy for the case to be closed.

## SECTION 5: LEGAL ACTIVITY FOLLOWING CRIMINAL INVESTIGATION.

Criminal investigations are undertaken by GSOC following complaints (described in Section 1) and referrals (described in Section 2) from the Garda Síochána and others. Furthermore, GSOC may, if it appears desirable in the public interest to do so, and without receiving a complaint, investigate any matter where it appears to the Commission that a member of the Garda Síochána may have committed an offence or behaved in such a manner that would justify disciplinary proceedings.

Upon completion of the criminal investigation, if the Commission is of the opinion that the conduct of the member or members under investigation may constitute an offence, GSOC must send a file to the Office of the Director of Public Prosecutions (DPP).

Where there has been a death in Garda custody or where a person has died following interaction with gardaí, GSOC sends a file to the DPP in order to comply with its obligations under Article 2<sup>1</sup> of the European Convention on Human Rights.

GSOC may also send a file to the Director of Public Prosecutions when the Ombudsman Commission determines that it is in the public interest to send a file.

Section 110 of the Act also creates the offence of providing false or misleading information to the Ombudsman Commission in relation to a complaint or investigation whether by a member or civilian. Such a prosecution may not be initiated without the consent of the Director of Public Prosecutions.<sup>2</sup>

In all cases, it is the DPP who decides whether or not to prosecute the case in court

### FILES SENT TO DPP

In 2019, GSOC sent 23 files to the DPP following criminal investigations by GSOC investigators. Arising from these, there were:

- 5 directions for prosecution
- 14 directions for no prosecutions
- 4 decisions pending at the end of 2019

In addition, there were five decisions made by the DPP in 2019 on files pending at the end of 2018—there were two directions for prosecution and three for no prosecution.

### Directions for prosecution were given in the following cases:

- One count of assault contrary to section 2 of the Non-Fatal Offences Against the Person Act 1997 (summary charge only) against two members of the Garda Síochána.
- Offences contrary to section 110 of the Garda Síochána Act 2005 against two persons (not members of the Garda Síochána).
- One count of assault contrary to section 2 of the Non-Fatal Offences Against the Person Act 1997 (summary charge only) and one count of assault causing harm contrary to section 3 of the Non-Fatal Offences against the Person Act 1997 against a member of the Garda Síochána.
- One count of assault contrary to section 2 of the Non-Fatal Offences Against the Person Act 1997 against a member of the Garda Síochána.
- One count of careless driving contrary to section 52 of the Road Traffic Act 1961 as amended (summary charge only) against a member of the Garda Síochána.
- Offences under section 62 of the Garda Síochána Act, 2005 against a member of the Garda Síochána (section 62 prohibits the disclosure of certain information).
- Two counts of assault causing harm contrary to section 3 of the Non-Fatal Offences Against the Person Act 1997 against a member of the Garda Síochána.

### CASES DECIDED IN COURT IN 2019

- A garda member had an offence contrary to section 4 of the Theft and Fraud Offences Act 2001 dismissed on consent and a count of assault contrary to section 2 of the Non-Fatal Offences Against the Person Act 1997 was dismissed on direction.

1 Article 2 obliges the State through its agents to refrain from causing the deprivation of life and imposes a duty on the State to investigate suspicious deaths. It says the duty to investigate is even stronger where the death has occurred while the person was detained by the State. Where Article 2 engages, the decision must be made by a prosecutor.

2 Section 110(2) of the Garda Síochána Act 2005.

- Charges against two gardaí (one charge each) of assault causing harm contrary to section 3 of the Non-Fatal Offences Against the Person Act 1997 were dismissed after the case was heard.
- A garda member was convicted of careless driving (contrary to section 52 of the Road Traffic Act 1961) and fined €250.
- A complainant (not a member of the Garda Síochána) was convicted on one count of an offence contrary to section 12 of the Criminal Law Act 1976 and fined €800 (section 12 describes the offence of knowingly making a false report or statement tending to show that an offence has been committed).
- A garda member was found guilty of assault contrary to section 2 of the Non-Fatal Offences against the Person Act 1997. Sentencing was listed to take place in 2020.
- A garda member was convicted of assault causing harm contrary to section 3 of the Non-Fatal Offences against the Person Act 1997 and acquitted of criminal damage contrary to section 2 of the Criminal Damage Act 1991. Sentencing was listed to take place in 2020.
- A criminal trial dealt with a sexual assault allegation after a GSOC investigation. A garda member was convicted by a jury and a prison sentence was imposed. The conviction has been appealed.

### Case summary

A Garda superintendent made a referral to GSOC under section 102 (1) of the Garda Síochána Act, 2005 following the death of a woman who was fatally injured when struck by a marked Garda vehicle.

GSOC began an independent investigation on foot of the referral. The investigation established that gardaí were responding to a panic alarm at a nearby service station at the time of the incident. Garda accounts stated lights and sirens were activated on the car. The woman was crossing the road and had almost reached the footpath on the other side when she was struck by the Garda vehicle which was travelling at speed. »

» Witnesses said the pedestrian did not use the pedestrian crossing but was clearly visible on the road as there was no other traffic. There was conflicting evidence about whether or not the siren on the Garda car was activated.

Following its investigation, GSOC sent a file to the Director of Public Prosecution (DPP) who directed the driver of the Garda car be prosecuted for dangerous driving contrary to section 53 of the Road Traffic Act 1961, as amended.

The trial, before a jury, took place over a number of days during which a number of accounts of the road traffic collision were given. A jury convicted the garda by majority verdict of careless driving causing death. The garda received a four year suspended sentence and was ordered to pay a fine of €2,000 and make a €5,000 payment to the Irish Road Victims Association.

### Case summary

A complaint alleging a garda had assaulted a person was made to the Garda Síochána and forwarded to GSOC in accordance with section 85. The complainant said she and her partner were arrested and brought before a court. Having left the court the complainant then tried to re-enter the court. The complainant stated she was told by a garda that she was not allowed to re-enter court, and that the garda then grabbed her and pushed her with force down some steps. »

» The complaint was deemed admissible and a criminal investigation was initiated.

The garda member subject of the complaint was invited to GSOC for a voluntary interview after caution but refused as the garda was entitled to do.

GSOC sent a file to the Director of Public Prosecutions (DPP), as the use of force in the circumstances described may have constituted an assault, contrary to section 3 of the Non-Fatal Offences against the Person Act 1997.

The DPP directed that the garda member not be prosecuted. Disciplinary action was considered, but because the garda member retired during the course of the criminal investigation the Discipline Regulations no longer applied.

- A member of the Garda Síochána was charged with two counts of assault causing harm contrary to section 3 of the Non-Fatal Offences against the Person Act 1997.
- A member of the Garda Síochána was facing charges for offences under section 62 of the Garda Síochána Act 2005 (section 62 prohibits the disclosure of certain information).
- Two people (not members of the Garda Síochána) are charged with offences contrary to section 110 of the Garda Síochána Act 2005 (section 110 deals with knowingly providing false or misleading information to GSOC).
- Two members of the Garda Síochána are charged with assault contrary to section 2 of the Non-Fatal Offences against the Person Act 1997 (summary charge only).

### Cases Pending before the Courts at the end of 2019

- A member of the Garda Síochána was facing charges of dangerous driving causing death, failure to keep the vehicle at the scene contrary to section 106(1)(b) and (3)(aa) of the Road Traffic Act, 1961 and failure to offer assistance contrary to section 106 (aa) and (3)(aa) of the Road Traffic Act 1961.
- A member of the Garda Síochána was facing charges of assault contrary to section 2 of the Non-Fatal Offences against the Person Act 1997, dangerous driving contrary to section 53 of the Road Traffic Act, 1961, using a vehicle for which motor tax is not in force contrary to section 13(1) of the Road Traffic Act, 1920 and failing to display a tax disc contrary to section 73(1) of the Finance Act, 1976.
- A garda was facing charges of careless driving contrary to section 52 of the Road Traffic Act 1961 as amended (summary charge only).
- A member of the Garda Síochána was facing a charge of assault contrary to section 2 of the Non-Fatal Offences against the Person Act 1997.

### Non-Party Disclosure of Evidence to the Defence

On 11 June 2019, a revised Protocol entitled *Non-Party Disclosure of Evidence to the Defence in Criminal Proceedings where GSOC has not sent a file to the DPP* was executed by GSOC and the Director of Public Prosecutions.

The Protocol engages where GSOC receives a complaint in relation to an incident which is also the subject of a separate prosecution on foot of a Garda investigation.

Requests for non-party disclosure can be made directly to GSOC. The information required in order for GSOC to process such a request is available on the GSOC website. A copy of the Non-Party Disclosure Protocol is also available on the website at: <https://www.gardaombudsman.ie/about-gsoc/non-party-disclosure/>

From 11 June 2019 to 31 December 2019, **30** Non-Party Disclosure files were processed by GSOC.

## SECTION 6: INFORMING GARDA POLICY AND POLICING PRACTICE

GSOC investigators sometimes encounter practices or issues during the course of their investigations which GSOC believes need to be brought to the attention of Garda management. The practices or issues outlined here relate to systemic or management issues rather than to the behaviour of individuals. The Ombudsman Commission believes that highlighting systemic or management issues when they arise, and making recommendations to avoid the recurrence

of similar incidents, is an important element of oversight.

The Garda Síochána's responses to the recommendations are included in the table below and, except where otherwise stated, were provided in an update from Strategy and Transformation, Garda Headquarters in correspondence received on 6 March 2020.

**Table 5:** Recommendations made by GSOC in 2019

	General subject matter	Specific subject matter	Recommendation and response
SR1	Garda members in court	Members providing character references in a private capacity	<p>An investigation was carried out by GSOC into an allegation that gardaí and TUSLA failed to take sufficient action following the making of a complaint of sexual abuse against a minor. During the course of the investigation it was established that a serving Garda member had provided a character reference in support of the defendant at his trial. Given the nature of the allegations, the Commission considers that it is not appropriate for Garda members to provide such references in a private capacity. The provision of these references could be perceived in a negative light by the public. However, the Commission recognises that there is no HQ circular or guidance provided to members regarding any restriction on members providing references.</p> <p><i>Recommendation issued by GSOC on 31 July 2019</i></p> <p><b>GSOC recommended that guidance be issued to members regarding the provision of character references in a private capacity.</b></p> <p>Response: the Policy Governance and Co-ordination Unit has advised that existing code instructions are relevant to this case regarding the provision of character references in a private capacity. The relevant excerpt is:</p> <p><i>An Garda Síochána Code 47.5— 'Correspondence from Private Individuals'</i></p> <p><i>(2) Members shall not, except where otherwise sanctioned, supply information to individuals as to the character, respectability or financial position of any person</i></p> <p><i>(3) The sanction referred to at sub-section (2) will be obtained from Assistant Commissioner, Crime and Security, Garda Headquarters</i></p>

	General subject matter	Specific subject matter	Recommendation and response
SR2	Seizure of property	Record keeping in relation to property seized	As part of an investigation undertaken by the Garda Síochána, property was seized from the complainant's home. The Garda Síochána facilitated the examination of a particular item of property by an independent expert. When the time came to return the property to the complainant, it was discovered that part of this item of property had been removed. No investigation was undertaken by the Garda Síochána to establish when the part of the property had been removed or by whom. GSOC reviewed the investigation at the request of the complainant, following which GSOC requested that the Garda Commissioner formally review the investigation.

*Recommendation issued by GSOC on 24 September 2019*

**GSOC recommended that:**

- 1. A photographic record should be maintained of property when it is taken into storage and when it is being returned to the owner to verify the condition of the property.**

Response: This recommendation was forwarded to the relevant policy owner Assistant Commissioner Special Crime Operations and his reply is awaited. The Strategy and Transformation Office, Garda Headquarters to follow up.

- 2. Where property is dis-assembled by the Garda Síochána or an external contractor is employed to examine the property, a record should be maintained of the examination and a note made of the condition of the item after the examination.**

Response: A HQ Directive relating to Property and Exhibits Management (PEMS) was issued on 27 November 2019 and included a Policy and Procedure document outlining the Garda Síochána's obligations to safeguard property and, where appropriate restore it to its rightful owner. This replaced earlier 'PEMS Policy & Procedure Manual'. Garda Síochána considers this recommendation to be implemented.

- 3. The Garda Síochána should record a note and give a receipt for all property seized or surrendered.**

Response: The directive mentioned above is also relevant in respect of this recommendation and therefore the Garda Síochána considers this recommendation to be implemented.

	General subject matter	Specific subject matter	Recommendation and response
SR3	Correspondence Registers	Correspondence registers Good characters references	<p>The complainant in this case applied for a certificate of good character from a garda station in January 2019. He was abroad at the time and there was a series of emails regarding errors made in providing him with the relevant reference. As part of the investigation, the relevant emails and correspondence register were obtained. It transpired that a correspondence register, previously used and created in 2016 for an earlier request made by the complainant was used for the new request instead of a new register being created. The investigation concluded that a systems error took place, and responsibility could not be positively attributed to any one person.</p> <p><i>Recommendations issued by GSOC on 8 July 2019</i></p> <p><b>GSOC recommended that:</b></p> <ol style="list-style-type: none"> <li><b>1. New correspondence registers should be created when new correspondence is received – the use of pre-existing registers from previous requests may lead to data breaches or correspondence being sent to the wrong address.</b></li> </ol> <p>Response: This recommendation was forwarded to the relevant policy owner Executive Director Executive Support and Corporate Services who is currently considering the appropriate action required to address this recommendation. The STO* will continue to monitor progress in this regard and provide an update to GSOC.</p> <ol style="list-style-type: none"> <li><b>2. The Garda Síochána should consider reviewing the processes in District Offices to ensure that individual responsibility is assigned regarding the processing of applications, and individual staff members are able to be held accountable.</b></li> </ol> <p>Response: In relation to the specific issue which gave rise to this recommendation, namely an unsigned email being sent to the complainant, HQ Directive 056/2019 (the 'ICT Acceptable Use' procedure document), which issued to the organisation on 12 November 2019, provides as follows:</p> <p><i>“Sending chain letters, anonymous or pseudonymous electronic mails from any An Garda Síochána mail account is prohibited.”</i></p> <p>A further direction is also currently under consideration which, it is proposed, will direct that all correspondence must be identifiable with the author.</p>

\*Strategy and Transformation Office

General subject matter	Specific subject matter	Recommendation and response
		<p>A policy owner in respect of Certificates of Character has also now been identified who will consider whether any further actions are required to fully implement this recommendation. The STO will continue to monitor this issue and update GSOC.</p> <p><b>3. The Garda Síochána should consider re-circulating its guidelines regarding the reporting of data breaches to District Office staff.</b></p> <p>Response: In respect of this recommendation, the Data Protection Unit has advised that it has been engaging in a series of awareness raising of data protection across the organisation, including in respect of data breaches. This awareness raising includes training and presentations at divisional management meetings and the Garda College. In addition, HQ Directive 95/2012 and the Garda Data Protection Code of Practice are currently being revised and will be circulated as soon as possible.</p>
SR4	Communication with Victims of Crime Responsibility for update victims of crime	<p>An investigation was carried out by GSOC into an allegation of negligence by a Garda member in the manner in which this member investigated a complaint of attempted sexual assault.</p> <p>The complainant also alleged negligence by the Garda member who failed to contact her and update her on the case when the garda had committed to doing so. GSOC found that all allegations were fully investigated and addressed by the investigating officer. However, it found that within the Garda investigation there had been a clear lack of communication between the investigating officer, the Juvenile Liaison Officer and the complainant, which resulted in the responsibility for updating the complainant being over-looked by all parties. The GSOC investigation has highlighted a gap in the responsibility of updating a complainant in criminal matters where the Juvenile Liaison Diversion Programme is being considered for a child accused.</p> <p><i>Recommendation issued by GSOC on 11 December 2019</i></p> <p><b>GSOC recommended that:</b></p> <p><b>The Garda Síochána implement a Victims of Crime Communication policy to provide guidance for Garda members when referring or handing over an investigation to another Garda member or office. This handover should include a case conference between Garda members and relevant parties. An update strategy should be implemented for victims of crime with the responsibility for updating the victim clearly placed on a specific Garda member.</b></p> <p>Letter of acknowledgment received dated 22 January 2020</p>

	General subject matter	Specific subject matter	Recommendation and response
SR5	Transportation of firearms	Safe carriage of firearms when travelling in vehicles	<p>A public interest investigation was carried out by GSOC into the temporary loss of a firearm from a Garda vehicle in Dublin city centre. The GSOC investigation found that a firearm had fallen out of the boot of an unmarked Garda car after the boot of the car had opened while the vehicle was moving. During the investigation, it was found that the bag carrying the firearm had been placed in the boot of the car and there was no means of securing the bag in the boot.</p> <p><i>Recommendation sent on 16 April 2019</i></p> <p><b>GSOC recommended that:</b></p> <p><b>A more secure way of carrying firearms in vehicles be considered. It was also recommended that consideration be given to instruction/ direction to all members as to how firearms are to be carried in Garda vehicles in a safe manner for both gardaí and the public.</b></p> <p>Letter of acknowledgment received on 21 June 2019</p>

## SECTION 7: PROTECTED DISCLOSURES

As in previous years, under section 22 of the Protected Disclosures Act 2014 each public body is required to publish an annual report outlining the number of protected disclosures received in the preceding year and the action taken (if any). This report must not result in the identification of persons making disclosures.

This is the fourth such annual report from GSOC and it covers the period 1 January 2019 to 31 December 2019.

### PREVIOUS CASELOAD

In the time covered by the 2018 report 24 disclosures were made to GSOC under sections 7 and 8 of the Protected Disclosures Act 2014. This brought the total number of investigations on hand to 36 during the reporting period of 2018 and these disclosures moved into the 2019 calendar year. During 2019, 31 additional disclosures were received which brought the total number on hand to 67 during the reporting period of 2019.

### 2019 CASES

During 2019, two disclosures were discontinued under section 93 of the Garda Síochána Act 2005, following investigation. Discontinuation can occur as it may not be necessary or reasonably practicable to proceed with the investigation of a disclosure following information obtained or evidence gathered during the investigation process or where the discloser withdraws from the process.

Seven disclosures received in 2019 did not proceed past the assessment phase. This can occur for a number of reasons such as withdrawal by the discloser from the process and/or disengagement from the process. This can occur where the discloser decides to focus their efforts on other internal or external processes available to them. Additionally, where the disclosure provides anonymous or third and fourth hand information with no prospect of identifying the source of the information or which contains information around matters for which GSOC has no statutory investigative powers, it is not possible to proceed any further.

In 2019 two investigation files were sent to the Director of Public Prosecutions (DPP), the

outcome of which was awaited at the end of 2019. In addition, one report was submitted to the Garda Commissioner under section 97 of the Garda Síochána Act 2005, for matters pertaining to the Garda Discipline Regulations. The outcome of that report was awaited at the end of the year.

The remaining 55 disclosures continued undergoing investigative assessment and investigation up until the end of 2019.

### UNIT RESOURCING

In March and April 2019 the last full time GSOC investigators were allocated to the new GSOC Protected Disclosures Unit following its establishment and a publicly-run competition. After a period of training and development, these investigators began the full time task of conducting examinations and investigations into matters received under the Protected Disclosures Act 2014 alongside their colleagues within the unit. The PDU consisted of a Senior Investigations Officer and eight Investigations Officers in 2019.

GSOC has undertaken training in the area of protected disclosure legislation with two senior members of staff attending the UCD Sutherland School of Law in 2019 and completing training in this area, both being awarded professional certificates in law upon completion of this training. Other training was undertaken within the unit in forensics and evidence handling, investigative interviewing, data protection training, child protection training and studies in criminal law and practice with the Law Society.

GSOC, following an invitation, has become a member of the Network of European Integrity and Whistleblowing Authorities (NEIWA), of which GSOC is the only Irish member. NEIWA's purpose is to bring together public entities entrusted with the protection of whistleblowers and/or the handling and investigation of whistleblowers' reports.

It has been recognised by NEIWA that a coordinated commitment between European institutions to share their practical experiences dealing with disclosures under different national legislatures will contribute to each Member State establishing an effective protection regime to ensure the safety of whistleblowers, the adequate

follow up of whistleblowers' reports, and the prevention of future wrongdoing.

### **Protected Disclosures in Figures:**

- **36** on hand at end of 2018
- **31** received during 2019

Of the **67** on hand during 2019:

- **2** discontinued
- **7** did not proceed past assessment
- **2** files to the DPP (decisions awaited at end of year)
- **1** report submitted to the Garda Commissioner relating to Discipline Regulations (outcome awaited at end of year)
- **55** under assessment and investigation at end of year

## SECTION 8: INFORMATION REQUESTS

GSOC receives requests for different types of information on an almost daily basis. Most of these requests are handled by the Policy and Secretariat Unit in GSOC. This unit is responsible for processing all requests for personal information received under the Data Protection Act, 2018, requests under the Freedom of Information Act, 2014, compiling responses to parliamentary questions and representations received from members of the Oireachtas as well as dealing with general information requests received from the Department of Justice and Equality.

In addition to this work, the unit oversees policy formulation within GSOC, is responsible for corporate governance matters and provides administrative support to the Ombudsman Commission and Senior Management Team.

Within the unit, there is a dedicated number of staff who deal with data protection and FOI requests, ensuring these requests are responded to within the required time limits, promoting awareness of data protection and privacy matters within GSOC, and ensuring that GSOC adheres to its statutory obligations under the requisite legislation.

The number of data access requests and information requests received in 2019 was largely consistent with those received in 2018, however there was an increase in both the complexity and the amount of work required to respond. The staffing in the unit increased during 2019 from four to eight staff members in response to the increase in workload. The number of requests received in 2019 is outlined in Table 6 below.

In 2019, GSOC received 38 FOI requests. Most of these were for personal information held in GSOC case files, but as case files (i.e. records related to an examination or investigation under Part 4 of the Garda Síochána Act, 2005) are not covered by the FOI Act, these requests were mostly refused.

The remaining requests were for case statistics, outcomes, legal costs, running costs, information on weapons discharges and divisional complaint statistics.

The first appeal of a GSOC FOI decision to the Office of the Information Commissioner was made in 2019. The Office of the Information Commissioner is the appeals body that reviews FOI decisions made by public bodies. In this particular case, where the requester sought records relating to staff complaints and related material, GSOC determined that the request should be refused. The refusal was subsequently upheld in an internal review by another decision maker within GSOC. The requester decided to invoke their right to have GSOC's decision reviewed by the Office of the Information Commissioner. Following its review the Office of the Information Commissioner decided to uphold the decision of GSOC to refuse access to the requested records.

### MEDIA

Requests for information from journalists are dealt with by GSOC's Communications Unit which provides a 24-hour-a-day on-call service. The Unit responded to 241 queries from journalists in 2019.

**Table 6:** Information Requests Processed in 2019

Request Type	Volume
Requests under the Freedom of Information Act 2014	38
Requests under the Data Protection Act, 2018	71
Information Requests from the Dept Justice & Equality	25
Submissions in response to Parliamentary Questions	32
Representations from members of the Oireachtas	11
Media Enquiries	241

## SECTION 9: STAFF

In accordance with section 71 (3) of the Garda Síochána Act 2005, as amended, the Garda Síochána Ombudsman Commission is the employer of its staff who are civil servants in the Civil Service of the State.

At 31 December 2019, GSOC had 125 staff (including the three Commissioners) of whom 30 were employed in its Administration Directorate and 92 in the Operations Directorate. Two of GSOC's investigations officers remained on secondment to the Disclosures Tribunal for the entire year. The organisation had ten vacancies to be filled at year end. In addition to these staffing numbers, GSOC had two ICT contractors and one person contracted to provide media and communications services.

The significant expansion of GSOC during 2019 followed on from a detailed submission made by GSOC the previous year, outlining the urgent need for more resources. In February 2018, GSOC prepared a detailed business case seeking an increase in staffing urgently required to meet the organisation's workload and statutory obligations. In November 2018, following extensive discussions with the Department of Justice and Equality (DJE) and the Department of Public Expenditure and Reform (DPER), GSOC received sanction to recruit an additional 42 staff as set out in the business case. The majority of these staff were needed for the organisation's core function of complaint handling and investigation, with a smaller number for administrative and support roles which have arisen in recent years.

Having received the sanction sought, GSOC began immediately to make arrangements for the recruitment of these additional staff. This work continued throughout 2019 with the additional investigations officer posts provided for in the sanction being filled from panels established by the Public Appointments Service (PAS) on behalf of GSOC. The additional administrative staff provided for in the sanction were filled by recruiting candidates from appropriate open PAS panels for general civil service grades.

In total, 46 new members of staff joined GSOC during 2019 and 10 members of staff left the organisation. Those leaving did so to take up alternative employment opportunities, including

promotion to positions within other civil and public service bodies. One staff member retired in 2019.

GSOC draws on the services of the National Shared Services Office (NSSO) for the provision of HR, pensions and payroll administration. GSOC also utilises the Performance Management Development System (ePMDS) set up by the NSSO to record, review and support the performance and development of staff in the organisation. GSOC staff had a 90 percent compliance rate with the requirements of the PMDS cycle in 2019.

In 2016 GSOC established policy and procedures for its own staff to make disclosures under the Protected Disclosures Act 2014. No internal disclosures were received in 2019, nor had any been received during the period from 2014 to 2018.

During 2019, GSOC staff members undertook a number of fund raising activities for various charitable causes, raising a total of over €7,000. The activities included social events organised collectively by staff and the participation of individual staff members in a wide range of more public events aimed at raising awareness and funds for charitable causes generally.

### LEARNING AND DEVELOPMENT

The Ombudsman Commission continued with its commitment to the on-going training, up-skilling and development of its staff in 2019. The need to provide appropriate training to the new staff joining GSOC in 2019 was added to the needs of existing GSOC staff to access training and development opportunities throughout the year.

In addressing the training needs of staff, GSOC aimed to improve the overall level of core workplace skills relevant to the functions of the organisation. The work of GSOC's Learning and Development Manager was kept separate to the more general human resources function and was concentrated on sourcing training opportunities for staff to ensure that GSOC's teams were equipped with the necessary skills and knowledge to achieve and deliver on the organisation's strategic objectives.

Along with planning and implementing our own internal training programme, GSOC staff were

also able to avail of the suite of programmes available under the One Learning Framework which is centrally operated by the Irish Civil Service Learning and Development Centre.

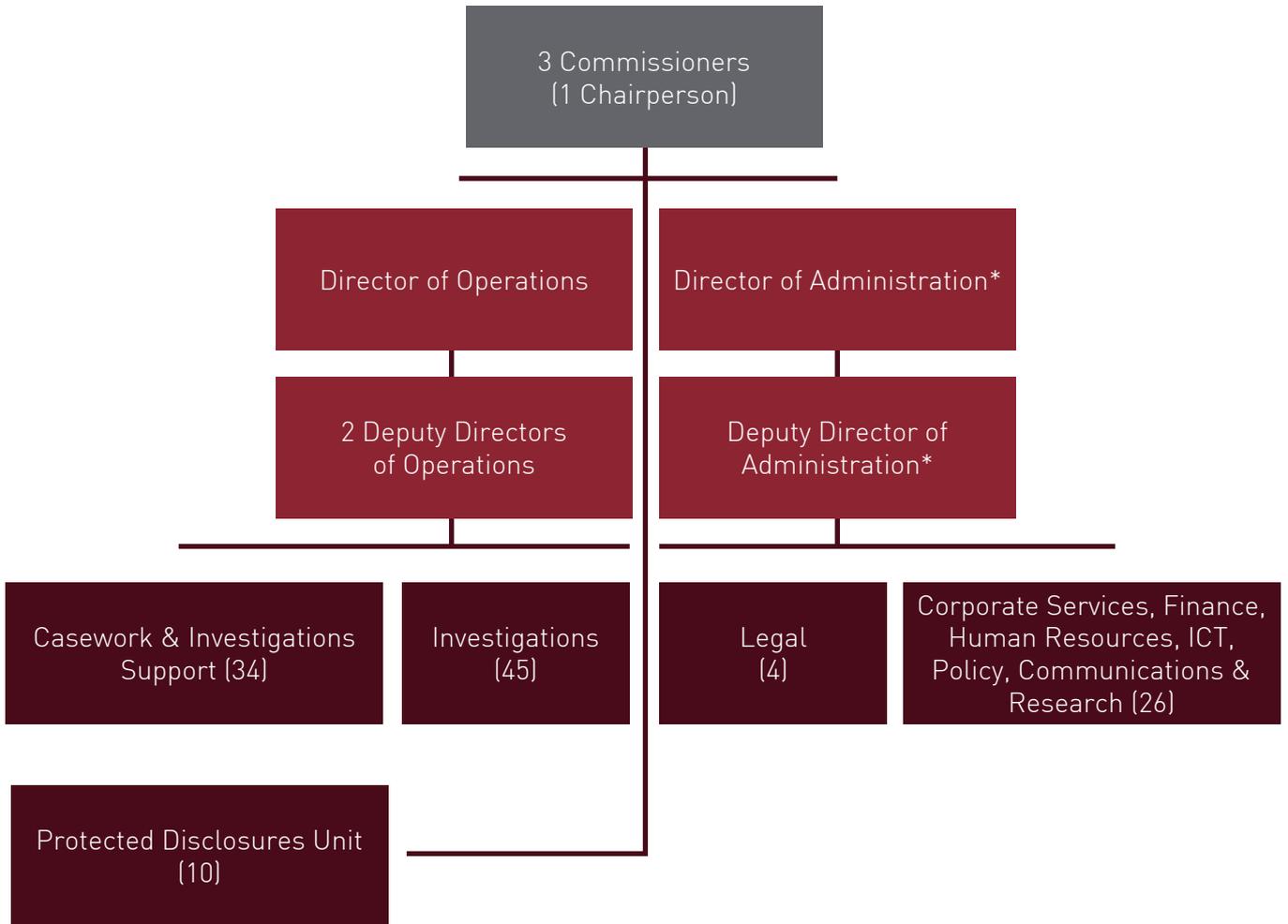
In 2019, GSOC's L&D Unit facilitated 40 different training courses or programmes for GSOC staff, 30 of which were provided by the One Learning Framework. Out of the 125 staff (including three Commissioners), 80 attended one or more of these courses. This equates to 64 percent of all staff.

Some of the more significant training provided to GSOC staff in 2019 included:

- Bachelor of Science (B.Sc) in Police Leadership and Governance in UCD - (2 Senior Investigators)
- Law Society of Ireland Diploma in Criminal Law and Practice - (11 staff members)
- Certificate in Whistleblowing Law and Practice in UCD – (2 Investigators)
- Investigative Interviewing training Level 1 – (Casework staff)
- Investigative Interviewing training Level 1 and Level 2 - (Investigators)
- Preventing or Dealing with Disruptive/ Aggressive Behaviour - (14 staff)
- Introduction to GDPR legislation – (all GSOC staff)
- Diploma in Data Protection – (6 staff)
- Freedom of Information training - (8 staff)
- ITIL Foundation training course (1 IT staff member)
- Telephone Techniques (15 Staff)

In addition, a number of GSOC staff pursued educational and training courses on their own time and in accordance with the refund of fees scheme provided for under DPER Circular 23/2007. This circular sets out the arrangements to facilitate Government Departments and Offices in building appropriate skill and expertise levels and in supporting officers' efforts in the area of self-development and life-long learning. By supporting staff in this way, GSOC is committed to the on-going need to develop new skills and new ways of working in order to enhance workplace performance in the organisation in addition to recognising that assisting staff's career development is a worthwhile investment.

**Chart 9: Human Resource Allocation and Organisation Structure**



\* The Director of Administration and Deputy Director of Administration positions were vacant at the end of the year.

## SECTION 10: CONTRIBUTION TO NATIONAL AND INTERNATIONAL LEARNING

The Ombudsman Commission and GSOC staff have ongoing interaction with national and international organisations concerned with corruption, police oversight, complaint-handling and other areas of interest to GSOC.

GSOC participates in and contributes to these organisations' activities, including conferences and seminars on topics of interest.

Events in which GSOC participated in 2019 included:

- The European Partners Against Corruption (EPAC) 19th annual conference in Stockholm, Sweden, December 10 – 12, 2019. During the General Assembly, Commissioner Patrick Sullivan introduced a motion calling on European member states to adopt as a principle that police agencies must refer to Police Oversight Bodies (POBs) all allegations of criminal conduct directed against members of police agencies. The General Assembly voted to approve the motion and it was incorporated into the Stockholm Declaration 2019. "I believe this declaration underscores the importance of the ongoing efforts here in Ireland to adopt new legislation in line with the CoFPI recommendations," said Mr Sullivan.
- Chairperson Ms Justice Mary Ellen Ring attended the Independent Police Complaints Authorities Network (IPCAN) seminar, "Relationships of police forces and the population: challenges and practices" in Paris in October.
- Following an invitation, GSOC became a member of the Network of European Integrity and Whistleblowing Authorities (NEIWA) which brings together public entities entrusted with the protection of whistleblowers and/or the handling and investigation of whistleblowers' reports. Chairperson Ms Justice Mary Ellen Ring and the head of GSOC's Protected Disclosures Unit attended a meeting of the NEIWA in Paris in December.
- Legal Conferences attended by the Legal Unit:
  - o Eden Data Protection Conference in Copenhagen in September
  - o Eurojust Seminar in Dublin in November
  - o BIOA legal interest group meeting in Edinburgh in April
  - o Annual Criminal Law Conference in the Law Society, Dublin in November 2019.
  - o Annual DPP conference in Dublin Castle in December.
  - o Professional Regulatory and Disciplinary Association (the PRDBA) Conference on update in regulatory law in May.
- Ombudsman Association Annual Conference in Belfast in May, and the Ombudsman Association Policy Network Meeting in Manchester in November
- Ombudsman Association Data Protection Officer Network meeting in Manchester was attended by the Data Protection Officer
- GSOC's Director of Operations delivered a talk on Police Accountability and Oversight in Ireland at Maynooth University at the invitation of the Irish Human Rights Network

GSOC frequently hosts visits by people in the police oversight area interested in learning of GSOC's experiences and work practices. Visitors in 2019 included:

- Dame Elish Angiolini who is conducting a major review of complaints handling, investigation and misconduct issues in relation to police in Scotland
- Members of the National Police of Ukraine who were on a study visit to Ireland organised by the European Union Advisory Mission (EUAM) in Ukraine

## CONCLUSION

New legislation giving effect to the recommendations of the Commission on the Future of Policing in Ireland (CoFPI), including its recommendations on the shape and functions of a new Garda oversight body, was awaited at the end of 2019.

In anticipation of the legislation, GSOC advanced its preparations for transitioning to a new organisation with a greater mandate. The Commission and senior management submitted a detailed strategy document to the Department of Justice and Equality, setting out the structures and requirements of the new oversight body as envisaged in the CoFPI report (September 2018).

Key differences between the current remit of GSOC and the remit of its successor body as described by CoFPI will have significant implications for the future of garda oversight. The differences include:

- Performance issues to be dealt with by Garda managers
- All allegations of wrong-doing by Garda members and Garda staff to be a matter for the new Ombudsman body

One of GSOC's challenges in 2020 and into 2021 will be in making the transition to a truly independent agency conducting criminal and serious disciplinary investigations into alleged misconduct by the Garda Síochána. This will require a clear legislative framework and good cooperation with the Garda Síochána and other oversight bodies in the new structures. It will also include the provision of the necessary resources and well trained personnel to support such work. Fair and independent investigations will ultimately enhance and support the public confidence in the work and personnel of the Garda Síochána.

The inclusion of Garda staff members as persons over whom the new body will have oversight could have significant implications for both the Garda Síochána and GSOC's successor body. This is an area where consultation and consensus should be used and sought before changes are incorporated into legislation.

# APPENDIX 1: GOVERNANCE, FINANCE AND INTERNAL CONTROLS

## GOVERNANCE

The Corporate Governance Assurance Agreement between the Garda Síochána Ombudsman Commission (GSOC) and the Department of Justice and Equality, which was signed in March 2018, sets out the broad corporate governance framework within which GSOC operates and defines key roles and responsibilities which underpin the relationship between GSOC and the Department. The Agreement sets out the arrangements for the effective governance, funding and general administration of GSOC in accordance with the Code of Practice for the Governance of State Bodies (2016). Any derogations or exceptions from the Code have been agreed with the Department and are laid out in the Corporate Governance Assurance Agreement.

### The Ombudsman Commission

The Ombudsman Commission is a three person commission consisting of two Commissioners and a Chairperson, one of whom must be a man and one of whom must be a woman. All members of the Ombudsman Commission must be appointed by the President following the nomination of the Government and the passage of resolutions by both houses of the Oireachtas recommending their appointment. One of the Ombudsman Commission members is appointed as Chairperson.

In 2019, the Ombudsman Commission comprised: Ms Justice Mary Ellen Ring (Chairperson), Mr Kieran FitzGerald and Mr Patrick Sullivan. The Senior Management Team (SMT) comprised Mr Darren Wright, the Director of Operations, Ms Niamh McKeague, Head of Legal Affairs, Mr Garrett Croke, Deputy Director of Operations and Ms Candice Will, Deputy Director of Operations (Ms Will took up her appointment in September 2019). The Director of Administration position remained vacant during 2019 pending sanction from the Department of Public Expenditure and Reform to fill the post.

### Meetings and Matters for Decision by the Ombudsman Commission

The Ombudsman Commission formally meets with the SMT at least once a month, excluding the month of August, to discharge its duties (See Table A for schedule of 2019 meetings). It is obliged to ensure compliance with statutory and administrative requirements in relation to the approval of the number, grading, and conditions of appointment of all staff. The Ombudsman Commission and its SMT

met 11 times in 2019. The Ombudsman Commission makes the following types of decisions:

- Capital projects
- Delegated authority levels, financial management policies and risk management policies
- Approval of terms of major contracts
- Significant acquisitions, disposals and retirement of GSOC's assets
- Approval of annual budgets
- Assurances of compliance with statutory and administrative requirements in relation to the approval of the number, grading, and conditions of appointment of all staff
- Approval of Statements of Strategy
- Production of Annual Reports and accounts

### Responsibilities and Objectives

Sections 65 to 67 of the Garda Síochána Act details the membership, terms and conditions, appointment, functions and objectives of the Ombudsman Commission. Along with its statutory functions and objectives, its responsibilities also include:

- Promoting the success of GSOC by leading and directing GSOC's activities
- Providing strategic guidance to GSOC while still monitoring and supervising the discharge of any of its delegated functions
- Reviewing and guiding strategic direction, major plans of action, risk management policies and procedures, annual budgets and business plans, setting performance objectives, monitoring implementation and performance, and overseeing major capital expenditure decisions
- Acting on a fully informed and ethical basis, in good faith, with due diligence and care, and in the best interest of GSOC, subject to the objectives set by Government
- Promoting the development of the capacity of GSOC including the capability of its leadership and staff
- Holding senior management to account for the effective performance of their delegated functions and responsibilities

### Performance Evaluation

The Ombudsman Commission completed a Self-Assessment Effectiveness and Evaluation Review in respect of its own performance in 2019.

**Table A:** Dates and Attendance at Commission Meetings.

Date	Attendance (Commissioners / Directors / Head of Legal Affairs)	
15 January 2019	Ms Justice Mary Ellen Ring Dr Kieran FitzGerald Mr Patrick Sullivan	Mr Darren Wright Ms Niamh McKeague
12 February 2019	Ms Justice Mary Ellen Ring Dr Kieran FitzGerald Mr Patrick Sullivan	Mr Darren Wright Ms Niamh McKeague
12 March 2019	Ms Justice Mary Ellen Ring Dr Kieran FitzGerald Mr Patrick Sullivan	Mr Darren Wright Ms Niamh McKeague
9 April 2019	Ms Justice Mary Ellen Ring Dr Kieran FitzGerald Mr Patrick Sullivan	Mr Darren Wright Ms Niamh McKeague
14 May 2019	Ms Justice Mary Ellen Ring Dr Kieran FitzGerald Mr Patrick Sullivan	Mr Darren Wright Ms Niamh McKeague
11 June 2019	Ms Justice Mary Ellen Ring Dr Kieran FitzGerald Mr Patrick Sullivan	Mr Darren Wright Ms Niamh McKeague
9 July 2019	Ms Justice Mary Ellen Ring Dr Kieran FitzGerald Mr Patrick Sullivan	Mr Darren Wright
10 September 2019	Ms Justice Mary Ellen Ring Dr Kieran FitzGerald	Mr Darren Wright Ms Niamh McKeague
8 October 2019	Ms Justice Mary Ellen Ring Dr Kieran FitzGerald Mr Patrick Sullivan	Mr Darren Wright Ms Niamh McKeague
12 November 2019	Ms Justice Mary Ellen Ring Dr Kieran FitzGerald Mr Patrick Sullivan	Mr Darren Wright Ms Niamh McKeague
10 December 2019	Ms Justice Mary Ellen Ring Dr Kieran FitzGerald	

**FINANCE**

GSOC is funded through the provision of an annual grant from the Vote for the Department of Justice and Equality. The Secretary General of the Department is the Accounting Officer for the Commission. The Chairperson is responsible,

in conjunction with the Accounting Officer, for preparing GSOC's accounts.

Section 77 of the Garda Síochána Act 2005 requires the Garda Ombudsman Commission to keep, in such form as may be approved by the Minister for Justice and Equality with the consent of the

Minister for Public Expenditure and Reform, all proper and usual accounts of money received and expended by it. The Commission is responsible for keeping adequate accounting records which disclose, with reasonable accuracy at any time, its financial position and enables it to ensure that the financial statements comply with Section 77 of the Garda Síochána Act 2005.

Having regard to the size of the Ombudsman Commission, it is not deemed feasible for it to establish its own Internal Audit or its own Audit and Risk Committee. Alternative arrangements, with the agreement of the Department, have been put in place to provide GSOC with access to the Department's Internal Audit Unit and Audit and Risk Committee. The terms of reference of the Audit and Risk Committee are held by the Department of Justice and Equality.

In addition, GSOC is subject to annual audit by the Comptroller and Auditor General and has

an internal risk management process which is overseen by a Risk Management Officer and a Risk Management Monitoring Group (RMMG).

With regard to general expenditure, GSOC carried out refurbishment work in 2019 to upgrade the lifts system in its premises at 150 Upper Abbey Street, Dublin 1. The total cost of this work was €224,000 and included the installation of a new Fire Evacuation lift to ensure that the evacuation options available for staff in the event of an emergency occurring on the premises are upgraded to the standard required under health and safety legislation.

The Ombudsman Commission ensured that GSOC fully complied with the Public Spending Code throughout 2019.

Table B shows the amount of expenditure by GSOC in 2019.

**Table B:** Expenditure by GSOC in 2019.

Category	Original Budget	Expenditure	
Salaries, Wages & Allowances	€7,000,000.00	<b>A01 - Pay &amp; Allowances</b>	<b>€6,917,528.66</b>
Non-Pay	€3,658,000.00	A02 - Travel & Subsistence	€125,163.69
		A03 - Incidental Expenses	€708,610.42
		A04 - Postal & Telecommunication Services	€95,392.90
		A05 - Office Machinery & Other Office Supplies	€780,932.00
		A06 - Office & Premises Expenses	€2,038,862.73
		A07 - Consultancy	€0
		A08 - Research Expenditure	€22,680.82
Total Budget Allocation 2019	€10,658,000.00	<b>Total Pay &amp; Non-pay Expenditure in 2019</b>	<b>€10,689,171.22</b>

**Notes:**

- Figures quoted in Table B (above) and Table C (next page) have not yet been audited by the Comptroller and Auditor General.
- The table above does not include Appropriation in Aid, which was €230,053.39 in 2019.

### NON-SALARY RELATED FEES

In relation to non-salary related fees paid in respect of members of the Ombudsman Commission for 2019 this figure is NIL.

### KEY MANAGEMENT PERSONNEL

Total salaries paid to key management personnel by the Garda Síochána Ombudsman Commission amounted to €430,694.

### CONSULTANCY COSTS

Consultancy costs include the cost of external advice to management and exclude outsourced 'business-as-usual' functions. The total cost for 2019 was €104,998.

**Table C:** Employee Benefits Breakdown:

Range From-To	Number of Employees	
	2019*	2018
€60,000 - €69,999	16	13
€70,000 - €79,999	9	11
€80,000 - €89,999	3	4
€90,000 - €99,999	3	3
€100,000 - €109,999	2	1
€110,000 - €119,999	-	-
€120,000 - €129,999	-	-
€130,000 - €139,999	1	1
€140,000 - €149,999	2	1
€150,000 - €159,999	-	1

\* The 2019 figures include salary, overtime allowances and other payments made on behalf of the employee but exclude employer's PRSI.

## **Statement regarding the system of internal control in GSOC**

The financial statements including the Statement of Internal Control in GSOC below have not yet been audited by the Comptroller and Auditor General and to date, this statement remains under review.

The Garda Síochána Ombudsman Commission hereby acknowledges our responsibility for ensuring that an effective system of internal controls is maintained and operated. This responsibility takes account of the requirements of the Code of Practice for the Governance of State Bodies (2016).

### **Purpose of the System of Internal Control**

The system of internal control can only provide reasonable and not absolute assurance that assets are safeguarded, transactions authorised and properly recorded, and that material errors or other irregularities are either prevented or would be detected on a timely basis. The Commission is satisfied that the systems which it has in place are reasonable and appropriate for the Commission's circumstances having regard to its size, level of expenditure, staff resources and the nature of its operations.

### **Capacity to Handle Risk**

The Senior Management Team (SMT) has engaged fully in the monitoring of risk and, in so far as possible having regard to the operating environment, dealing with the risks that have presented throughout 2019. The following steps have been taken to ensure an appropriate control environment:

- Decisions on expenditure rest with line managers and the members of the Commission in line with approved expenditure thresholds;
- Management responsibilities are clearly assigned and communicated between the Director of Administration, Corporate Services and the Finance Team;
- Internal reporting relationships are clearly assigned;
- The Department of Justice and Equality provides an agency payment service for the Commission during the accounting year. Payroll Shared Service Centre process payroll and travel and subsistence claims during the accounting year. The Department of Justice and Equality also provides internal audit, fixed asset register maintenance, purchase ordering and tax filing services to the Garda Síochána Ombudsman Commission.
- An external contractor undertakes regular reviews of controls. This process complements the audits undertaken by the Department of Justice and Equality internal audit unit;
- The Garda Síochána Ombudsman Commission has in place robust financial procedures and, in addition, engaged the services of an external accounting firm.

### **Risk and Control Framework**

The Commission has established processes to identify and evaluate business and financial risks by:

- Identifying the nature and extent of financial risks facing the office
- Assessing the potential of identified risks occurring
- Evaluating and assessing the internal capacity of the office to manage the risks that do occur
- Examining financial risks in the context of strategic goals
- The work of the Risk Management Monitoring Group.

The Ombudsman Commission has in place a Strategy for Risk Management, one element of which is its Risk Management Monitoring Group (RMMG). The RMMG was established in 2016 and consists of 12 members comprising of various grades, including Commissioner, in order to ensure cross organisational participation and buy-in to the risk management process.

The role of the RMMG is to provide oversight to the management of risk by line managers and heads of business units, ensure the implementation of a cohesive approach to risk management throughout GSOC, and provide assurance to Senior Management that all known risks are mitigated against. The RMMG met six times in 2019 to review risk and update GSOC's risk register.

GSOC's risk register identifies specific risks, details the controls and actions needed to mitigate those risks, and assigns responsibility for the mitigation and operation of controls to key staff. Every month, the Ombudsman Commission reviews material risk incidents and notes or approves actions taken by staff to mitigate or manage the identified risks to a tolerable level.

### **Monitoring and Review**

The system of internal control is based on internal management of information, administrative procedures and a system of delegation and accountability. In particular, this involves:

- Regular review by the Commission and Corporate Services of financial information provided by the Department of Justice and Equality
- Comprehensive budgeting with an annual budget which is reviewed regularly by senior management
- Submission of monthly finance reports to the Director of Administration for reviews.

Mechanisms have been established for ensuring the adequacy of the security of the Commission's information (internally within GSOC) and communication technology systems.

### **Incidents of Significant Control Failings**

In 2019, there has been no incidence of significant control failings.

### **Compliance with the Public Spending Code**

The Ombudsman Commission has procedures in place to ensure compliance with current procurement rules and guidelines as set out by the Office of Government Procurement.

### **Approval by the Commission**

The DJE Internal Audit Unit carried out a review of internal controls to ensure that the Ombudsman Commission has considered all aspects of risk management, ICT, internal controls and management practices for 2019 and up to the date of approval of the annual report and financial statements. The DJE Internal Audit review will be signed off by the Commission and will be included for review by the external auditors when auditing of GSOC's financial statements for 2019 takes place in 2020.

In general terms, the Commission is satisfied that the system of internal controls instituted in GSOC is adequate to provide it with sufficient assurances and that those controls are implemented and reviewed in an efficient and effective manner.

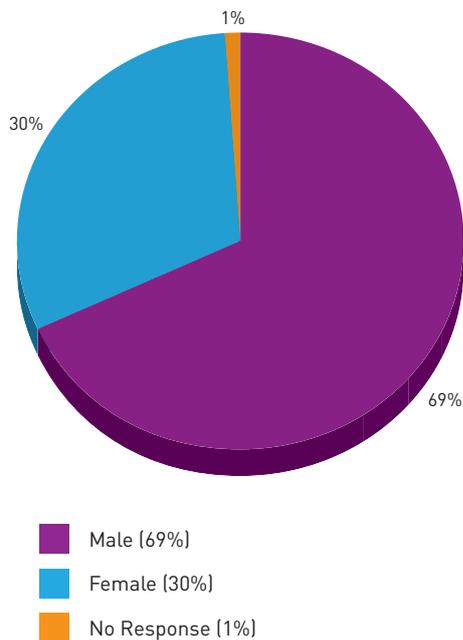
## APPENDIX 2: PROFILE OF PEOPLE WHO COMPLAINED IN 2019

Charts below illustrate the profile of people who complained to GSOC in 2019.

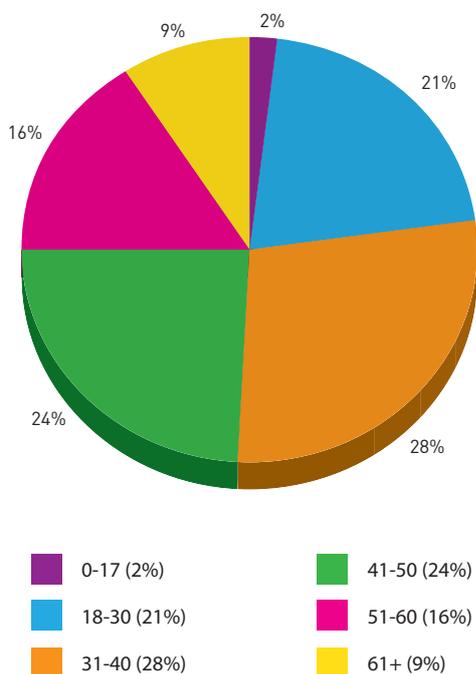
Results are based on a survey distributed to all complainants when they submit a complaint. 23% of complainants (402) responded in 2018. All responses are anonymous.

*\*For the purposes of whole numbers some figures were rounded up or down*

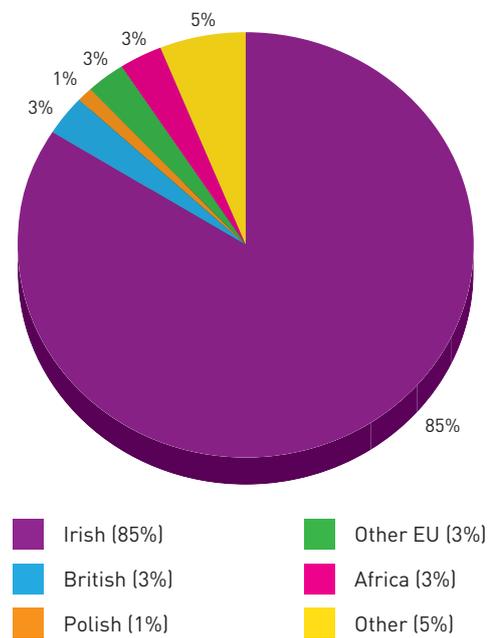
**Chart 10: Gender**



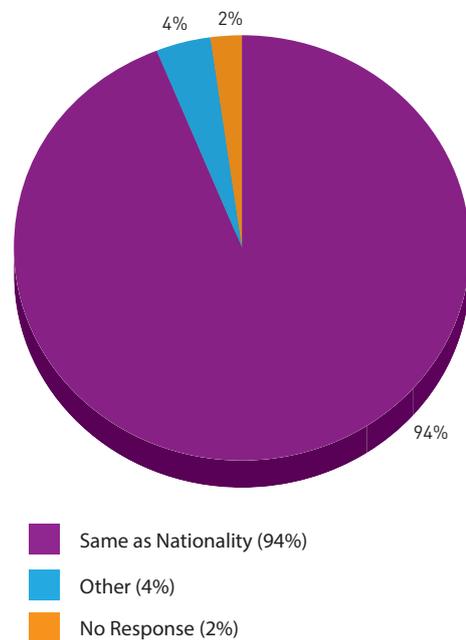
**Chart 11: Age**



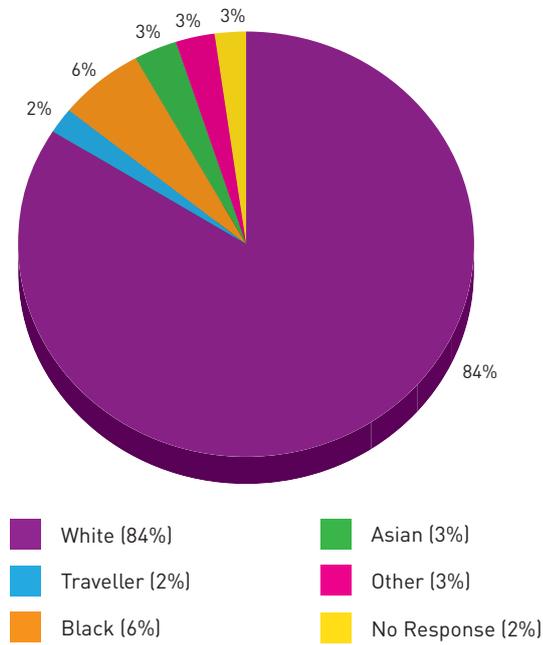
**Chart 12: Nationality**



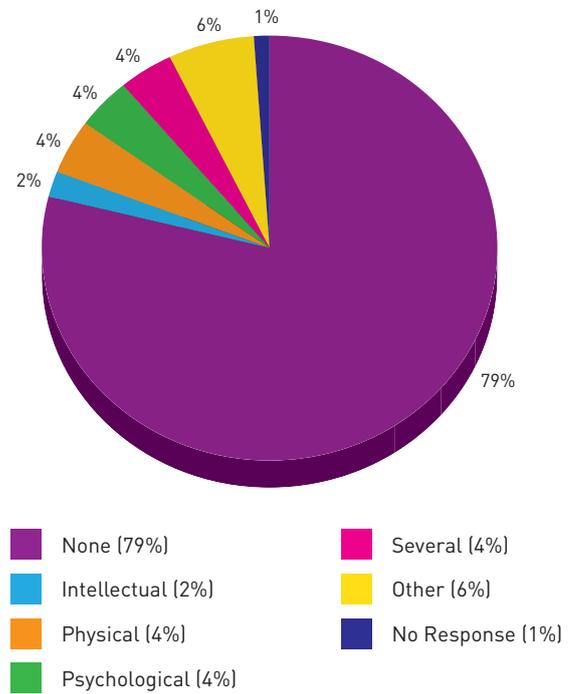
**Chart 13: Country of birth**



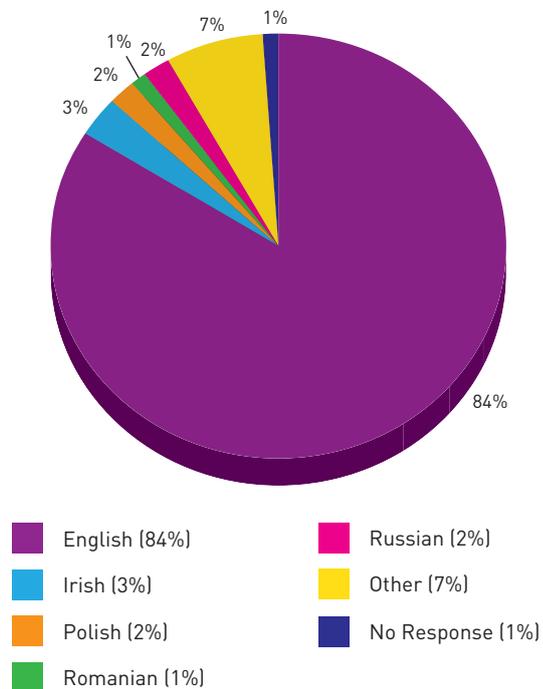
**Chart 14: Ethnicity**



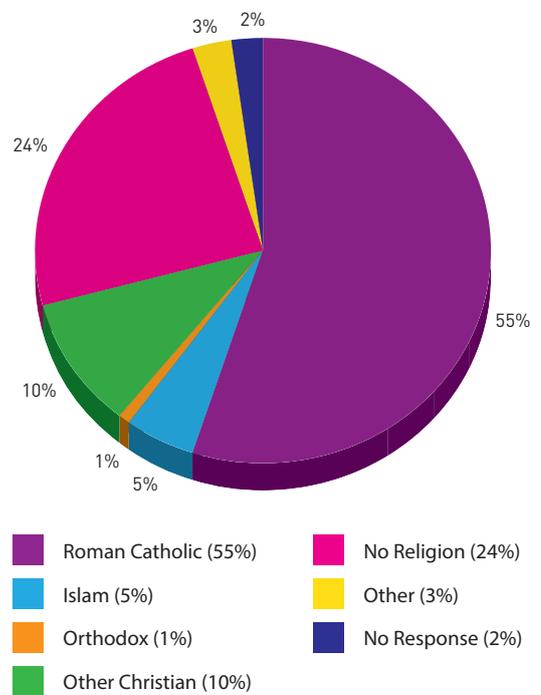
**Chart 16: Disability**



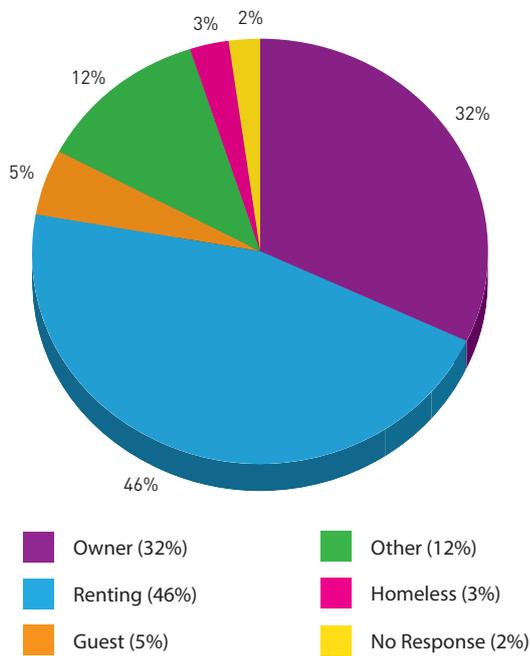
**Chart 15: Language**



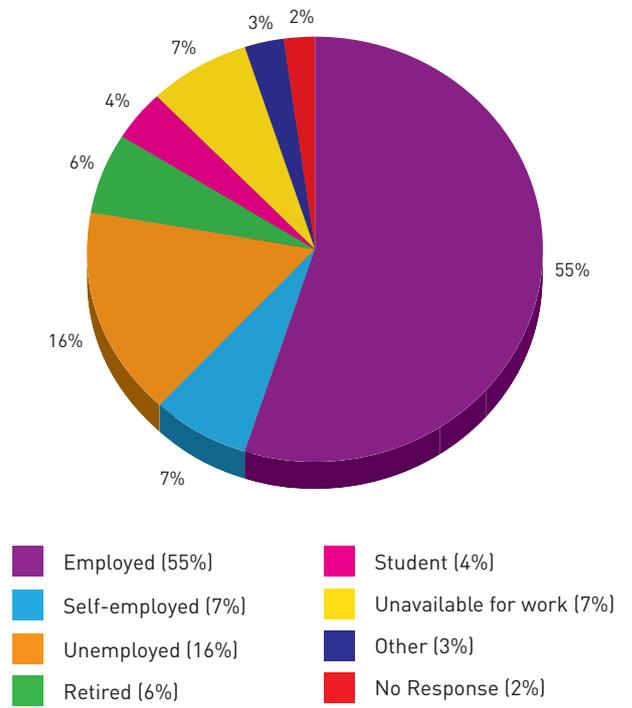
**Chart 17: Religion**



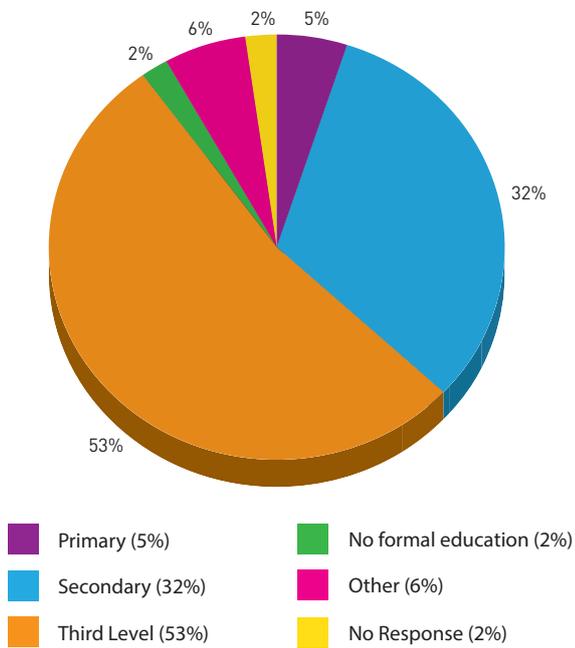
**Chart 18: Housing**



**Chart 20: Employment**



**Chart 19: Highest Level of Education**

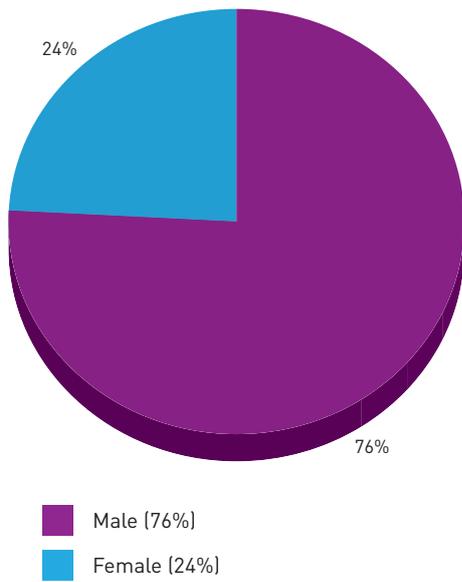


## APPENDIX 3: PROFILE OF GARDAÍ COMPLAINED OF IN 2019

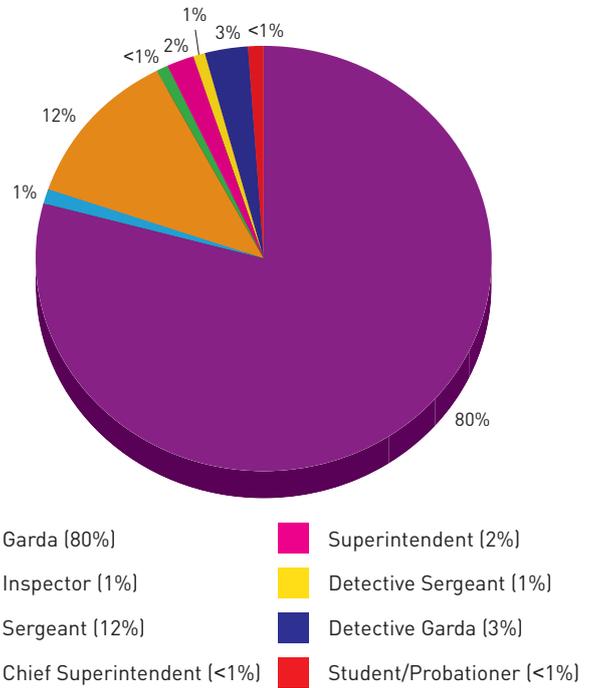
The charts on this page show the profile of gardaí complained of in admitted allegations in 2019 where the identity (gender and rank) of the gardaí was known.

*\*For the purpose of whole numbers some figures were rounded up and down.*

**Chart 21:** Gender of members of the Garda Síochána in allegations admitted in 2019



**Chart 22:** Rank of members in allegations admitted in 2019



## APPENDIX 4: PUBLIC ATTITUDES

### METHODOLOGY

Fieldwork was conducted via the Behaviour & Attitudes national Face to Face Omnibus survey (Barometer) over the period 2 – 14 January, 2020. The previous 2018 survey was carried out also using the Face to Face Omnibus survey (Barometer) over the period 1 – 13 February 2018. And the earlier survey carried out in 2016 used the same method, Face to Face Omnibus over the period 15 – 25 January 2016. The earlier 2013 survey was carried out by way of a telephone Omnibus (TeleBarometer) over the period of 3 – 15 December 2013. Where relevant, comparisons are shown between four survey periods.

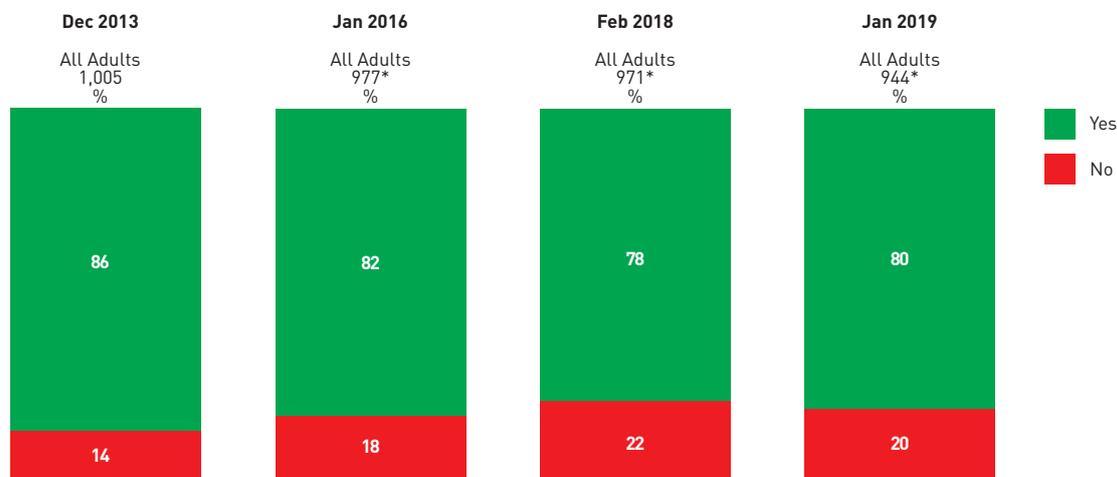
Interviewing was conducted across 63 separate sampling points per survey and all aspects of this Barometer survey are identical to using a bespoke ad hoc survey approach. Some 1,003 members of the public were interviewed. Within each sampling point, respondents were selected on the basis of quota controls relating to gender, age, social class within region and also factors such as Garda interaction.

### Key Findings

- Of those expressing an opinion, 72% indicate they would be willing to make a complaint if they had a bad experience with a Garda, back in line with 2016 levels.
- The primary reasons for perceiving the Garda Ombudsman as an important service relate to the need for regulatory standards to keep Gardaí accountable.
- There is a greater understanding of the term 'Garda Ombudsman' than there is of the term 'GSOC'

### Awareness of Garda Ombudsman

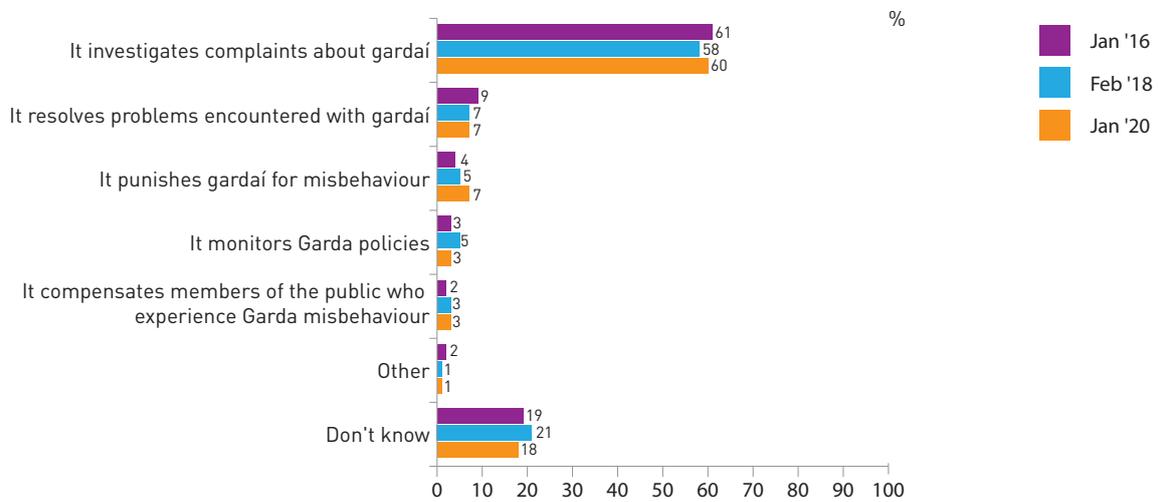
Base: All Participants excluding Undecided



- Eight in ten of those expressing an opinion are aware of GSOC – on a par with previous years.

## Awareness of Garda Ombudsman Role – First Mention

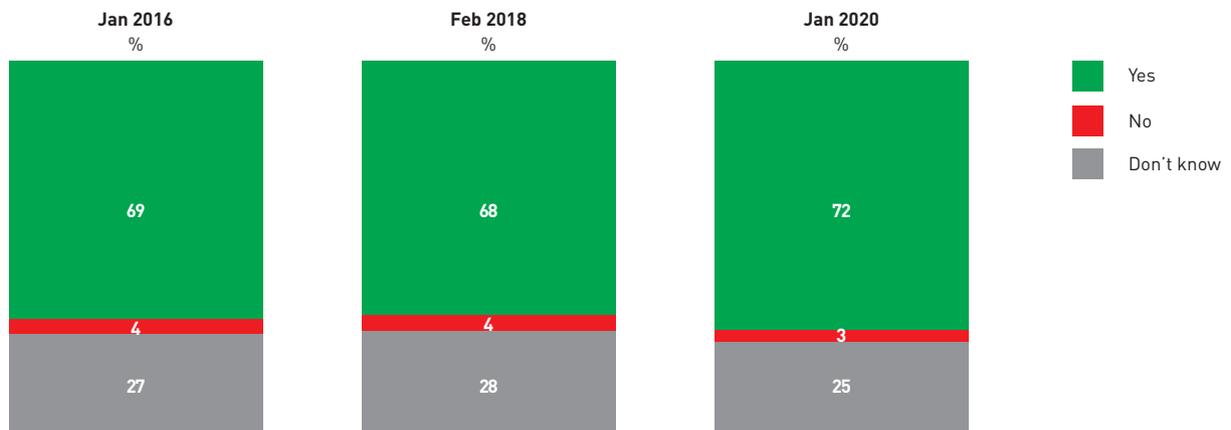
Base: All Participants – 1,003



- It is generally assumed that the role of the Garda Ombudsman is to investigate and resolve complaints about gardaí. (It should be noted that GSOC does not punish gardaí and does not compensate members of the public).

## Does the Garda Ombudsman Provide an Important Service?

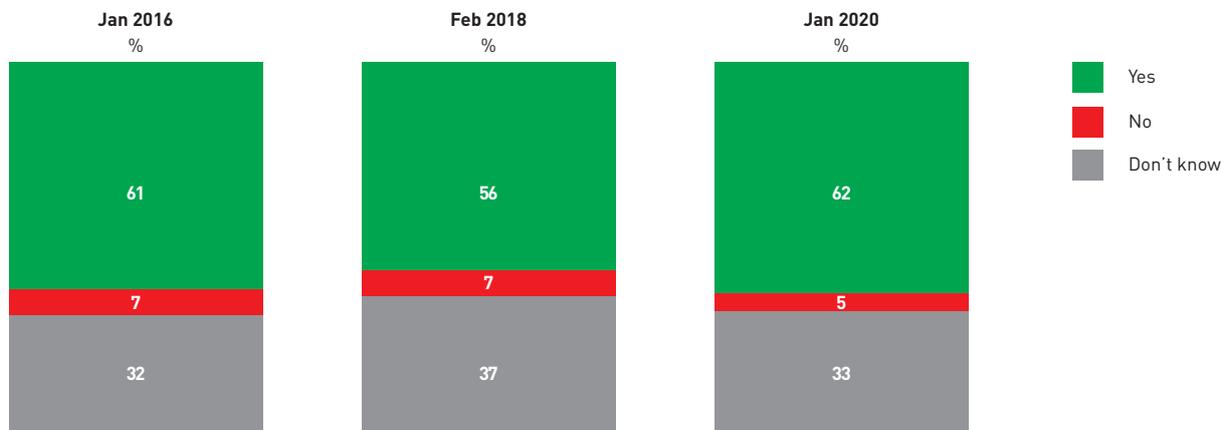
Base: All Participants – 1,003



- More than seven in ten respondents believe that the Garda Ombudsman provides an important service.

## Confidence in Fairness of Garda Ombudsman

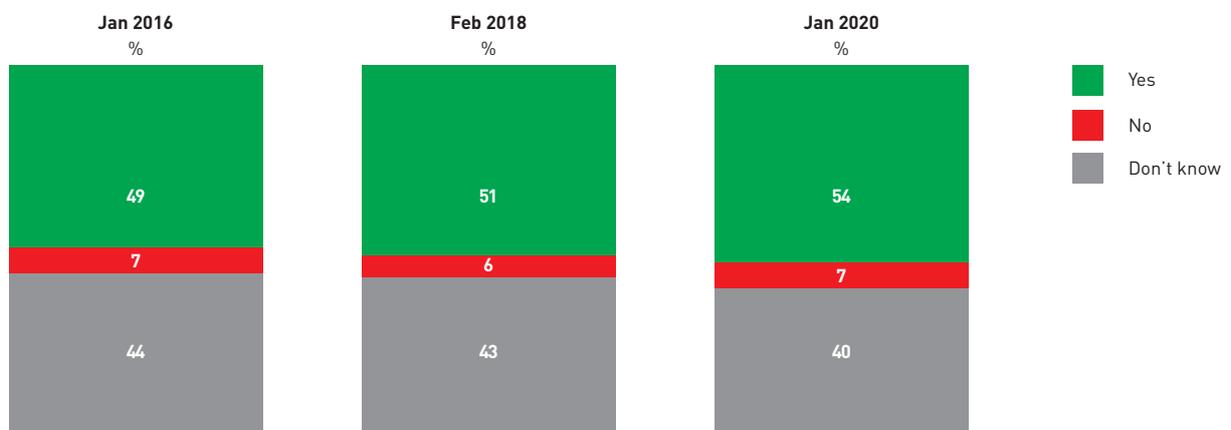
Base: All Participants – 1,003



- Two thirds believe that, if they had a problem, they would be treated fairly if they went to the Garda Ombudsman.

## Confidence in Garda Ombudsman Ability to Resolve Problems

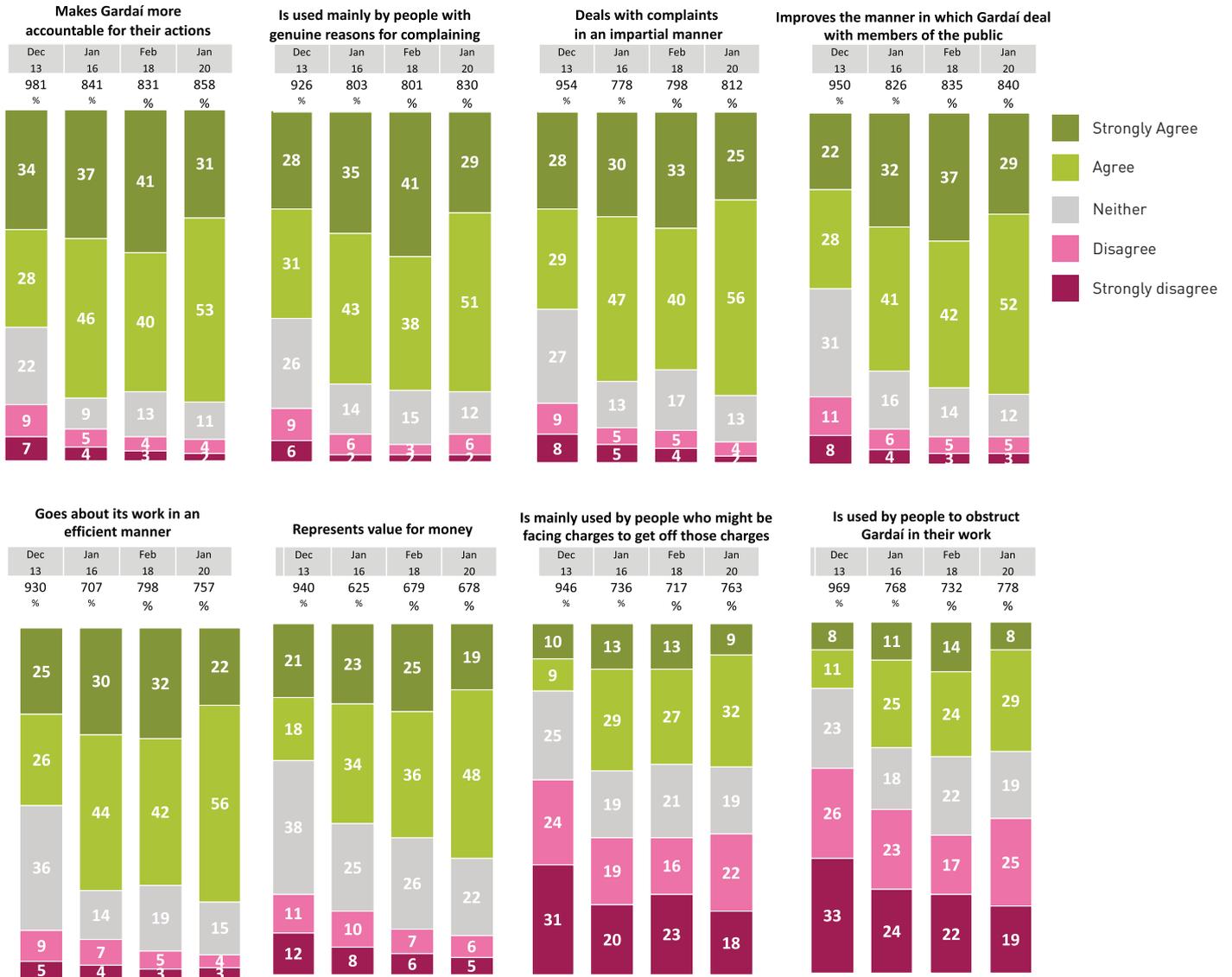
Base: All Participants – 1,003



- More than half of respondents are satisfied that if they had a problem the Garda Ombudsman would be able to resolve it. The vast bulk of remaining respondents do not know whether or not their problem can be resolved.

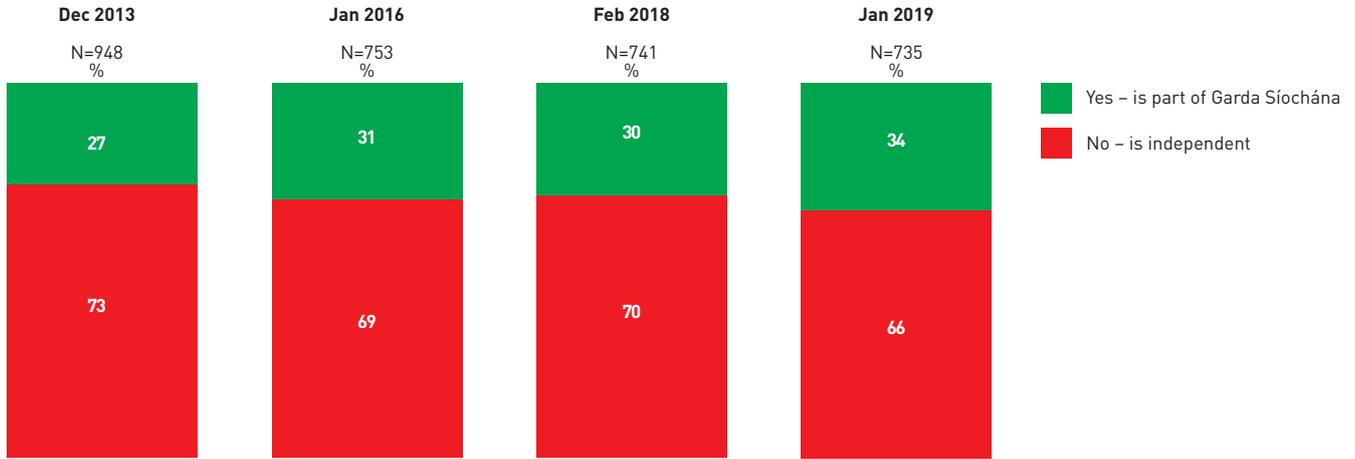
## Agreement with Statements Concerning Ombudsman – Excluding Don't Knows

Base: All Participants – excluding undecided



## Perception of Ombudsman as Part of Garda Síochána

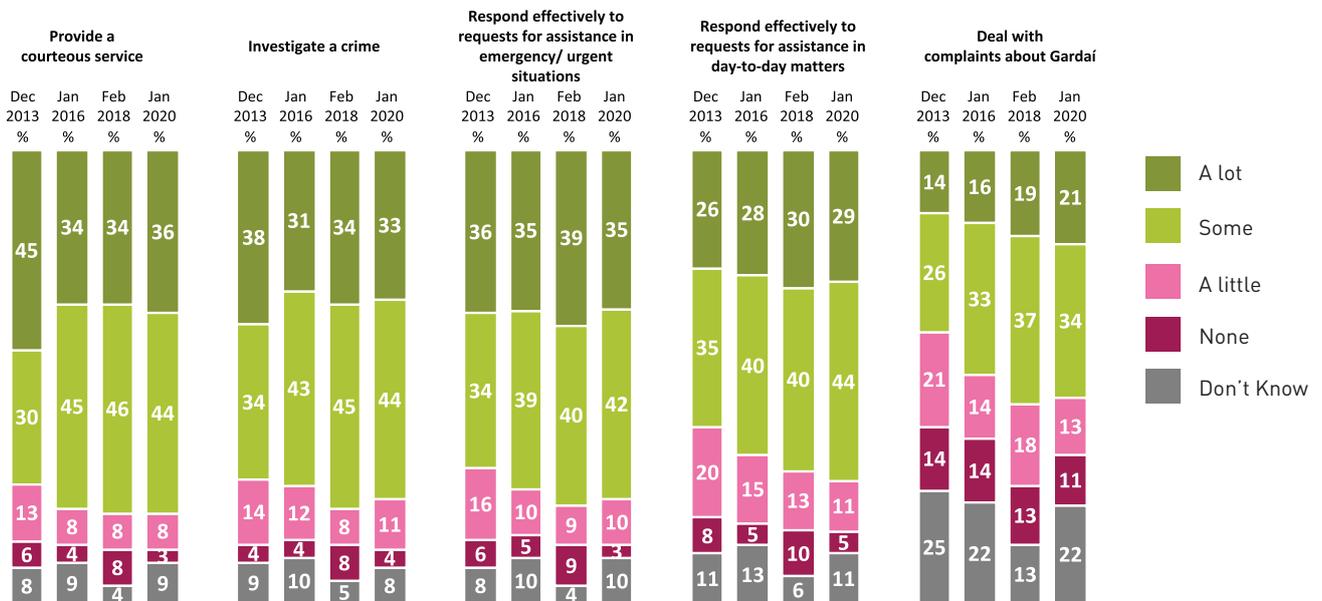
Base: All Participants excluding undecided



- More than a third of those expressing an opinion believe — wrongly — that the Garda Ombudsman is part of the Garda Síochána, with the balance aware that it is, in fact, independent. The Commission on the Future of Policing in Ireland (CoFPI) recommended that the new body that replaces the Garda Síochána Ombudsman Commission, should have a new name making it clear that it is not part of the Garda Síochána.

## Confidence in Aspects of Garda Síochána's Ability

Base: All Participants – 1,003



- The public expressed confidence in the Garda Síochána's ability to provide a courteous service, investigate crimes, and respond effectively to requests for help.

## Level of Garda Interaction in Last 12 Months

Base: All Participants – 1,003



## Satisfaction with Most Recent Garda Interaction

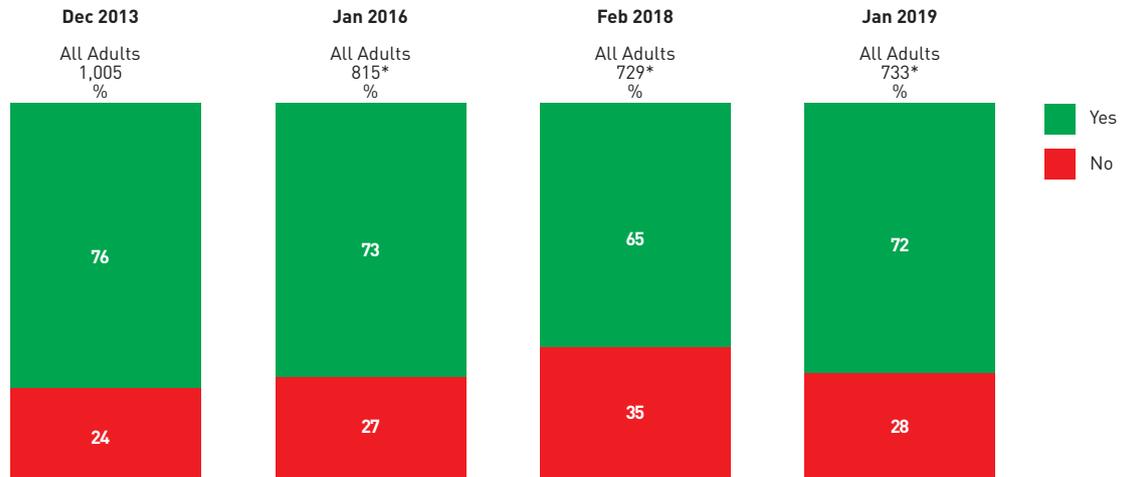
Base: All in Contact with Garda – 232



- Of the respondents who had a recent interaction with a garda, more than eight in ten were satisfied with their experience, while just one in ten were dissatisfied. This represents a significant increase since the previous survey in the number who were very satisfied or satisfied.

## Willingness to complain following a recent bad interaction with a garda

Base: All participants excluding undecided



- Of those expressing an opinion, more than seven in ten indicate they would be willing to make a complaint if they had a bad experience with a garda, back in line with 2016 levels.



Garda  
**Ombudsman**  
INQUIRY INDEPENDENCE IMPARTIALITY

Garda Síochána Ombudsman Commission  
150 Abbey Street Upper  
Dublin 1

☎ (01) 871 6700

☎ Lo-Call 1890 600 800

📠 (01) 814 7026

🖱 [www.gardaombudsman.ie](http://www.gardaombudsman.ie)

✉ [info@gsoc.ie](mailto:info@gsoc.ie)

🐦 [@gardaombudsman](https://twitter.com/gardaombudsman)