

Garda Síochána Ombudsman Commission

Five-Year Report

**in accordance with section 80(4) of the Garda Síochána Act, 2005
(the Act)**



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Foreword

This five year report of the Garda Síochána Ombudsman Commission (GSOC) is submitted to the Minister for Justice and Equality (DJE) in accordance with section 80 of the Garda Síochána Act, 2005 (the Act).

It seeks to give an overall picture and review of the operation of the Commission since its establishment. For additional detail (for example in relation to statistics), it may be read in conjunction with the Annual Reports and the Two Year report issued in 2008.

The Commissioners believe that GSOC is working effectively and has proven itself fit for the purposes prescribed in its legislation.

They believe that there is a well-established and growing awareness and acceptance that independent oversight is a central element of policing in Ireland today.

The Commissioners are happy that with the emergence internationally of new models of policing oversight, Ireland can properly claim to be at the most developed end of the spectrum.

In this regard, the Commissioners note and very much welcome the recent comment (September 15, 2011) by the Commissioner for Human Rights of the Council of Europe, Mr. Thomas Hammarberg, that GSOC can “serve as a role model for other countries”.¹

¹ Report by Thomas Hammarberg, Commissioner for Human Rights of the Council of Europe, following his visit to Ireland from 1 to 2 June 2011, p 14 www.coe.int/t/commissioner/WCD/visitreports

Chapter 1 Background and Establishment

1.1 Background to the establishment of the Commission

The establishment of an independent oversight body for the Garda Síochána followed certain arrangements provided for in the Belfast Agreement of Good Friday 1998.

In part, the initiative was also given impetus by the reports of the Morris Inquiry² into misconduct by some gardaí in the Donegal Division. These reports were sharply critical of the Garda Síochána institutional responses to that misconduct.

While there were some differences of emphasis and approach, the establishment of an independent policing oversight body was supported by all parties in the Houses of the Oireachtas.

1.2 Summary of activity to date

A number of statistical charts and graphics appear in Chapter 2 of this report and are intended to provide an overview of the work of the Commission in the period covered by this report.

However, the following highlights may serve to give an outline sense of the Commission's work since it became operational in May 2007 to 30th September 2011.

Up to the end of September 2011, the Commission has received 10,903 complaints. It has received a further 5,335 queries.

The number of complaints admitted for investigation is 6042.

The Commission has forwarded 111 files to the Office of the Director of Public Prosecutions. The Office of the Director of Public Prosecutions has directed prosecutions in 29 cases involving 42 defendants.

² *Reports of the Tribunal of Inquiry into certain gardaí in the Donegal Division: Chaired by Mr Justice Frederick R. Morris, former President, the High Court www.justice.ie*

The Commission has forwarded 89 files to the Commissioner of the Garda Síochána with a recommendation that he consider disciplinary processes.

The Commission has responded to 650 referrals from the Garda Síochána under Section 102 of the Act. This requires the Garda Commissioner to notify GSOC when it appears that a person may have suffered death or serious harm as a result of the conduct of any member of the Garda Síochána.

The Commission has undertaken 6 investigations in the public interest, as provided for under section 102(4) of the Act.

The Commission has conducted one investigation, in accordance with section 106 of the Act. A request to conduct a second such investigation was not acceded to by the then Minister, the late Mr. Brian Lenihan, TD.

1.3 The establishment of the Commission

The Garda Síochána Ombudsman Commission was established following the enactment of the Garda Síochána Act, 2005. The Commissioners, the late Mr. Justice Kevin Haugh, as Chairman, Mr. Conor Brady and Ms. Carmel Foley, received their warrants of appointment from President McAleese in February 2006. GSOC became operational on 9th May 2007. On Mr. Justice Haugh's death in 2009, Mr. Dermot Gallagher was appointed Chairman of the Commission.

1.4 Objectives of the Commission

The Act sets two objectives for the Commission.

First; to provide a system for receiving complaints and dealing with issues of Garda misconduct in a manner that is efficient, effective and fair to all concerned (section 67).

Second; to promote public confidence in the process for resolving those complaints (section 67).

The new institution was to have the following features.

1. It was to be independent of the Garda Síochána and the other elements that make up the State's criminal justice system.
2. It was to have a high degree of independence from the Oireachtas and the Government, as reflected in the appointment of its members by the President on the basis of a resolution by both Houses of the Oireachtas.
3. It was to have, for all relevant and practical purposes, full policing powers, exercised independently of the Garda Síochána.
4. Its role would be to gather evidence, whether in criminal or disciplinary matters, and to furnish such evidence either to the Director of Public Prosecutions (DPP) or the Commissioner of the Garda Síochána, depending on whether its investigation was criminal or disciplinary.
5. Its remit was not to extend to the general management and direction of the Garda Síochána, other than in a limited way, as prescribed under section 106 of the Act. Such management and direction remains the responsibility of the Garda Commissioner.
6. The Garda Commissioner was to be beyond the remit of the Commission.
7. It was provided that certain limitations could apply to the Commission's remit insofar as it might impinge on issues relating to the security of the State.
8. It was envisaged that day to day disciplinary matters, and "front line" management of garda conduct, should remain the responsibility of the Garda Síochána.
9. Ultimate financial responsibility would rest with the Secretary General of the Department of Justice and Equality.
10. The decision to establish a three person body would seem to have predicated a desire on the part of the legislators that the Commission would discharge its functions in a deliberative manner. In the absence of consensus, an issue could be decided by majority vote. At the same time, any one of the three Commissioners could discharge the full functions of the Commission.

1.5 Location and Deployment

On the establishment of GSOC it was envisaged that the principal office would be in Dublin and that two regional offices would operate, one from Roscrea in Co. Tipperary and one from Longford. The Roscrea office did not prove to be viable and a regional team of Designated Officers was deployed instead to Cork. The deployment of these regional teams has proven to be an effective and efficient use of resources.

1.6 Defining personality and ethos

Immediately on appointment, the Commissioners set about shaping the organisation and defining its “personality” and “ethos” around the template set out above.

The Commissioners determined *ab initio* that they would seek to act in a collegiate manner, eschewing insofar as might be possible the provision for majority voting. In the event, recourse to voting was never found to be necessary.

The Commissioners also determined that in key issues they would endeavour to present themselves as a trio, e.g. in signing off the annual reports, when formally meeting the Garda Commissioner and his senior management, when deciding to initiate public interest enquiries, and when issuing significant statements to the media.

They determined that while most of the Commission’s functions could be (and indeed had to be) delegated to professional staff, the Commissioners would maintain an active overview in relation to significant cases. They decided also that they would provide a 24/7 availability in relation to operational matters.

The Commissioners determined that public access to the services of GSOC should be free of unnecessary bureaucracy. In addition to the channels provided for in the Act, it was decided that there would be a “walk in” facility at the Dublin office and that complaints might also be received by post, telephone or electronically.

1.7 Staffing and Personnel

While the Act did not provide for a Chief Executive, it was recognised that a number of key administrative and operational posts would have to be filled at a senior level in order to help achieve the objective of being effective, efficient and fair to all concerned.

In particular it was determined that this should apply to the posts of Director of Investigations (later re-titled as ‘Director of Operations’) and Director of Administration .

The Commissioners from the outset had sought to ensure that the organisation would operate at the highest standards of customer service and governance. It has been supported in the development and application of these standards by the Director of Administration and his staff.

Essential corporate services were provided for: information technology; human resources; financial control and management; communications and logistics; supplies and equipment procurement, etc.

It was recognised that the Commission would require the services of a skilled legal team. Financial approval was sought and provided for the appointment of three suitably qualified and experienced persons in this area.

The decision to create the post of Head of Communications and Research, and to resource that section appropriately, was related primarily, but not exclusively, to the achievement of the statutory objective of promoting public confidence in the process for the resolving of complaints.

1.8 Information and Outreach

An ongoing programme of informational outreach, both to the gardaí and to the wider community, was put in place. Booklets were distributed to Garda Stations, civic information centres and libraries and were also made available on request to organisations, groups or interested individuals.

Information packs for members of the Garda Síochána were distributed to every member in advance of GSOC becoming operational. In addition, Commissioners and GSOC personnel made presentations to a range of groups, including in disadvantaged areas. Briefing sessions were undertaken with students and probationer gardaí at the Garda College in Templemore and at management supervisory programmes for serving members of the Garda Síochána. The GSOC website was designed to enable it to be updated on a monthly basis with figures on complaints and referrals.

1.9 GSOC – A Knowledge-based Organisation

The Commissioners were strongly of the view that GSOC should be a knowledge-based operation. Decisions should be taken on the basis of empirical data accumulated over time. To help give best effect to this, it was decided to appoint a trained researcher/statistician and a qualified librarian, working under the direction of the Head of Communications and Research.

1.10 Investigative Expertise

A key difference between GSOC and the Garda Síochána Complaints Board was that GSOC was to have its own complement of experienced investigators who would be its ‘Designated Officers’. Section 98 of the Act provides that officers, when designated, have effectively the same powers as a member of the Garda Síochána in the conduct of investigations.

The three members of the Commission are vested with the powers of members of the Garda Síochána at or above the rank of inspector.

It was recognised that in order to conduct quality investigations, GSOC needed police expertise at the highest professional levels.

It was determined that the Director of Investigations should come from a professional police background other than the Garda Síochána. It was also decided that while the Commission would be glad to recruit suitable former gardaí to function as its Designated Officers, it would aim to

build an investigative cohort that reflected a variety of related disciplines and drawn from a variety of jurisdictions.

GSOC's Designated Officers were drawn, therefore, from many different backgrounds. They included public servants, former police officers from other jurisdictions and former police oversight personnel. In addition to Irish personnel, GSOC staff are now drawn from a variety of countries, including Australia, New Zealand, Slovakia, South Africa and the United Kingdom.

1.11 Dealing with the Public

It was recognised that GSOC would require a body of skilled Case Officers who would be the first point of contact for persons wishing to engage with it. In establishing its Case Work Unit, the Commission drew on the experience of other agencies in the public service, including the Garda Síochána Complaints Board, with experience of providing customer service.

Case Officers were recruited, in the main, for their experience and skills in dealing with the public.

An initial plan for the organisation envisaged some 150 staff. In the event, sanction was received for up to 98 personnel. Following some departures which were not replaced (in line with the Government's Employment Control Framework) the sanctioned staff number currently stands at 87.

1.12 Staff development

As many of GSOC's staff, especially in the Investigations area, were recruited from other jurisdictions, there were particular needs in regard to training.

During the period February to April 2007, investigations staff underwent an intensive training programme provided by the University of Portsmouth and the King's Inns in Dublin.

Training in family liaison was also undertaken by some selected staff, while others took part in training in scenes of crime techniques.

GSOC's casework staff underwent training with the University of Portsmouth on interviewing techniques and on facilitating complainants. GSOC also participated in a joint training exercise, held at Winchester, in the United Kingdom, focusing on major crime issues, with officers from the PSNI and the Garda Síochána.

Likewise, the senior management team took part in intensive training in the management of serious incidents. All other staff received appropriate training in preparation for their functions.

Outside of formal training modules, guest lecturers in relevant areas were invited to GSOC HQ on an ongoing basis to address the staff (e.g. the Rape Crisis Centre shared its expertise in relation to the handling of investigations of a sexual nature).

Joint training has also been undertaken with the Office of the Police Ombudsman for Northern Ireland (OPONI), the Independent Police Complaints Commission for England and Wales (IPCC) and the Scottish Police Complaints Commission (SPCC.)

1.13 Secondment of gardaí to GSOC – section 74 of the Act

The Commissioners were conscious of the considerable contribution that could be made by the secondment of garda members to the Commission, as provided by the Act.

The four garda Superintendents, initially assigned to GSOC under the Act, had a significant influence in helping to equip the staff, especially those from outside Ireland, with a relevant and focussed knowledge base.

Two of those seconded officers have since left GSOC and have not been replaced. The Commissioners believe that secondment of suitable officers from the Garda Síochána to the Commission has been, and can continue to be, beneficial to both organisations. The Commissioners look forward to the restoration of the full complement of superintendents when resources allow for this.

1.14 Consultation with stakeholders

The Commission set out to ensure from the beginning that the various stakeholders should be fully informed on the emerging shape and character of the organisation. The Commission invited each of the Garda staff associations to meet for discussions. There was also extensive consultation with the relevant officials of the Department of Justice and Equality and with the Garda Commissioner and his senior officers. Oireachtas spokespersons on Justice were likewise briefed on the future role of GSOC.

Commissioners travelled to the various Garda staff association conferences, and to meetings with senior officers at Templemore. Meetings were also arranged with the Irish Human Rights Commission and the Irish Council for Civil Liberties.

The GSOC Consultative Group, which includes the Garda Síochána, Garda staff associations, the Irish Human Rights Commission, NUI Galway and DJE has met at intervals to discuss and review a range of relevant issues.

In the pre-start-up phase the Consultative Group met at intervals of three months or six months. More recently, an annual meeting has proven to be sufficient.

1.15 Attitudes to GSOC – the Public and the Gardaí

The Commission was conscious from the outset of the need for accurate and reliable feedback on public attitudes towards its work and its performance. Regular and independent polls of public attitudes are taken, using well-recognised survey techniques.

Polling of attitudes towards GSOC is also undertaken within the Garda Síochána at all ranks.

1.16 Protocols with the Garda Síochána.

The Act required that certain Protocols be agreed between the Commission and the Garda Commissioner. In order to deliver on this, a working group drawn from GSOC and Garda Headquarters met on twelve occasions, producing a number of drafts that were agreed and signed

by the then Chairman, the late Mr. Justice Haugh, and the then Garda Commissioner, Mr. Noel Conroy, on 8th May 2007, immediately prior to the Commission becoming operational. These were subsequently reviewed and a revised version signed on the 1st September 2007. These can be read at www.gardaombudsman.ie.

In 2010, a further review of the Protocols was started with a view to deciding whether, on the basis of experience, they needed further revision or adjustment. This process is ongoing, including discussion in relation to information sharing between the gardaí and GSOC.

The Protocols are central to the relationship between GSOC and the Garda Síochána. They prescribe how operational business is to be conducted between the police service and the oversight agency.

The Commission recognises that there are sensitivities in these areas, especially in relation to criminal intelligence and the use of Covert Human Intelligence Sources (CHIS). The Garda Síochána and GSOC both have duties and responsibilities, set out in law, impinging here. Considerable efforts have been made to resolve the outstanding issues and it is hoped that this work can be completed at an early date.



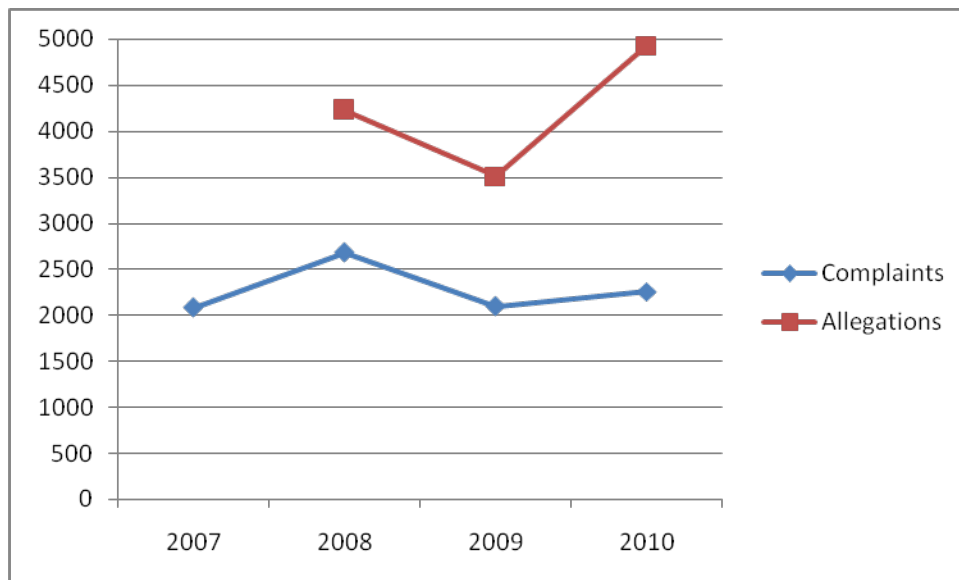
Chapter 2 Volume of Business and Activities

2.1 Volume of business

The Commission has received over 2,200 complaints annually since 2007. This is approximately double the numbers of complaints received annually by its predecessor, the Garda Síochána Complaints Board.

It is important distinguish between the term “complaint” and the term “allegation.” Allegations, contained in complaints, are the subjects of investigations. A complaint can contain several allegations. For example, a complaint may allege misconduct on the part of several gardaí or a complaint may allege several different instances of misconduct by an individual garda. The figure for allegations is, therefore, considerably higher than that for complaints.

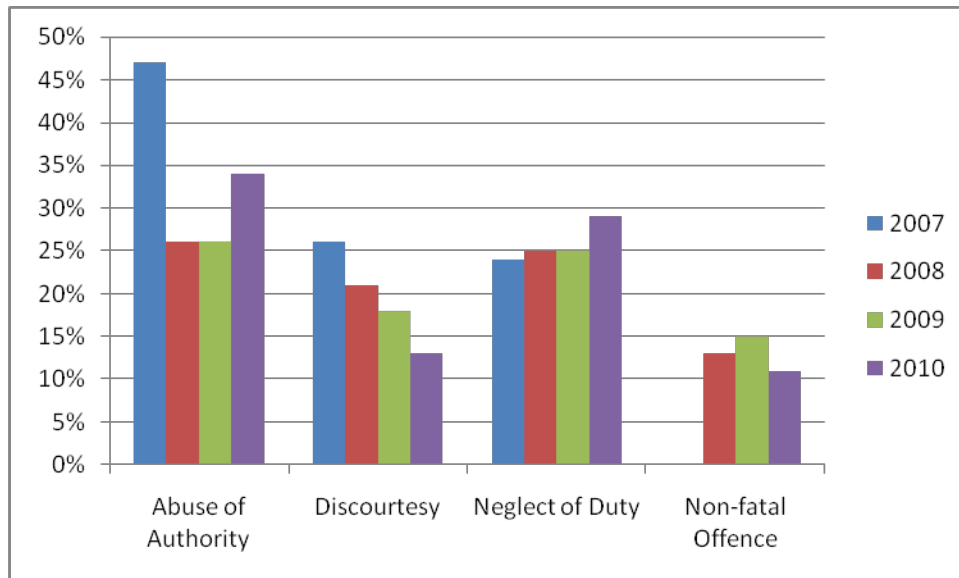
Figure 1 Complaints and allegations 2007-2010



2.2 Allegation types

The four most prevalent allegation types are (a) abuse of authority; (b) discourtesy; (c) neglect of duty; and (d) non-fatal offence (which effectively translates as an allegation of assault).

Chart 1 Allegation categories 2007-2010



2.3 Referrals to GSOC from the Garda Síochána

Referrals from the Garda Commissioner to GSOC are required in certain circumstances under section 102(1) of the Act. This states:

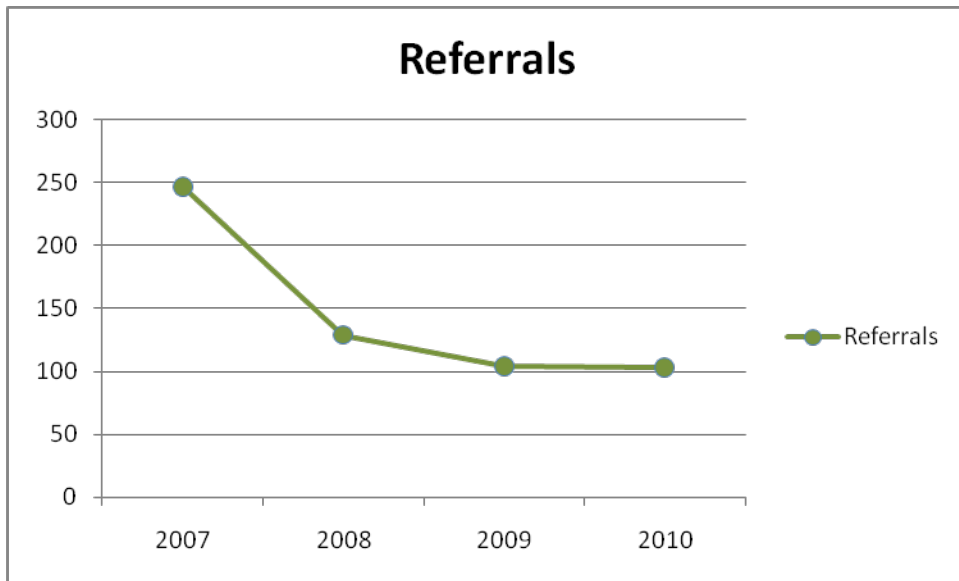
“The Garda Commissioner shall refer to the Ombudsman Commission any matter that appears to the Garda Commissioner to indicate that the conduct of a member of the Garda Síochána may have resulted in the death of, or serious harm to, a person.”

The number of referrals per year has leveled off at approximately 100. In the early years, the figures were higher. These processes were new and some local Garda management may have tended to err on the side of referral, irrespective of the nature of an incident. The Commission believes at this point that the figure of about 100 is a more accurate reflection of the real requirement of the Act.

GSOC response to these (by definition) unpredictable incidents requires a 24/7 capacity to deploy suitably equipped and trained investigations teams.

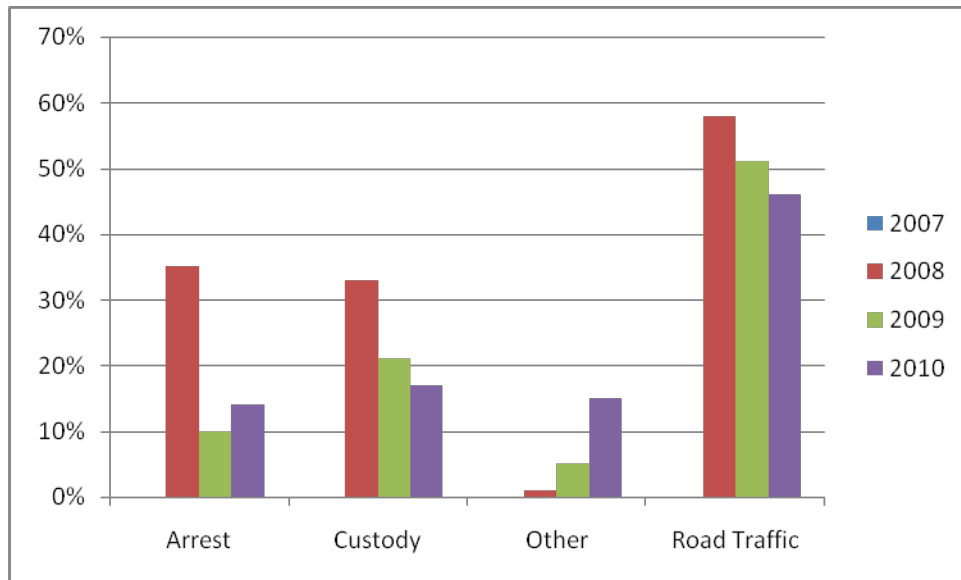
The Commission determined at an early stage to provide and maintain a small fleet of suitably-equipped official vehicles for operations staff. On a number of occasions, the Commission has requested the Air Corps to transport personnel and equipment to locations of critical incidents. This service is particularly valuable given that, unlike the Garda Síochána, GSOC does not have a State-wide network. It is greatly appreciated.

Figure 2 Referrals under section 102, 2007-2010



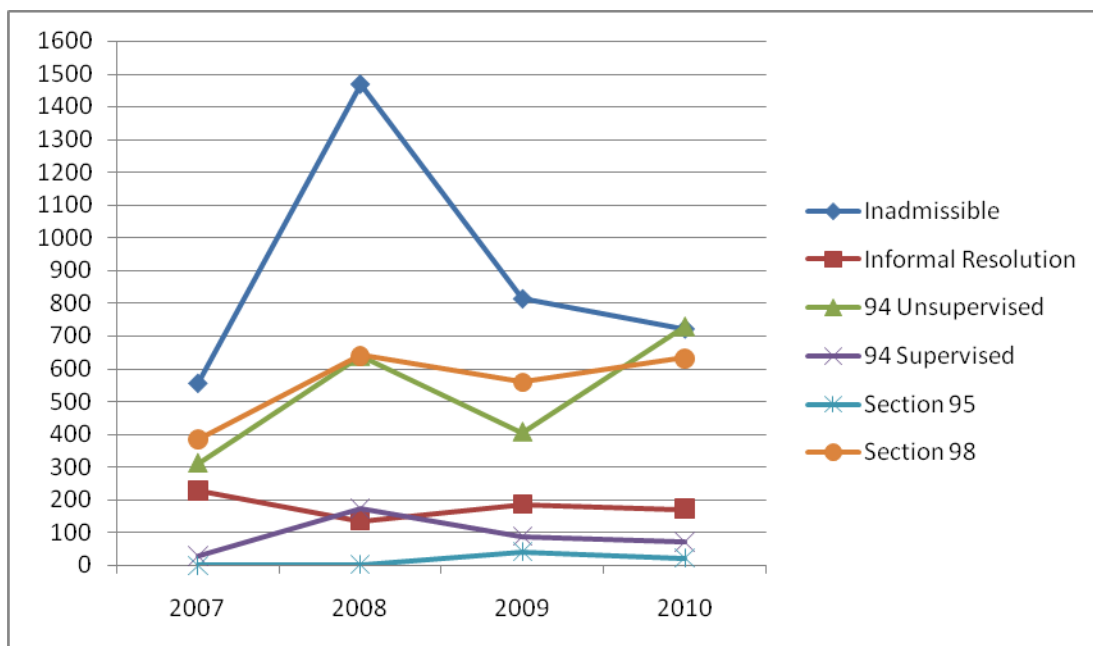
The most significant factor giving rise to referrals is road traffic incidents, which make up, on average, 50% of referrals.

Chart 2 Factors giving rise to referrals 2007-2010



2.4 Response to complaints and referrals

Figure 3 GSOC response to complaints and referrals 2007-2010



2.4.1 Informal resolution of complaints

The Commission had been hopeful that the provisions in the Act for the resolution of less serious complaints, without the need for formal disciplinary measures, would encourage and facilitate the engagement in the process of both complainants and gardaí.

However, the wording in the Act which stipulates that the consent of both parties (complainant and garda) was required has meant, unfortunately, that engagement in this informal process has been much less frequent than was hoped.

The reasons put forward for non-participation are varied. On the one hand, a complainant may feel that his or her concern is too significant to be suitable for informal processing.

As against this, a garda may well believe he/she will be asked to offer an apology for an action he/she believes was justified. In a context, therefore, where the consent of both sides is required, it has proven very difficult to get people to avail of the procedure.

While accepting this reality, the Commission believes that informal resolution can and should be a significant part of its procedures. It has pointed out that in Northern Ireland and in England and Wales, consent to informal resolution is not required in all circumstances. It has suggested, in discussion with the Garda Síochána, certain changes to the Act in relation to the requirement of consent.

2.4.2 Gardaí handling the investigation of certain complaints

The Commission is aware that reservations have been expressed about the requirement, set down in the Act, of referring less serious complaints back to the gardaí to be investigated by them.

It is important to point out that any allegation of criminality on the part of a garda will not be referred back to the Garda authorities. It will be investigated directly by the Commission's Designated Officers who have full police powers.

The Act provides that alleged breaches of discipline by gardaí may be referred to the Garda authorities who will assign a Garda Síochána Investigating Officer (GSIO) to examine the complaint.

There are some important safeguards.

- The Act provides that the Commission may supervise any such investigation by a GSIO.
- All complainants have the right to seek a review from the Commission of the outcome of an investigation by a GSIO.
- In cases supervised by GSOC, the GSIO agrees an investigation strategy with the Commission, including a timetable requiring regular updates.

The process can sometimes be slow. The GSIO (usually a superintendent) often feels obliged to give priority to operational and administrative matters. The timetable for investigating complaints on behalf of GSOC may have to yield to more urgent business, for example, the occurrence of serious crime in the GSIO's district.

Nonetheless, it may be relevant that in GSOC's independent surveys of public attitudes some 54% of respondents have said that their first port of call, if they felt they had a legitimate complaint to make, would be to a garda station.

This would suggest that the public want gardaí to react positively to their complaints and that they have a certain expectation of such an effective response from them.

The Commissioners are strongly of the view that it is the responsibility of Garda management to maintain discipline and good conduct within the organisation.

If the investigation of all complaints against gardaí were to be undertaken directly by GSOC, this would, in effect, take away the responsibility to manage and discipline the force from garda front-line supervisors.

The Commission simply does not have, nor would it wish to have, the very considerable resources which would be required if it were required to assign its own Designated Officers to investigate all complaints.

The Commissioners believe they could be assisted in addressing any credibility gap arising out of section 94 investigations if GSOC had regular, accurate and explanatory information from the Garda authorities as to the outcome of disciplinary processes.

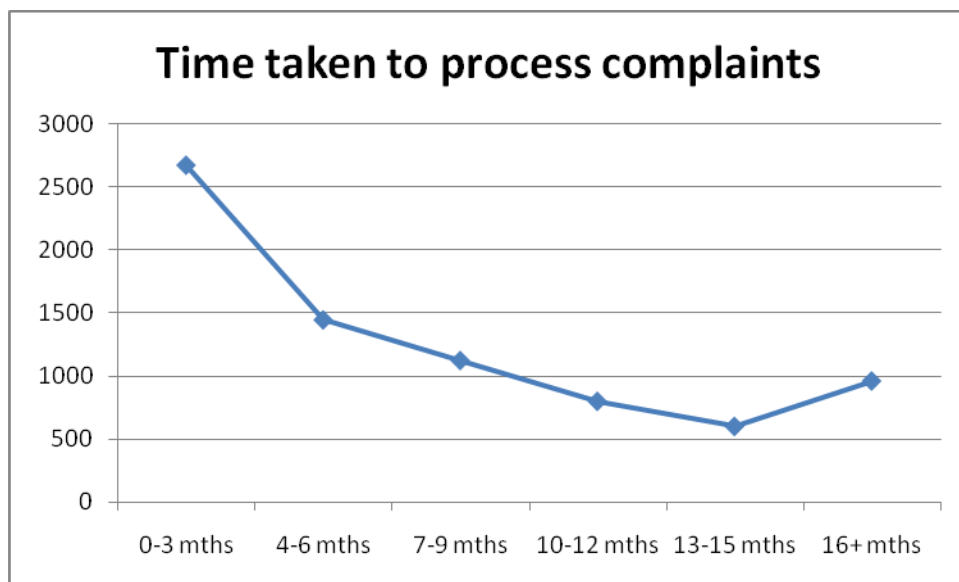
2.5 Efficiency

When a complaint is made, it is in the interests both of the complainant and the garda complained of that it be disposed of, not just fairly, but as efficiently and as quickly as possible.

Some cases inevitably take much longer than others to investigate. Any undue delay is a cause of concern to the Commissioners. However, speed of processing, while desirable, must not impact on fairness and thoroughness. The duration of a case can also be affected by the fact that files have to be forwarded in some cases to other agencies for their input.

At the same time, GSOC has a responsibility to ensure that all cases are concluded within a satisfactory timeframe. While there was a backlog of cases awaiting admissibility decision in the first year of operations that has now been effectively eliminated. The Commission monitors the throughput of complaints on a constant basis. In the most recent reporting year, 2010, more complaints were closed by GSOC than were received.

Figure 4 Time taken to process complaints



2.6 Outcomes

The Commissioners do not believe that the performance of GSOC should be judged solely or primarily on the numbers of convictions of, or sanctions applied to, garda members as a result of its investigations.

The Commissioners believe that the real measure of GSOC's performance lies in increased awareness, among the public and among the gardaí, that independent oversight is now a permanent element of modern policing in Ireland.

Such awareness should have the effect of reducing instances of misconduct by gardaí while building confidence among the public that there is an independent and effective remedy against any such behaviour.

In this regard, the Commissioners are pleased that the key indicators of confidence are moving, progressively, in a positive direction. At the same time, of course, the Commission recognises the significance of the outcomes of its investigations and of the disciplinary and court proceedings which may follow from these.

Figure 5 Public attitudes to GSOC 2007-2010

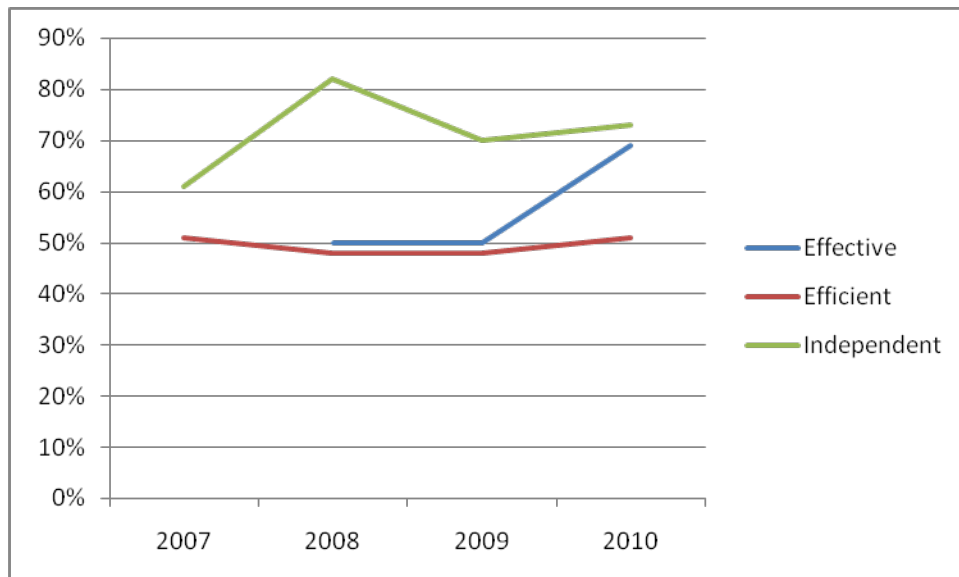
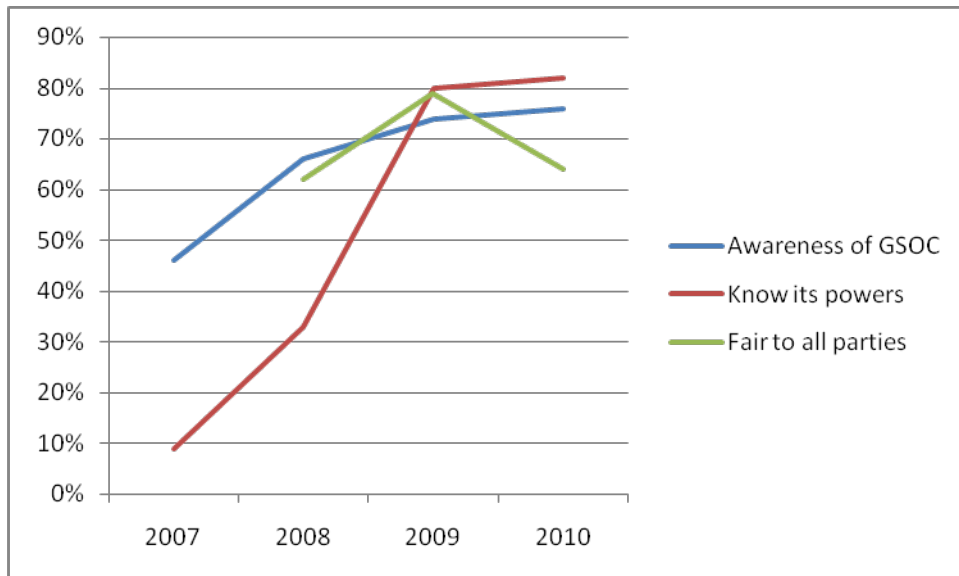


Figure 6 Public attitudes to GSOC 2007-2010 continued



Chapter 3 Legislative Amendments

3.1 Legislative changes in May 2007

When GSOC became operational, it quickly became apparent that some legislative modifications, if enacted, could enhance its efficiency and could, in certain regards, remove potentially troublesome ambiguities. The Department of Justice and Equality was immediately receptive to the Commissioners' requests for certain amendments and these were passed into law on May 9th 2007 through the Criminal Justice Act, 2007.

3.2 Proposals for additional amendments

The Commission has had dialogue with the Department of Justice and Equality on certain other aspects of the Act.

On June 6th 2007, the Commissioners and members of their executive team met the then Minister, along with senior officers of his Department, and set out some further modifications to the Act which they believed could aid the efficiency and effectiveness of GSOC. Following further deliberations, the Commission made proposals for amendments in its Two-Year Report on 20th February 2008.

Representatives of the Garda Síochána and GSOC, including Legal Affairs personnel, have engaged in a series of meetings in order to explore a possible agreed framework for the further revision of the Act.

The proposals set out below represent some of the current thinking of the Commissioners in this regard.

The Commissioners are concerned that the process of making further necessary amendments to the Act is very slow.

3.3 Service Complaint

The Commissioners have proposed that the Act be amended to provide for the recognition of a “service complaint.”

This would not be a complaint of either criminal misconduct or of a breach of discipline. It would not necessarily seek to form a complaint of misconduct against any individual member of the gardaí.

A “service complaint” would arise where a person is dissatisfied with the standard or level of service provided by the gardaí.

The Commission receives a great many such complaints. They may arise from a lack of efficiency or lack of resources. But they do not necessarily involve any misconduct by a garda. In some circumstances, a garda functioning under pressure may be perceived by a member of the public to have interacted with him/her in a manner that is considered brusque or disrespectful.

Rather than invoking the disciplinary code, with the attendant paperwork, bureaucracy, delay and stress, this might be dealt with administratively.

3.4 Informal Resolution

From the experience to date, the current system of Informal Resolution has had limited success. The process should be amended to incentivise it in cases where, in the view of GSOC, it appears to be a fair and appropriate way of bringing resolution to a case.

The Commissioners suggest that the current system of the garda member’s right to veto the process should be reviewed. In the interest of fairness, the Commissioners would likewise wish that complainants would not be able to veto GSOC’s decision to attempt to resolve a matter by informal resolution.

The Commissioners would recommend that in the event of an informal resolution procedure being unsuccessful, a number of options would be available including:

- discontinuance of the complaint on the basis that further investigation is unnecessary or not reasonably practicable; or
- investigation of the case might be continued but brought into the service complaint category.

In other words, there should be no incentive for either the complainant or the garda against whom a complaint is made to veto the process on the basis that the alternative would be to their advantage.

Finally, the Commission's view is that, if an effective procedure along the above lines could be put in place, it would significantly free up investigating personnel and enable them to concentrate even more effectively on serious cases.

3.5 Pre-admission inquiries

Under the existing legislation the Commission is precluded from making any inquiries into a complaint prior to it being formally admitted. This immediately sets a bureaucratic process in train, including notifying garda members that they are the subject of a complaint. The Commission believes that this requirement can sometimes be unduly inflexible and burdensome. In some cases a simple telephone call or a request for clarification could make it clear whether there is an admissible complaint.

The Commissioners are of the view that a considerable amount of paperwork could be eliminated and that garda members could be saved from unnecessary anxiety if some form of flexibility could be provided in this area.

3.6 Investigating complaints at First Line Supervisory Level

The Commissioners are conscious that the referral of disciplinary complaints back to the Garda authorities places considerable burdens on local garda management. These burdens fall

principally on superintendents who are appointed under the Disciplinary Regulations as investigating officers (GSIOs).

Apart from adding to the work load at superintendent rank, this often causes lengthy delays in the processing of complaints, in turn causing difficulties for all concerned – gardaí complained of, GSOC staff and the complainants themselves.

While more serious complaints may require the intervention of a superintendent, the Commission feels that many more trivial complaints could be dealt with expeditiously at sergeant level, as is the case in nearby jurisdictions.

Any change in the existing arrangements would, of course, require amendment of the Garda Síochána (Discipline) Regulations 2007.



Chapter 4 Future Risks

4.1 Risk Issues for the Future

It is crucially important that the staff complement of GSOC is maintained at viable strength. Natural wastage and other departures have brought numbers to critically low levels in key departments, including Investigations and Case Work.

There is continued disquiet – and a significant degree of misunderstanding - over the referral of some cases to the Gardaí for investigation under section 94 of the Act, both among the public and the Garda Síochána. The task of persuading all stakeholders that section 94 can operate in the best interests of everybody concerned will continue to be an issue for the new Commission.

There is concern about the considerable length of time taken to bring some investigations to a conclusion. Many, but not all, of these cases have tended to be high-profile ones which attract public attention. They have also tended to be at the more complicated end of the scale.

As a matter of policy, GSOC has sought to discharge its functions with the voluntary co-operation of gardaí. While the great majority of gardaí have been responsive and professional there have been difficulties with others who have not been co-operative. A small number have failed repeatedly to attend for arranged meetings or to provide official documents. This has added significantly to the time it has taken to complete investigations in a number of cases.

Lengthy investigations, however few, can pose a risk to public confidence in the organisation. Strenuous efforts have been made to streamline and accelerate the process. This needs to be a continuing priority for the Commission.

4.2 Enabling GSOC to discharge its responsibilities

The Commissioners recognise that, in current circumstances, requests for additional resources are unlikely to be met. Thus, they recognise that with reducing numbers and a steady volume of business, GSOC has to “work smarter.”

This report proposes a relatively small number of measures, legislative and administrative, which if implemented, could greatly assist the Commission to meet its obligations even more efficiently and more effectively.

The volume of trivial business coming through the “admissibility” doorway has to be reduced. Those cases that are admitted must be dealt with more expeditiously and with less paperwork and bureaucracy.

The years since the inception of GSOC have not witnessed the emergence of any major problems within the Garda Síochána on the scale of what occurred in the Donegal Division for a time in the 1990s.

However, if any such issue were to emerge or if a series or a cluster of serious cases of alleged criminal misbehaviour by gardaí were to occur, the ability of GSOC to cope would be very much in question. There is no spare capacity in the organisation at this time.

If the measures indicated by the Commissioners can be progressed to conclusion, some spare capacity can be generated and work in hand can be disposed of more quickly and effectively.

Chapter 5 The Future Commission

5.1 The Future Commission

The Commissioners are conscious that there has been some debate, especially during the passage of the 2005 Act, as to the optimum structure of the Commission itself.

There are advantages to the three-person model as currently operated. It allows expertise and experience across a range of sectors to be brought to the work of the Commission. There is also the practical advantage that at least one Commissioner is always available to guide and direct staff operations.

This is a significant advantage in a working environment as unpredictable as that faced by the Commission. Some of the most serious and sensitive cases over the four-year operational period have, as stated above, tended to occur at weekends or during holiday periods.

There is also the question of perception. The Commission, mindful of its statutory duty to promote public confidence, is conscious of public attitudes to GSOC, particularly as regards its independence and impartiality. A three person Commission, with its legally required gender balance and with its range of experience and expertise, conveys a strong public assurance that fairness and sensitivity are at the core of GSOC's approach at the highest level. It also helps ensure – a not unimportant consideration given experience on occasion elsewhere – that personality differences between the Ombudsman and key interlocutors do not impinge on the smooth and effective running of the organisation.

The Commissioners feel that on balance these considerations outweigh any advantages that might be considered to apply to a one-person model.

Conclusion

The Commissioners believe that GSOC has achieved a high degree of public awareness and an increasing confidence among the public.

They believe that the essential operational relationships, such as with the DPP, the Coroners, the Courts, the Garda Commissioner and his senior management, and the Minister for Justice and Equality and his Department, have been established and are working well.

GSOC staff have responded effectively to the challenges that have arisen and have displayed the highest standards of professionalism across all their areas of responsibility.

The Commission which succeeds the present one will face its own challenges. While some of these may not be predictable, there are a number of areas which the Commissioners have identified here which require legislative or administrative attention.

The three Commissioners would wish to express their warm appreciation to the Government, in particular successive Ministers for Justice and Equality and their Department, to the Oireachtas, to the Garda Commissioner and his force and to those many organisations and individuals, including the Garda staff associations, with whom they have worked productively over the years since establishment.

Policing with the consent of the community has been a core principle in the operation of the Garda Síochána since the foundation of the State. In providing a layer of independent oversight, operated through a clear legal framework, GSOC underpins and reinforces that principle in contemporary conditions.

The Commissioners feel truly privileged to have been entrusted with the administration of this important, statute-based public service.

