

GARDA SÍOCHÁNA OMBUDSMAN COMMISSION

2015 ANNUAL REPORT





Ms Frances Fitzgerald TD
Minister for Justice and Equality
94 St. Stephen's Green
Dublin 2

31 March 2016

Dear Minister,

It is with pleasure that we submit to you the tenth Annual Report of the Garda Síochána Ombudsman Commission, which covers the period 1 January to 31 December 2015. This Report is submitted in accordance with section 80 of the Garda Síochána Act 2005.

Yours sincerely,

A handwritten signature in dark ink, reading 'Mary Ellen Ring'.

Justice Mary Ellen Ring, Chairperson

A handwritten signature in dark ink, reading 'Kieran FitzGerald'.

Kieran FitzGerald, Commissioner

A handwritten signature in dark ink, reading 'Carmel Foley'.

Carmel Foley, Commissioner

Garda Síochána Ombudsman Commission.

GLOSSARY OF ABBREVIATIONS AND TERMS

| | |
|-------------------------------|---|
| Admissibility | All complaints are assessed against the criteria listed in section 87 of the Act to decide whether they can legally be admitted for investigation or not. (More information in Section 1.) |
| Advice | This is a discipline sanction for garda members which may be applied by the Garda Commissioner – it can be formal or informal. |
| Allegation | 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. |
| AIO | Assistant Investigations Officer. |
| Article 2 | Article 2 of The European Convention on Human Rights (ECHR) states that everyone's right to life shall be protected by law. |
| Complaint | 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 garda members. Each allegation against each garda member is assessed individually for admissibility. |
| Discipline Regulations | The Garda Síochána (Discipline) Regulations 2007, as amended. These can be seen at: http://www.irishstatutebook.ie/eli/2007/si/214/made/en/print |
| Disciplinary action | Sanction which may be applied by the Garda Commissioner following an investigation. There are three levels of action provided for by the Discipline Regulations, relating to minor breaches, less serious breaches and serious breaches of discipline respectively. |
| DMR | Dublin Metropolitan Region. |
| DO | Designated Officer (a GSOC officer designated in writing by the Commission to perform functions under Part 4 of the Act, which refers to dealing with 'Complaints, Investigations and other Procedures'). |
| DPP | (Office of the) Director of Public Prosecutions. |
| ECHR | European Convention on Human Rights. |
| FLC | Family Liaison Coordinator (More information in Section 2). |
| FLO | Family Liaison Officer (More information in Section 2). |
| Garda Ombudsman | Garda Síochána Ombudsman Commission (the organisation). |
| GSIO | Garda Senior Investigations Officer. |
| GSOC | Garda Síochána Ombudsman Commission (the organisation). |
| Informal resolution | This is a process offered in the case of less serious allegations, for example rudeness. It involves a GSOC case officer speaking to both parties with the aim of each getting a better understanding of the other's point of view and coming to the agreement that the matter is resolved. |

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| Investigation | 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. |
| IO | Investigations Officer. |
| IRM | 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. It was one of the actions agreed by Government as a response to the Guerin report. |
| LEOBAB | UK & Ireland Law Enforcement Oversight Bodies Accreditation Board. |
| Median | 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. |
| OGP | Office of Government Procurement. |
| Ombudsman Commission | The Commissioners of the Garda Síochána Ombudsman Commission. |
| Out of time | A complaint made more than twelve months after the incident being complained of. |
| RTC | Road traffic collision. |
| RTI | Road traffic incident. |
| Sanction | Court outcome or disciplinary action, which may result from an investigation. |
| SIO | Senior Investigations Officer. |
| The Act | <p>The principal Act governing the functioning of GSOC, which is the Garda Síochána Act 2005, as amended. In 2015, it was amended by the following Acts:</p> <p>Garda Síochána (Amendment) Act 2015</p> <p>Garda Síochána (Policing Authority) Act 2015</p> <p>It has also been amended by other Acts. A full list of amendments can be seen at: http://www.irishstatutebook.ie/eli/isbc/2005_20.html#effects</p> |

GARDA SÍOCHÁNA OMBUDSMAN COMMISSION

10TH ANNUAL REPORT

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EXECUTIVE SUMMARY

The introduction of this report summarises matters which occurred in 2015 and had particular impact on the Garda Síochána Ombudsman Commission (GSOC).

The first four sections of the report set out in detail operations for the year in relation to GSOC's four main areas of responsibility:

To deal with complaints concerning garda conduct.

In 2015, GSOC received 1,996 complaints containing 4,269 allegations. The types of allegations were similar to previous years, with about one-third related to abuse of authority and one-third to neglect of duty. After the Dublin Metropolitan Regions, Kilkenny-Carlow, Galway, Donegal and Limerick were the Garda divisions with the highest numbers of allegations. It is important to note that it follows that there is likely to be a higher number of complaints from larger, or busier, divisions; and also that not all complaints were deemed admissible.

To conduct independent investigations, following referral by the Garda Síochána, in circumstances where it appears that the conduct of a garda may have resulted in the death of, or serious harm to, a person.

These investigations are conducted in line with section 102(1) of the Garda Síochána Act 2005 (the Act). 52 referrals were received in 2015, of which 15 related to fatalities. The most common circumstances for such referrals were road policing and arrest. DMR North, DMR South, Cork City, Donegal and Tipperary were the Garda divisions from which most referrals were made. 58 investigations following referrals (received in 2015 or previous years) were closed during the year. Almost half were closed quickly, where, after initial examination, further investigation was not deemed necessary. In the remaining cases, full investigations were undertaken and the outcomes are listed and explained.

To investigate matters in relation to the conduct of gardaí, when it is in the public interest, even if a complaint has not been received.

These investigations are conducted in line with section 102(4) or 102(5) of the Act. GSOC had eight public interest investigations already underway at the start of 2015 - two of these were concluded during the year and two others were nearing conclusion at year end.

A further 12 investigations in the public interest were opened in 2015. Two were opened by decision of the Ombudsman Commission. The remainder constituted requests of the Minister for Justice and Equality. These requests arose from the establishment of the Independent Review Mechanism, which was one of the actions agreed by Government as a response to the Guerin report¹. One of these 12 investigations was concluded during the year and the remainder were still underway at 31 December 2015.

To examine any "practice, policy or procedure" of the Garda Síochána.

These examinations are conducted in line with section 106 of the Act. One such examination, in relation to dealing with persons who are committed to custody on remand by a court, was delivered to the Minister and subsequently published.

Section 5 shows the median time taken to close investigations of each type throughout 2015 and explains initiatives taken during the year to improve effectiveness and efficiency. There was a reduction in time taken to close criminal investigations and unsupervised disciplinary investigations, while time taken to close informal resolution, supervised disciplinary and GSOC disciplinary cases increased.

Section 6 lists the observations made to the Garda Síochána during the year, when systemic issues came to light during investigations. 36 such observations were transmitted in 2015, with a view to reducing or eliminating the incidence of similar complaints in the future. The Garda Síochána has already provided responses with regard to measures underway to address some of these issues and these are included in the section.

The final section describes our organisation structure and allocation of human resources in 2015.

1 <http://www.merriestreet.ie/en/wp-content/uploads/2014/05/Final-Redacted-Guerin-Report1.pdf>

INTRODUCTION

2015 saw the appointment of a new Chairperson to the Garda Síochána Ombudsman Commission. In January 2015, the then Chair, Mr Simon O'Brien, left GSOC and returned to the UK. It is important to recognise the work done during his tenure. On 6 August 2015, High Court judge Ms Justice Mary Ellen Ring, was appointed to the Commission and took up the position of Chair in September.

Important events during the year included the passing of the Garda Síochána (Amendment) Act 2015² in March and the Garda Síochána (Policing Authority) Act 2015³ in December.

The purpose of the first Act was to amend and update the Garda Síochána Act 2005 (the Act) and other relevant legislation with the main changes for GSOC of:

- Bringing the Garda Commissioner within the remit of GSOC for the first time
- Extending the time limit for making a complaint to GSOC from six months to one year
- Extending GSOC's powers of investigation in relation to complaints involving suspected criminal behaviour
- Ensuring that the Garda Síochána provides information sought by GSOC for an investigation as soon as practicable
- Providing greater autonomy for GSOC in examining the Garda Síochána's practices, policies and procedures.

The Garda Síochána (Policing Authority) Act 2015 provided for the establishment of the new Policing Authority, alongside which the Commission looks forward to working. It also contains some further amendments relating to GSOC.

The Commission is hopeful that this marks the beginning of a phase of legislative change, which will enable GSOC to fulfil its functions more effectively.

In anticipation of any increased workload that these new functions might bring, the Commission redoubled its efforts to address human resource difficulties in 2015 and succeeded in filling some key vacancies. The staffing level still requires to be brought back to its original levels and is of ongoing concern, in light of the new legislative changes. The Commission will

continue to agitate for a fully resourced staff, to meet the objectives for the organisation as set out in the Act and its amendments.

Over 2,100 complaints were closed during the year. Three investigations in the public interest and a further 58 resulting from referrals from the Garda Commissioner were also closed. A number of these involved fatalities, investigated with consideration for the State's obligations under Article 2 of the European Convention of Human Rights (ECHR), which deals with the right to life and the vindication of that right.

The median time taken to complete criminal investigations and unsupervised disciplinary investigations was reduced. These types of investigations account for over three quarters of investigations. The Commission was happy to see that improvements, realised due to a number of initiatives in 2014, continued to bear fruit in 2015.

An examination of Garda Síochána practice, policy and procedure, under section 106 of the Act was completed in 2015. This is the second such examination conducted by GSOC. It was focused on the issue of the Garda Síochána's dealings with people who are committed to custody on remand by a court. A series of recommendations were included in the examination which the Commission hopes will assist in addressing existing vulnerabilities and building public confidence in the system.

The Commission is of the belief that such examinations have the potential to harness the experience of our staff to contribute in a positive and constructive way to continuous improvement of the policing system. With the legislative amendment in the course of the year which allows the Commission greater independence in initiating such examinations, GSOC hopes that they will play an increasing role in contributing to such improvements.

In addition to the recommendations contained in the above examination, GSOC submitted 36 further observations to the Garda Síochána in 2015, relating to issues that had come to light during investigations. The Commission hopes that these too will inform policy development and policing practice, helping to reduce the number of complaints against gardaí. The

² <http://www.irishstatutebook.ie/eli/2015/act/3/enacted/en/print.html>

³ <http://www.irishstatutebook.ie/eli/2015/act/49/enacted/en/html>

Commission was encouraged to note the increasingly positive reception to such observations from the Garda Síochána over the last year. A good example was the recent directive published by the Garda Commissioner providing that no Garda member shall investigate or prosecute a case in which they are the alleged injured party, which followed observations made by GSOC in relation to this matter. In 2016, it is anticipated that such recommendations will also be shared with the Garda Inspectorate and, where appropriate, the Policing Authority, to assist with identifying areas of common concern. In 2016, it is anticipated that such recommendations will also be shared with the Garda Inspectorate and, where appropriate, the Policing Authority, to assist with identifying areas of common concern.

GSOC took a unified approach to complaints received about a particular aspect of policing which attracted considerable attention during 2015 – the policing of water protests. All such investigations were centralised under one senior investigation officer, to identify more easily any recurring or potentially systemic issues. Garda procedures were also examined in the context of the investigations, to identify whether any recommendations should be made to reduce the likelihood of further such complaints. The approach and outcomes are described in more detail on page 20.

We continued to engage with two Commissions of Inquiry, one headed by Mr Justice Nial Fennelly, the second by Mr Justice Kevin O'Higgins. These were ongoing on 31 December 2015.

On 12 June 2015, an Inquiry under section 109 of the Act was established by the Minister for Justice and Equality, Ms Frances Fitzgerald TD. Under the stewardship of Supreme Court Judge Mr Justice Frank Clarke, the Inquiry was set up under the following terms:

"An inquiry into the conduct of designated officers of the Garda Síochána Ombudsman Commission in performing functions under section 98 or 99 of the 2005 Act in relation to the investigation by the Ombudsman Commission in the matter referred to it by the Garda Commissioner on 1 January 2015 under section 102(1) of the 2005 Act, that matter being the contact which members of the Garda

Síochána had with Ms Sheena Stewart in the early hours of 1 January in Ballyshannon, Co. Donegal, shortly prior to Ms Stewart's death in a road traffic collision."

During the course of an investigation by GSOC in 2015, following a referral from the Garda Síochána⁴ arising from the death of Ms Sheena Stewart in a road traffic incident, Sgt Michael Galvin of Ballyshannon Garda Station died on 28 May 2015. GSOC recognises the deep loss arising from these two tragic deaths, for both the Stewart and Galvin families, their friends and colleagues.

As of 31 December 2015 the Inquiry was ongoing. It is clear that the outcome of the Inquiry will be significant for GSOC, as well as the families involved. It is hoped that GSOC can build on any learning which may arise from the Inquiry report in 2016.

In 2015, modules were delivered in relation to GSOC at Garda College, Templemore, for a series of sergeant and inspector rank promotion training courses. GSOC representatives also attended a number of meetings in Garda divisions, presenting complaint statistics bespoke to each one, to assist the divisional management teams in the reduction of complaints. Feedback from this programme was positive and we hope to extend these mutually beneficial meetings to more Garda divisions in 2016.

The Commission and other staff members participated in a number of cross-agency meetings and events throughout the year, with a view to taking back any relevant learnings to the organisation. This included contributing to an international seminar of police control and oversight institutions, organised by the Geneva Centre for the Democratic Control of Armed Forces (DCAF); running a Family Liaison training event which was attended by representatives of the Police Ombudsman for Northern Ireland, the UK's Independent Police Complaints Commission and Scotland's Police Investigations and Review Commission; and attending a roundtable event on the future of police oversight hosted by the Police Ombudsman for Northern Ireland. GSOC also took the lead in organising an inaugural staff conference for the seven Irish Ombudsman offices, where similarities and differences in approach to complaint handling

4 S. 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".

and investigations were discussed. The Commission is proud to have a knowledgeable and engaged staff, whose contributions to the oversight arena are valued by their peers.

GSOC commissioned independent public attitudes research to measure any change in public opinion since the last piece of independent research, undertaken two years ago. It was good to see that seven in ten Irish adults surveyed say that the Garda Ombudsman provides an important service and the majority believe that, if they had a problem, they would be treated fairly if they went to the Garda Ombudsman. It is of concern, however, that only half of the population surveyed express confidence in the Garda Ombudsman's ability to resolve problems. Moving towards a resolution model will be a focus for the Commission in 2016.⁵

The Commission remains of the belief that some complaints made to GSOC, in particular those that relate to the quality of the service provided by individual gardaí, are best addressed through a managerial rather than a disciplinary response. This would enhance the ability of the Garda Síochána to develop their personnel to respond and engage with the public in an appropriate fashion. These types of complaints, as they are currently handled, are resource intensive for both GSOC and the Garda Síochána.

There is a related need for more engagement by gardaí with the informal resolution process. This form of restorative justice allows for a timely resolution of what is often a minor complaint, and where the complainant is often looking for the appropriate recognition that the interaction they had with a member of the Gardaí was not to their satisfaction, but where there is no desire on their part to see formal discipline of the garda occur. GSOC has seen high satisfaction levels from both parties where this form of complaint resolution is utilised and is anxious to see more use of this process into 2016. GSOC is also conscious that this is an area where legislative reform might have to take place. To that end the Commission put suggested reforms before the Minister in 2015. Meetings have taken place with the Department of Justice and Equality in 2015 on this and other issues and it is intended that these issues are developed in 2016.

5 Research was conducted as part of Behaviour & Attitudes Face to Face Omnibus (Barometer). See Appendix 6 for further findings.

SECTION 1: COMPLAINTS

TOP-LINE DATA

CALLS



4,832

calls to
lo-call number,
answered by
Caseworkers.



99%

of calls received were
answered within 60
seconds.



392

people were met
face-to-face in our public
office.

QUERIES

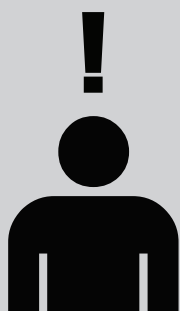


3,118

of these initial contacts were opened in our case system,
initially as "queries".

Once sufficient information is received, a query's status is
upgraded to become a formal complaint.

COMPLAINTS



1,996

complaints
were opened
in 2015 – 11%
less than the
previous year.

4,269

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



Find out the profiles of people who made complaints,
and of gardaí complained of, in Appendices 1 and 2.

WHAT PEOPLE COMPLAIN ABOUT

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'.

Criminal Offences

A typical example is an allegation of assault.

Discourtesy

Complaints around how a garda spoke to or behaved towards a person.

Chart 1: Circumstances of complaints

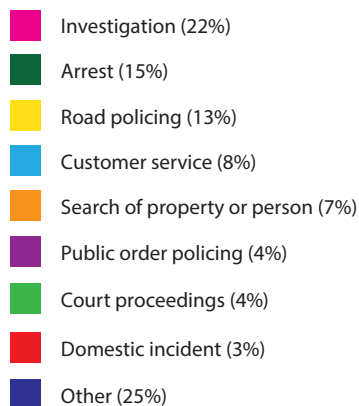
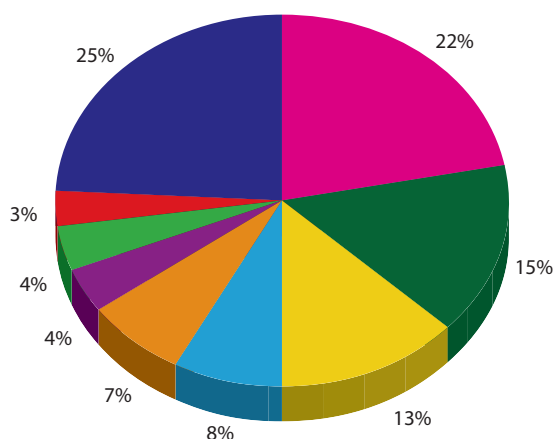
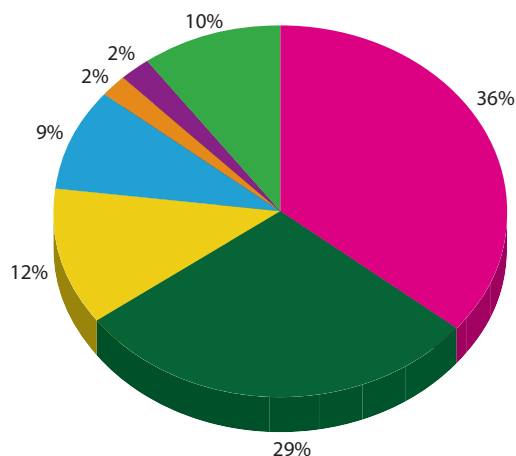
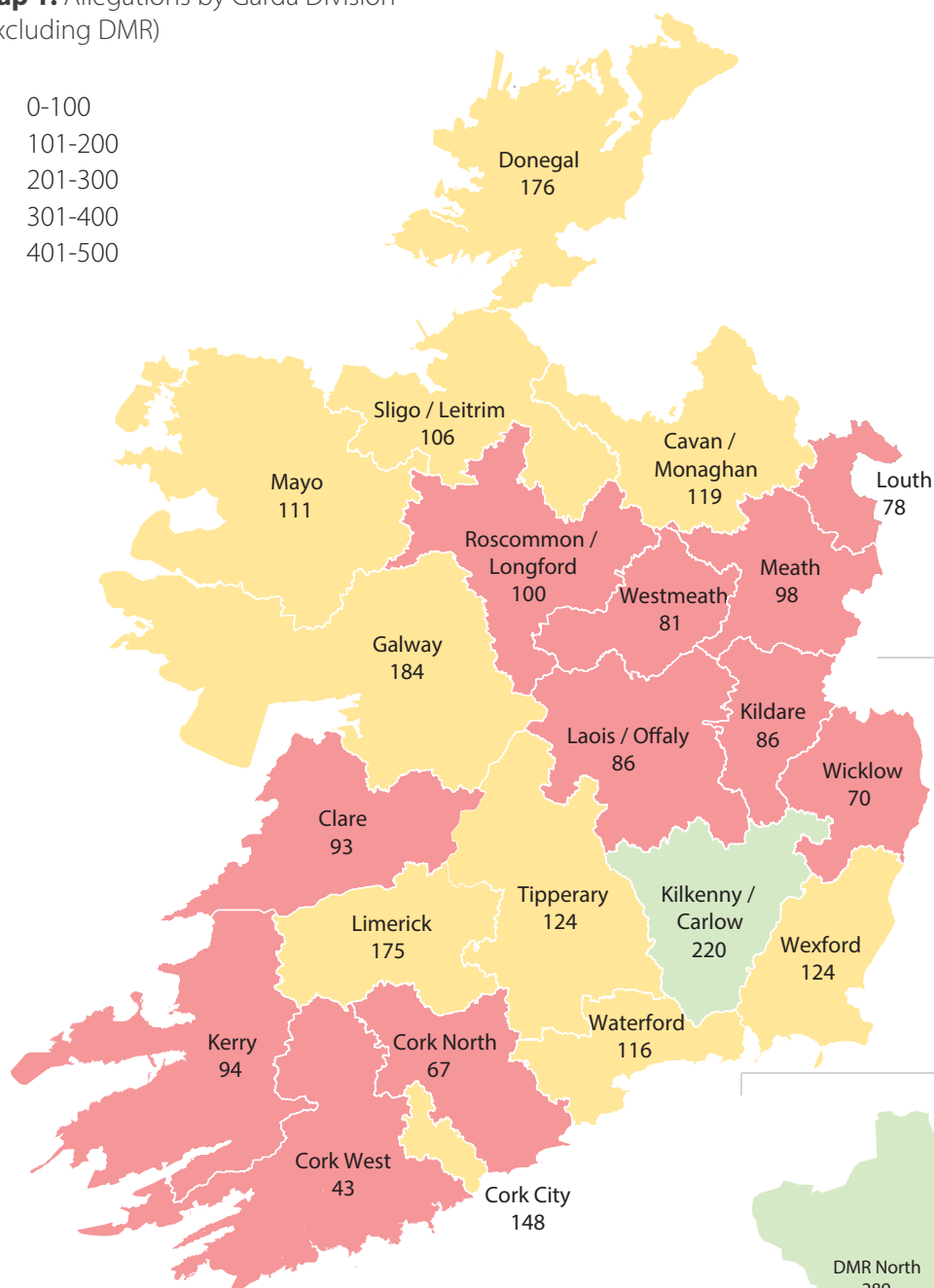


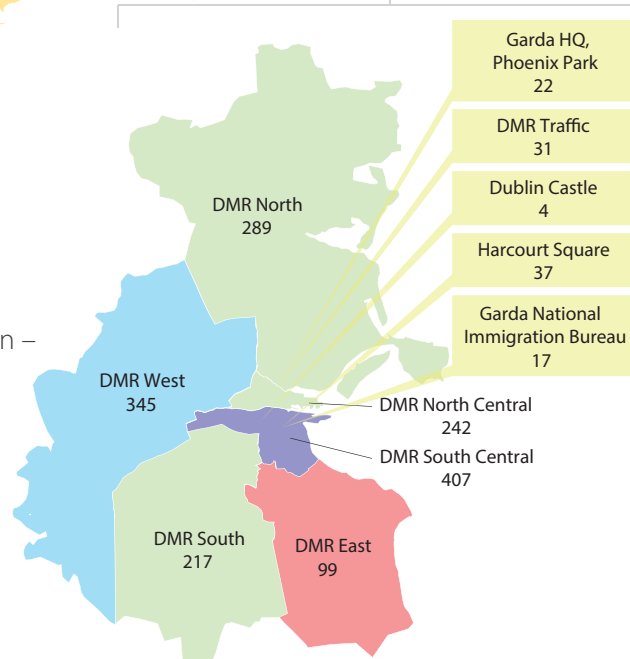
Chart 2: Allegation types



Map 1: Allegations by Garda Division
(excluding DMR)



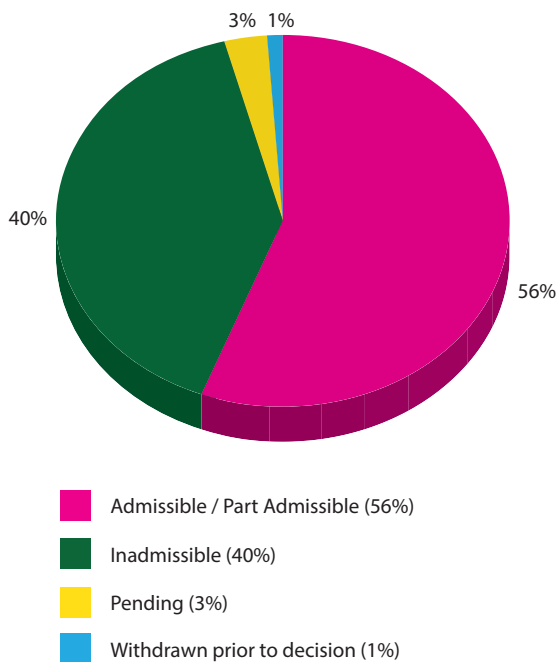
Map 2: Allegations by Garda Division –
Dublin Metropolitan Region (DMR)



ADMISSIBILITY

Complaints received are assessed against the criteria listed in section 87 of the Act, to decide whether they can be admitted for investigation or not.

Chart 3: Admissibility decisions



How do we decide if a complaint is 'admitted' for investigation?

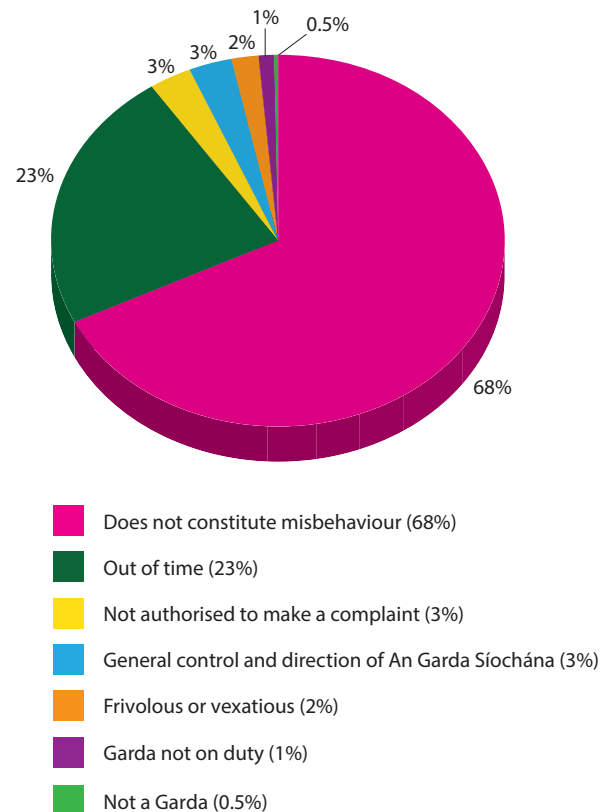
According to section 87 of the Act, we can admit a complaint if it:

- **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.
- **is** about conduct which would, if proven, constitute misbehaviour by the member of the Garda Síochána.
- **is** made within the time limit (which, since 9 March 2015, is within one year of the incident).
- **is not** frivolous or vexatious.
- **does not** relate to the general direction and control of the Garda Síochána by the Garda Commissioner.
- **does not** relate to the conduct of a member of the Garda Síochána while the member was off-duty, **unless** the conduct would, if proven, be likely to bring discredit on the Garda Síochána.

INADMISSIBLE COMPLAINTS

In 2015, 803 of the complaints received were inadmissible. The chart below shows the reasons.

Chart 4: Reasons for inadmissibility



The most common reason – with 552 cases – was that, even if proven, the alleged behaviour would not represent a breach of the Discipline Regulations. This relates to situations where the person making the complaint believes that a garda was doing something that s/he was not allowed to do, but in fact s/he was. Common examples would be complaints by people who have received penalty points or parking fines: they may have grounds to dispute their receipt of these, but GSOC is not the appropriate body to deal with such matters, as the garda who applied the sanction was not in breach of discipline for doing so.

The second most common reason not to admit a complaint for investigation was because the complaint was received outside the time limit specified in section 84 of the Act. In 2015, 181 complaints were determined to be inadmissible for this reason.

On 9 March 2015, this time limit was amended from 6 months after the date of the conduct giving rise to the complaint to a year. However, the legislation also allows GSOC the discretion to admit a complaint received outside of the time limit, if it considers there are good reasons for doing so. In 2015, GSOC admitted 34 complaints which were 'out of time' but where it was considered that there was good reason to admit the case.

Admitting 'out of time' complaints with good reason

GSOC admits about 10-15% of complaints which are 'out of time' annually.

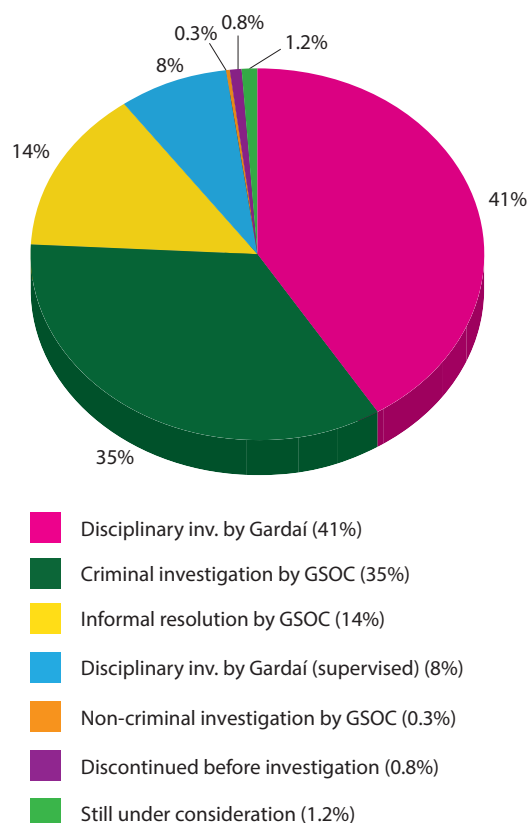
There is a practical reason for a time limit because the longer the time between the alleged incident and the making of the complaint and any subsequent investigation, the more difficult it may be – depending on the nature of the alleged offence – to preserve evidence, find potential witnesses, secure accurate statements, etc., and thereby conduct an effective investigation.

Nonetheless, the Ombudsman Commission considers that the above discretion to admit a complaint in appropriate cases, despite it being 'out of time', provides a very important safeguard in the oversight process.

ADMISSIBLE COMPLAINTS

In 2015, 1,102 cases contained at least one admissible allegation, so were admitted for investigation and dealt with in one of five ways, described below.

Chart 5: Investigations opened by type



Criminal investigations

Criminal investigation by GSOC (under section 98 of the Act) – All allegations of criminal offences by gardaí (for example assault) are investigated by the Garda Ombudsman's own investigators. There were 386 criminal investigations opened in 2015.

Case Study

A man made a complaint to the Garda Ombudsman alleging that, during a body search in the course of the search of a friend's home, a garda member punched him in the face and threatened to hit him again.

A criminal investigation (under section 98 of the Act) was conducted by a GSOC investigator. Statements were obtained from the complainant and from the garda member concerned. The investigator was unsuccessful in obtaining a statement from the sole witness, who declined to cooperate with the investigation. All Garda documentation in relation to the search and the alleged incident was obtained. It was ascertained that there was no medical or other evidence to corroborate the allegation of assault. Except for his own statement, there was no evidence to support the complainant's allegation.

The investigation was discontinued when it was clear that there were no other avenues of investigation that could be reasonably explored.

Case Study

A man who had been out late at night in the run-up to Christmas was making his way home at about 5am, in an intoxicated state. He went into a garda station to ask where to get a bus home, where he was told that the buses were finished and he would have to get a taxi. The CCTV from the garda station shows him leaving the station and walking to the next junction, where he appears to try to open one of the back doors of a parked car. Six gardaí are seen coming out of the station and approaching him. While one garda is speaking to him, another is seen knocking him to the ground and kicking him repeatedly, before arresting him and bringing him in to the station.

continued...

The station supervisor submitted a report on the matter to his superintendent, who appointed an inspector to investigate it. The inspector met with the victim, showed him the CCTV and discussed the incident. The matter was subsequently forwarded to the GSOC as a complaint (in line with section 85 of the Act) and an investigation under section 98 was opened.

The Garda Síochána CCTV footage, which showed the events described above, was obtained by the GSOC investigator. It was evident from the footage that the man in question did not pose a threat to the gardaí and he did not act in an aggressive manner. An assault on the man by a garda, lasting approximately 12 seconds, can be seen. Footage from another camera shows that, when the group arrived in to the station, the station supervisor immediately called the garda member concerned into his office.

The investigation found that the complainant had come to the attention of gardaí twice previously in the hour before this incident, for trying to get into a hostel and a Garda van respectively. In the complainant's statement, he said that, due to being intoxicated, he did not remember and was embarrassed by his own conduct, but felt that he had a social responsibility to pursue the matter. He said that he had no obvious injuries following the incident and did not seek medical attention, but had a sore hip, back, ribs and elbow.

The garda concerned was interviewed after caution. He said that he used force because he considered the complainant to be a threat and uncooperative. The reason given for feeling the complainant was a threat and uncooperative was in conflict with the CCTV evidence.

Statements were taken from all other Garda members concerned. Numerous other pieces of evidence were examined during the course of the investigation, including clothing, footwear, Tetra radio transmissions, PULSE, notes and all other Garda documentation.

The Ombudsman Commission concluded that there was a prima facie case to answer. A file was sent to the Director of Public Prosecutions, who directed prosecution for assault. Following a trial at the District Court, the garda was found guilty of assault contrary to section 2 of the Non-Fatal Offences against the Person Act 1997. He was given 200 hours community service.

Disciplinary investigations

There are four ways allegations of breaches of discipline can be handled:

Informal resolution (under section 90 of the Act)

– Sometimes it makes most sense for the Garda Ombudsman to try to work with both parties to resolve a situation informally, e.g. if a person is complaining that their property has not been returned. This can be much quicker than a formal investigation. It is a voluntary process, requiring the consent of both parties. 150 informal resolution cases were opened in 2015.

Case Study

A man was a victim of an assault some years ago. However he did not make a statement at that time. He recently contacted the investigating garda member again, who informed him that he could make a statement at a local Garda station, which would be forwarded to him. He said that he did this in November 2014 and his statement was forwarded to the investigating member. He complained that the member has not contacted him since, although he was assured by his local station that he would be contacted once it was received by the investigating member.

The complaint was admitted and considered suitable to be dealt with by informal resolution (under section 90 of the Act). Both parties consented to this.

Through phone calls between the GSOC case manager and the complainant, and the GSOC case manager and the garda concerned, each party's current situation was explained, as well as steps taken by the garda member at the time of the incident.

Contact between the complainant and the garda member was re-established. Both agreed that the complaint had been successfully resolved and the matter was closed.

Disciplinary investigation by the Garda Síochána

(under section 94 of the Act) – These are conducted by Garda Superintendents in line with the Discipline Regulations. GSOC can decide whether to supervise the investigation or not. The majority of complaints referred to the Garda Commissioner for investigation under section 94 are unsupervised.

- If it is unsupervised, the protocols between GSOC and the Garda Síochána say that the investigation must be completed and a final report issued within 16 weeks. Typical examples of cases that are investigated in this way would be an allegation that a reported crime was not investigated properly. There were 454 such cases opened in 2015.

Case Study

A woman attended a concert in a park, at which a garda sought proof of identification and age from her. Appropriate documents were produced. The garda had concerns as to their authenticity and seized them. The complainant sought the return of her documents from several Garda stations but didn't know the name or shoulder number of the garda concerned. A complaint was made to the Garda Ombudsman as the documents had not been returned.

The complaint was admitted and considered suitable for a disciplinary investigation under section 94(1) of the Act. Enquiries were conducted by the Garda Síochána Investigating Officer to establish the identity of the Garda member who had seized the documents. They succeeded in doing this and the documents were returned. As the complainant was primarily seeking the return of the documents seized, she then withdrew her complaint, as the substantive issue had been addressed.

Case Study

A complaint was received at the end of 2014 by a person who said that she was the victim of an assault the previous year. She complained that the assault had not been investigated by the Gardaí and that she had made numerous attempts to contact the investigating garda over a period of months but never received any response.

The complaint was admitted and designated for investigation under section 94(1) of the Act. A Garda Síochána Investigation Officer (GSIO) was appointed and investigated the matter. The GSIO found the garda concerned to be in breach of the Discipline Regulations by failing to investigate the woman's report of assault and by failing to record the incident on the Garda PULSE system. The sanction of a reduction in pay was recommended. The GSIO's recommendation was upheld by the Chief Superintendent of the Division, who informed the complainant and the garda concerned of the outcome of the investigation. GSOC was also informed and offered the complainant a review.

The complainant was not satisfied with the outcome of the investigation and requested that an investigator from GSOC review it. The review was carried out and the GSOC investigator found that the investigation was thorough and proportionate and that the appropriate outcome was reached.

The garda, the complainant and the Garda Commissioner were all notified of GSOC's finding and the case was closed.

- If it is supervised (which is provided for by section 94(5) of the Act), a designated GSOC investigator may meet with the Garda Superintendent to agree the investigation plan, 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. An example might be a more serious allegation of neglect of duty. There were 87 such cases opened in 2015.

Case Study

A complaint was received from a person who alleged that a complaint she had made to Gardaí about a sexual offence had not been properly investigated, and that she had not been kept properly updated as to the progress of her case.

The complaint was designated for investigation pursuant to section 94(5) of the Garda Síochána Act 2005 - a supervised disciplinary investigation. This matter was investigated by a Garda Síochána Investigating Officer of Superintendent rank and was supervised by a Garda Ombudsman Designated Officer.

Numerous enquiries were conducted as part of the investigation, including taking witness statements, interviews with the four garda members involved, a review of the original Garda investigation, and a review of other documentary evidence. A report was received from the Superintendent, following which further investigation was directed by the Garda Ombudsman Designated Officer. This included further enquiries and further questioning of the members involved.

A subsequent report was received from the Superintendent recommending that two out of the four members be found to be in breach of discipline, namely Neglect of Duty, for failing to keep the complainant properly updated as to the progress of her case. The Garda Ombudsman endorsed the recommendations made by the superintendent.

Non-criminal investigation by GSOC (under section 95 of the Act) – Certain cases which do not appear to involve offences, but which may involve disciplinary matters, may be undertaken by the Garda Ombudsman's own investigators. Three such cases were opened in 2015.

Case Study

A man, who had been the victim of an assault, complained about aspects of the investigation by the Garda Síochána. His complaint included both a criminal allegation - that the evidence had been tampered with by a relative of his assailant who was a Garda member, and a disciplinary allegation - of negligence in the handling of evidence at the trial.

The criminal allegation was investigated first (under section 98 of the Act). No evidence was found to corroborate the allegation.

An investigation was then conducted by a Garda Ombudsman investigator (under section 95 of the Act) into the allegation of negligence during the trial and other matters which arose during the earlier criminal investigation. Several potential neglects of duty were established:

- Failure to date statements
- Failure to accurately transcribe a handwritten statement, which caused difficulties for the prosecution case
- Failure to put key evidence to the suspect during questioning.

A report was sent to the Garda Commissioner, who upheld these findings and applied disciplinary sanctions, in terms of a reduction in pay and advice to the garda concerned.



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 they 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 (not to re-investigate).

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

100 requests for review were received in 2015 (in relation to investigations completed in 2015 or other years). 86 were completed by year end. In two of these cases, following review, GSOC wrote to the Garda Commissioner concerning the conduct of the investigation and/or the outcome and/or the sanction applied. In the remainder of cases, no issues of concern arose with the manner in which the complaint had been investigated, the outcome of the investigation or the sanction (if any) applied.

Case Study

The policing of water protests

From September 2014 to August 2015, GSOC received some 40 complaints related to the policing of protests about water charges and the installation of water meters. A number of these were not admissible for investigation, mostly because they were anonymous, or from people who had not witnessed the incident which was the subject of their complaint, but had heard about it from others or through the media.

The 29 admissible complaints were investigated. One senior investigations officer was appointed to manage all of these cases, so that any recurring or potentially systemic issues would be more easily noticed. All were investigated directly, or supervised, by a GSOC officer.

Most of the complaints concerned allegations of assault or excessive force. Others concerned allegations of a disciplinary nature, such as neglect of duty or abuse of authority.

The majority of the complaints were related to incidents in North Dublin, during the installation of water meters by Irish Water and their contractors. All originated from Leinster, except two (one in Co. Cork and one in Co. Waterford).

The Garda Síochána DMR North Division had an 'operational order' in place to manage such protests. This document, which set out a planned Garda response to protests, was examined as part of the investigations. The operational order made reference to legislation, risk assessments, safety, welfare and human rights. It detailed the numbers and ranks of garda members to be deployed to police the protests.

As part of the order, body cameras were issued to gardaí to wear during the protests and gardaí were instructed to inform protestors that they were being recorded. GSOC obtained the body camera video evidence recorded on the dates subject of complaints to GSOC. This, and video evidence uploaded to social media websites by others, was the principal source of independent evidence for the investigations. No clear evidence of garda misconduct was shown in the majority of the videos and in some cases they showed that the actions of the gardaí concerned were proportionate.

GSOC sent one investigation file, related to a complaint of assault on a female, to the Director of Public Prosecutions. No prosecution was directed. A disciplinary investigation concerning the conduct of three gardaí in relation to this case remained open at end 2015.

Over a third of complainants did not co-operate with the GSOC investigations or withdrew their complaints, making investigation difficult. There was insufficient evidence in any of the other investigations to warrant criminal or disciplinary action.

OUTCOMES

2,176 complaints (containing 5,061 allegations) were closed in 2015. This was the same number of complaints as in 2014, but containing a lower number of allegations.

Of these, 1,267 complaints containing 3,528 allegations had been admitted and investigated. Their outcomes are listed below.

Table 1: Outcomes of complaints closed in 2015

| Outcome/ Reason | Explanation | Type of investigation concerned | Number of allegations |
|--|--|---|-----------------------|
| Discontinued - Further investigation not necessary or reasonably practicable | The most common scenarios here are (in order of frequency) that there is no independent evidence to prove either version of events; the complainant does not cooperate with the investigation; the garda concerned has resigned or retired prior to or in the course of the investigation and was subject of disciplinary allegations only. | All types | 2,146 |
| No breach of 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) ¹ or by GSOC (s.95) | 867 |
| Allegation withdrawn | The person who made the complaint indicated that they would not pursue it. | All types | 258 |
| 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) | 95 |
| Breach of Discipline Regulations identified and sanction applied | A range of sanctions may be applied depending on the gravity of the breach found (see box). The identification of the specific breach and any sanction to be applied is a matter for the Garda Commissioner under the Discipline Regulations. GSOC has no role in this process. | Disciplinary investigation by the Garda Síochána (s.94 ¹) or by GSOC (s.95) | 116 |
| Referred to the DPP | If there is evidence that an offence may have been committed following criminal investigation, a file is sent to the DPP, who takes a decision whether to prosecute or not. If there has been a death, it is the Commission's practice to send a file to the DPP unless there is a very clear reason not to, to ensure full transparency and public confidence. (See further detail in Section 2.) | Criminal investigation by GSOC (s.98) | 19 |
| Informally resolved | The matter was resolved to the satisfaction of both parties. | Informal resolution (s.90) | 12 |
| 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 ¹) or by GSOC (s.95) | 15 |

1 Either supervised or unsupervised investigations.



Outcomes of Informal Resolution cases

Only 6% of allegations opened under Informal Resolution (IR) were recorded as informally resolved in 2015.

In at least half of cases deemed suitable for IR, one or both parties did not consent to partake.

The outcome for the majority of IR allegations is discontinuation (60% in 2015), following enquiries with both parties. This decision is made generally because there is no independent corroboration available to warrant further investigation.

In the remaining 34% of allegations, the case was escalated to a formal disciplinary investigation. (If the parties had consented to participate in IR prior to this, any information gained during that process is confidential and is not passed on to any subsequent investigation.)

Sanctions applied by Garda Commissioner in 2015, following disciplinary investigations

| | |
|------------------|----|
| Advice | 51 |
| Reduction in pay | 28 |
| Caution | 14 |
| Warning | 9 |
| Fine | 8 |
| Reprimand | 6 |

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 due to the behaviour of an individual. With a view to reducing or eliminating the incidence of similar complaints in the future, 36 observations, or recommendations, in relation to policies, practices, etc. were shared with the Garda Commissioner in 2015 – listed in their totality in Section 6.

SECTION 2: INDEPENDENT INVESTIGATIONS FOLLOWING REFERRAL BY THE GARDA SÍOCHÁNA

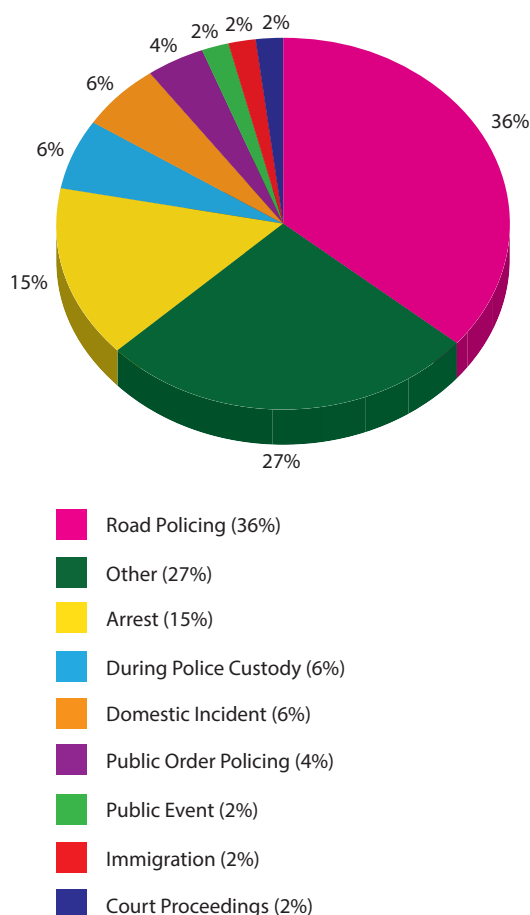
Section 102(1) of the Garda Síochána Act 2005 provides that the *“Garda Commissioner shall refer to the Ombudsman Commission any matter that appears to the Garda Commissioner to indicate that the conduct of a member of the Garda Síochána may have resulted in the death of, or serious harm to, a person”*.

This power 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.

GSOC received 52 referrals over the course of 2015, of which 15 related to fatalities.

The most common circumstances leading to referrals to GSOC in 2015 were road traffic incidents.

Chart 6: Circumstances in referrals



INVESTIGATING REFERRALS

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 no further investigation is necessary. At the other end of the scale, sometimes it is appropriate that a full criminal investigation be undertaken and the case referred to the DPP.

GSOC closed 58 investigations in 2015, initiated (in 2015 or previous years) as a result of referrals from the Garda Síochána.

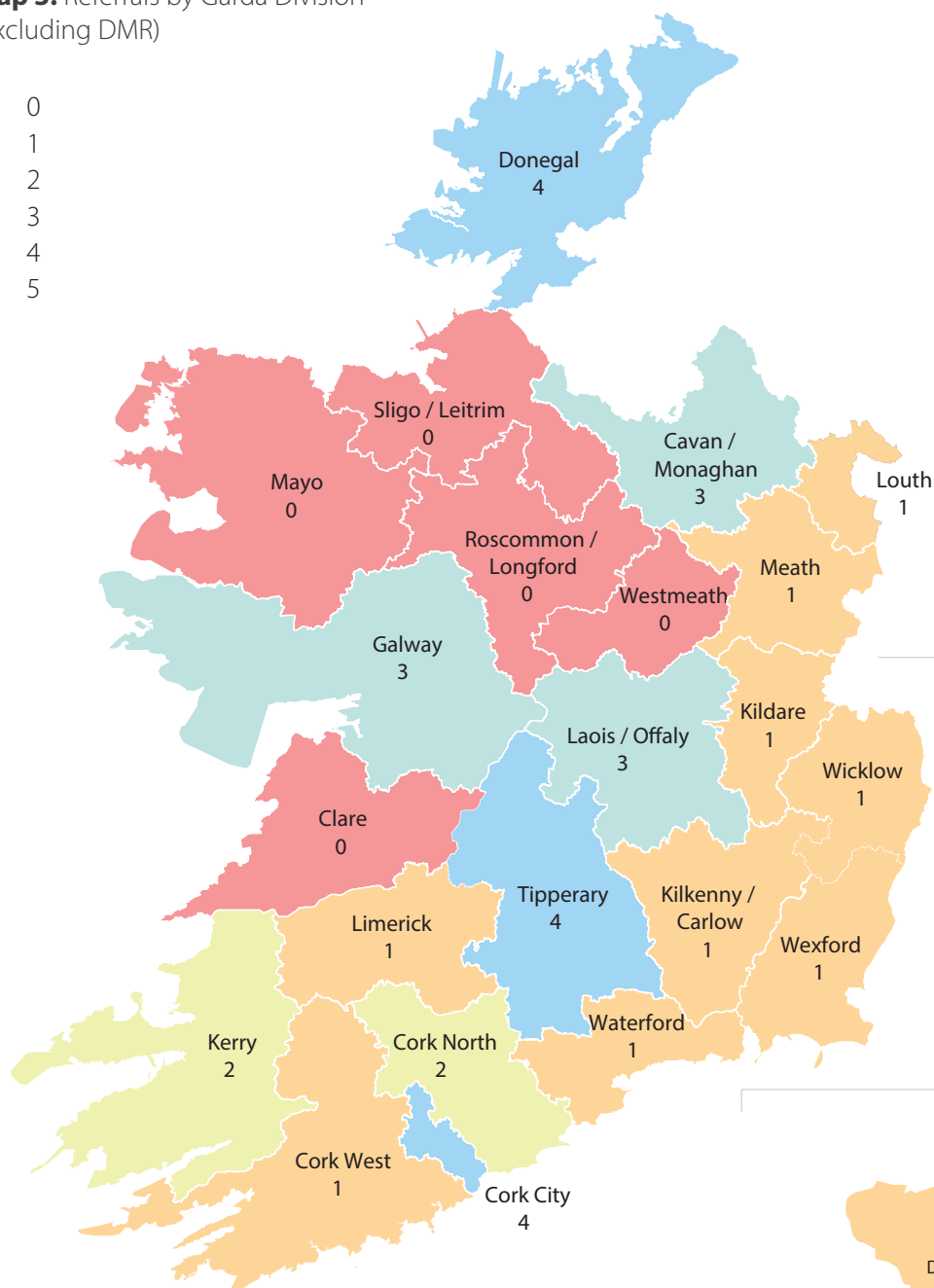


If there has been a fatality, there must be particular consideration of the State's obligations under Article 2 of the Convention for the Protection of Human Rights. Article 2 states that everyone's right to life shall be protected by law. This right encompasses both positive and negative obligations for the State: a negative obligation not to take life and a positive obligation to protect life.

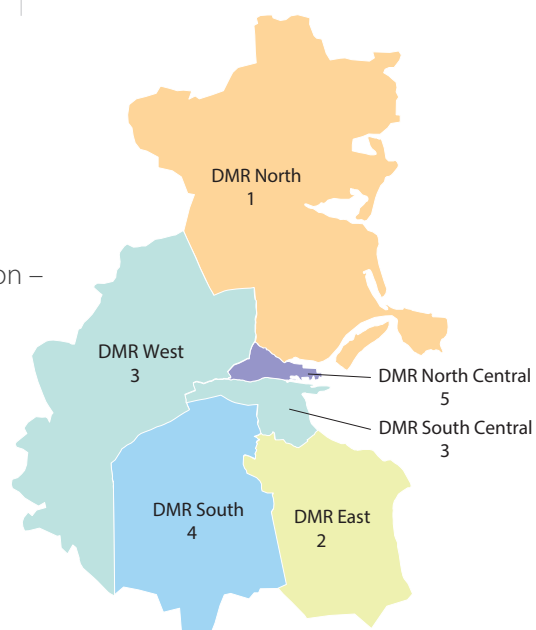
Investigations into deaths following police contact should adhere to principles established by the European Court of Human Rights to be compliant with Article 2.

The Garda Ombudsman alone does not ensure that all of these principles are upheld; but it plays a part in doing so, in tandem with the Office of the DPP, the Coroner's Court and other State bodies. For this reason, it is the Commission's practice in the vast majority of cases involving fatalities to send a file to the DPP, to ensure transparency and public confidence.

Map 3: Referrals by Garda Division
(excluding DMR)



Map 4: Referrals by Garda Division –
Dublin Metropolitan Region



OUTCOMES

Table 2: Types of investigation and their outcomes (investigations following referrals, closed in 2015)

| Type of investigation and outcome | Cases |
|--|-----------|
| Case closed after initial examination showed that further investigation was not necessary. | 27 |
| Disciplinary investigation undertaken and concluded, finding no evidence of misbehaviour by a garda – no further action taken. | 1 |
| Disciplinary investigation undertaken and concluded – sanction applied by the Garda Commissioner. | 2 |
| Disciplinary investigation undertaken and concluded – no sanction applied by the Garda Commissioner. | 2 |
| Criminal investigation undertaken and concluded, finding insufficient evidence of criminal misconduct by a garda – no further action taken. | 11 |
| Criminal investigation undertaken and concluded – referred to the DPP – prosecution directed. | 3 |
| Criminal investigation undertaken and concluded – referred to the DPP – no prosecution directed. | 6 |
| Case discontinued due to lack of cooperation from the injured party and no other issues of concern. | 6 |
| TOTAL | 58 |



GSOC has nominated specialists trained in specific skills, one of which is family liaison. We now have 17 trained Family Liaison Officers or Coordinators (FLO/FLC).

An FLO or FLC is assigned to work as part of an investigation team when we are dealing with a case involving a fatality. They will liaise with the family of the deceased throughout the GSOC investigation, to ensure that they are kept informed and treated with sensitivity. They provide a single point-of-contact for the family and are the ones to explain what should be expected during and following the investigation, take any statements from family members, update the family on progress, liaise with the coroner's office and other agencies, etc.

GSOC hosted a Family Liaison Continued Professional Development day at our Dublin office in September 2015, the theme of which was examining investigations through a family lens. It was attended by representatives from the Police Ombudsman for Northern Ireland (PONI), the Independent Police Complaints Commission of England and Wales (IPCC), Scotland's Police Investigations and Review Commissioner (PIRC) and GSOC. There were inputs from the FLOs of the different offices, sharing learning outcomes of cases handled. An independent training consultant facilitated valuable discussions through workshop sessions and provided training on digital footprints for investigative purposes, an important and evolving aspect of the FLO role.

Case Study

A road traffic incident which occurred in Dublin was referred to GSOC by the Garda Síochána. Gardaí had identified a car suspected of being involved in criminal activities in the area and switched on their blue lights and sirens to stop the suspect vehicle. The car, however, sped off and almost immediately crashed into another car. The driver of this car suffered multiple injuries to their legs.

GSOC officers attended the scene and obtained CCTV evidence from a business nearby. The CCTV showed a safe distance between the garda car and the suspect car being pursued. There was no evidence to suggest any contact between any garda car and the civilian car. A forensic examination of the crash site corroborated this. Reports and statements were received from the gardaí involved and GSOC officers met with the injured person.

GSOC decided that, as no evidence had been found to suggest any wrongdoing by the gardaí during the initial examination, there was no need to investigate the matter further. However we did share with Garda authorities the fact that the injured person expressed his dissatisfaction with the way he had been treated by gardaí at the time of the incident, and the level of contact there had been with him from gardaí afterwards. Based on the injured party's comments, GSOC recommended to the Garda Síochána to consider setting a national standard regarding the provision of information to the victims of crime.

Case Study

GSOC received a referral from the Garda Síochána because a man had died in Garda custody. An independent investigation, with consideration for the State's obligations under Article 2 of the ECHR, was conducted to establish the circumstances of his death.

The investigation established the following facts: At approximately 1am, Gardaí were called to a house where it was reported that a man had been causing a disturbance. The man was arrested under section 12 of the Mental Health Act 2001 and put in the back of the Garda van, while gardaí were clarifying details of the incident. Some minutes later, the man was found to be unconscious. Medical attention was sought and the man responded to treatment at the scene. He was taken to hospital, but his condition deteriorated and he died.

The investigation included interviewing all members of the Garda Síochána involved in the arrest, as well as witnesses present. It was established that the circumstances fully justified the arrest and that the appropriate medical attention was sought without delay. Medical evidence was obtained, which concluded that the cause of death was cardiac arrest, due to Excited Delirium Syndrome, following the arrest.

Because the case involved a fatality, a file was forwarded to the Director of Public Prosecutions in the public interest. No prosecution was directed. No potential breaches of the Discipline Regulations were identified.

Case Study

A referral was received from the Garda Síochána because a person incurred serious injury while being detained by gardaí. An independent investigation was conducted to establish the circumstances.

The investigation established that Gardaí were called to their home by relatives of a man who was reported to be distressed and behaving aggressively. Gardaí were informed that the man had recently attempted to take his own life.

The man was very aggressive when approached by gardaí, so it was decided to arrest him for a breach of the peace. A “cursory” body search was undertaken and he was placed in the back of the Garda van and appeared to calm down. He was not handcuffed. On arrival at the Garda station, the gardaí discovered that he had slit his wrists with a knife. Medical assistance was sought and, whilst waiting for an ambulance, the man was treated by a garda who was a trained paramedic. The man was brought to hospital and treated for his injuries.

A technical examination of the Garda van, which had been preserved since the incident, was undertaken. CCTV footage from the Garda station was obtained and viewed. Reports from the gardaí concerned were requested and received.

It was assessed that the decision not to apply handcuffs led to consequences for the health and safety of the man concerned and could have had consequences for the health and safety of the gardaí. According to Garda policy, handcuffing is at the discretion of the garda concerned. The gardaí gave reasons for not handcuffing the man. However, in the circumstances presented in this case, where he was being aggressive to his parents and gardaí, mental health issues had been highlighted, and only a “cursory” search could be undertaken, it is of concern that the gardaí did not handcuff him to mitigate health and safety risks.

It was recommended that the gardaí concerned receive informal advice about this decision and about Garda policies regarding search. This was also transmitted to the Garda Síochána as a general recommendation.

Case Study

A referral was received from the Garda Síochána because a person died following garda contact. An independent investigation, with consideration for the State’s obligations under Article 2 of the ECHR, was conducted to establish the circumstances of his death.

The investigation established that the incident occurred after gardaí checked cars for insurance and tax. One driver’s tax was out of date and gardaí decided to seize the car in accordance with section 41 of the Road Traffic Act.

When they informed the man that they were seizing his car and asked him to step out of it, the driver walked to a nearby bridge and jumped over it, into a river. It was established that the gardaí tried to rescue him using a lifebuoy, and called the emergency services and coastguard to assist in the search for him. The man’s body was recovered a short time later.

During the investigation, statements were taken from the gardaí concerned, as well as from witnesses to the incident and from others who had responded to a witness appeal. Medical records were also sought. GSOC found the man had a history of mental illness and that he was described by witnesses as moody and agitated in the days before he died. Notwithstanding this, GSOC concluded that there was no reason for the gardaí to predict that he intended to take his own life.

Because the case involved a fatality, a file was forwarded to the Director of Public Prosecutions in the public interest. No prosecution was directed.

The coroner returned a verdict of suicide.

No potential breaches of the Discipline Regulations were identified.

SECTION 3: INVESTIGATIONS IN THE PUBLIC INTEREST

Section 102(4) of the Garda Síochána Act 2005 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 appears to the Minister to indicate that a member of the Garda Síochána may have done anything referred to in subsection (4), and the Commission shall investigate the matter.”*

During the course of 2015, this section of the Act was amended to also allow the new Policing Authority to request GSOC to investigate matters in the public interest, effective from 1 January 2016.

CASES OPENED IN 2015

12 investigations in the public interest were opened in 2015.

Two of these were opened by decision of the Ombudsman Commission, both concerning public order incidents which had raised concerns among the public and the media. One was closed during the year and the other was still underway at 31 December 2015.

- In March, a homeless man was arrested on Henry Street, Dublin. The incident was recorded by a member of the public and circulated on social media. The video went viral and was viewed widely, generating disquiet among the public, some of whom believed the garda concerned had used excessive force. A public interest investigation was opened to establish the facts of the incident. Insufficient evidence of either a criminal or disciplinary nature was established in the investigation. GSOC concluded that any force used by the garda concerned was justified, lawful and proportionate under the circumstances. A report is available on our website.⁶

- In November, an investigation was opened into events seen in a video on social media, which appeared to show use of force during the policing of a protest at a property auction in Gorey, Co. Wexford. This is still under investigation.

Ten further investigations were opened in 2015 on request of the Minister.

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. It was one of the actions agreed by Government as a response to the Guerin report⁷.

A panel of two Senior and five Junior Counsel was established for the purpose. The complaints were in the form of letters, some sent by the individuals directly, others submitted through intermediaries, such as TDs or representative organisations. They arose from a wide variety of situations.

The review consisted of an examination of the papers. It did not involve interviews, interaction with complainants, or any other form of investigation, although counsel could recommend that the Minister seek further information to assist in coming to an appropriate recommendation in any particular case. The purpose of the review was to go through the allegations to see if further investigations were needed.

On foot of the reviews by the IRM panel, the Minister requested GSOC to conduct an investigation in relation to certain cases. These ten investigations are such cases. All were opened near the end of the year and were still underway at 31 December 2015.

⁶ http://gardaombudsman.ie/docs/publications/Report_PII_HenrySt_201503.pdf

⁷ <http://www.merriestreet.ie/en/wp-content/uploads/2014/05/Final-Redacted-Guerin-Report1.pdf>

CASES ONGOING IN 2015

We had eight public interest investigations already underway at the start of 2015:

- An investigation into the adequacy of the Garda investigation and the compilation of the Garda report to the DPP, following a fatal road traffic incident in 2005 where a woman died after being hit by a Garda patrol car in Dublin. This investigation had been unable to progress due to judicial review proceedings that were ongoing for many years. In July, the Supreme Court set aside a previous High Court decision on a point of law. The Supreme Court decision now enables GSOC to continue its investigation of this matter.
- Two investigations following the receipt of information, directly by GSOC and via the Department of Justice and Equality, in relation to alleged corrupt activities by Garda members. These matters were nearing conclusion at the end of 2015.
- Two investigations into allegations made about wrongful cancellation, by members of the Garda Síochána, of Fixed Charge Penalty Notices, during two particular time periods, subject of allegations by a garda whistleblower.
 - o Former Minister for Justice and Equality Alan Shatter requested GSOC to open the initial investigation in January 2014. It was to look into allegations made in relation to the time period of 2009-2012.
 - o In May 2014, GSOC delivered a business case to the Department of Justice and Equality with an estimate of the resources required to undertake this work and, in September 2014, the Minister confirmed allocation to GSOC of the €1 million requested.
 - o Also in September 2014, Minister for Justice and Equality Fitzgerald made a request to GSOC to investigate a second time period, subject of further allegations (June – September 2014 – the period during which the new policies and procedures implemented by the Garda Commissioner were in operation).
 - o In October 2014, sanction was received from the Minister for Public Expenditure and Reform to hire temporary investigators for the initial investigation and the procurement process was begun with the Office of Government Procurement (OGP).
 - o By February 2015, the first (analytical) phase of the initial investigation was completed. This included considerable analytical work on a total dataset of 1.6 million notices issued; interviews; and review of materials from previous related investigations. It provided a road-map for the next phase of the investigation.
 - o In July 2015, the OGP published a tender for investigative support, required for this phase, on the eTenders website. No responses met the qualification criteria. The process to initiate a second tender, on an EU-wide scale, was begun. This second tender was yet to be issued at 31 December 2015. Once the required investigative support is in place, the next phase of the investigation will commence.
- An investigation requested by the Minister for Justice and Equality in relation to allegations, by an individual, of neglect of duty. The individual had already complained directly to GSOC, therefore the allegations were already under investigation, however re-categorisation to a public interest investigation served to extend the scope of the investigation beyond the specific allegations made, as appropriate. The investigation advanced well in the course of 2015, but some key steps were still outstanding at year end.
- An investigation to determine if any Garda witnesses committed an offence and/or breach of discipline in the provision of evidence during a court case in 2013. This investigation was concluded during 2015 and a file forwarded to the DPP. No prosecution ensued. A report is available on our website⁸.
- A particular section in the Commission of Investigation Report into the Catholic Diocese of Cloyne (published in July 2011) outlined evidence given to the Inquiry, which indicated that the Garda Síochána did not act upon information that it had, in relation to complaints of sexual abuse in the Roman Catholic Dioceses of Cloyne. A public interest investigation was opened by the Garda Ombudsman in March 2012, to establish whether these matters may have constituted

8 http://gardaombudsman.ie/docs/publications/Report_PII_ProvisionEvidence.pdf

an offence by members of the Garda Síochána or justified disciplinary proceedings. The investigation revealed some possible explanations as to why formal investigations were not conducted by the Garda Síochána into serious allegations of sexual abuse. While evidence suggests some failures on the part of the Garda Síochána, no offences appear to have been committed and no disciplinary proceedings were recommended. A report is available on our website⁹.

PROTECTED DISCLOSURES

2015 was the first full year that GSOC received disclosures from employees of An Garda Síochána under the Protected Disclosures Act 2014. Four disclosures were received during the year, of which three were considered to fall within the scope of the Act. These three cases were admitted for investigation. Two cases were already ongoing at the start of 2015, one of which was closed during the year. At year end, four cases were ongoing.

Case Study

In March 2015, a homeless man was arrested on Henry Street, Dublin. The incident was recorded by a member of the public and circulated on social media. GSOC received 17 queries from members of the public who had watched the video clip on social media and were concerned about the possibility of assault and excessive force being used. There was also considerable media coverage expressing concern about the incident. A public interest investigation was opened, with the objective of restoring public confidence by establishing the facts of the incident.

The investigation established the following facts: a 34 year old man, who was homeless, spent his morning in the vicinity of Henry Street, Dublin 1. He visited Tesco on Parnell Street several times and purchased at least five bottles of wine. He drank the wine in a laneway close to Parnell Street. In the late afternoon, a garda from Store Street Garda Station, on uniformed foot patrol, approached the man and issued a direction to him under section 8 of the Criminal Justice (Public Order) Act to move on, as he was intoxicated and slouched against the shutters of a shop. Some minutes after, the man was seen on CCTV staggering and appearing intoxicated, by the entrance to an empty shop on Henry Street. The same garda approached the man and reminded him of the direction to leave. The garda, in his account, said that the man became verbally abusive to him. CCTV showed the garda standing beside the man for a few minutes, with the man making no effort to stand up or leave, but waving his arms. The garda arrested the man for being drunk, contrary to section 4 of the Criminal Justice (Public Order) Act 1994. When the garda reached for his handcuffs, the man drew his hand up across his chest. The garda, who said that he feared because of this movement that he was going to be assaulted, took his incapacitant spray from his holster and warned the man. However, a moment later, the man grabbed the spray canister and pulled it towards himself on the ground. The garda deployed the spray at the man, which he reported had minimal effect, and attempts were made to kick and punch at the garda. He sprayed the man for a second time and called for assistance using his radio.

The above account was provided by the garda and supported by CCTV obtained from the vacant unit. The man himself had no real recollection of what occurred, owing to his level of intoxication. He was interviewed by GSOC staff in the company of advocates from homeless charities and an interpreter, as he had limited English. He made no complaint against any gardaí.

As well as interviewing the garda and the man concerned, other measures taken in the course of the investigation included examining the incapacitant spray canister and safety lanyard damaged during the struggle, and the custody record in relation to the man. Business premises on Henry Street were visited by GSOC and witnesses were identified, who provided accounts.

The video clip uploaded to social media appeared to suggest that incapacitant spray was used on the man after he was handcuffed. The mobile phone on which it was recorded was obtained and submitted by GSOC to a company that specialises in forensic video analysis, to enhance the video. The enhanced video was inconclusive on that detail. The garda was not seen using the spray after the man was hand-cuffed in other CCTV material.

Insufficient evidence to show behaviour of either a criminal or disciplinary nature by the garda concerned was established in this investigation. It appeared that any force used by the garda in this incident was justified, lawful and proportionate under the circumstances.

9 http://gardaombudsman.ie/docs/publications/2015_PII_Cloyne_Commission.pdf

SECTION 4: EXAMINATIONS OF PRACTICE, POLICY AND PROCEDURE

Section 106(1) of the Garda Síochána Act 2005 provides that *“for the purpose of preventing complaints arising in relation to a practice, policy and procedure of the Garda Síochána or of reducing the incidence of such complaints, the Minister may request the Ombudsman Commission to examine the practice policy or procedure; report to the Minister...; and include in the report the Commission’s recommendations for achieving that purpose.”*

During the course of 2015, this section of the Act was amended to allow the Ombudsman Commission the independence to initiate such examinations without requiring the permission of the Minister for Justice and Equality.

The second examination undertaken by GSOC under this section of the Act was completed in 2015¹⁰.

The Minister had requested GSOC to examine the practice, policy or procedure employed by the Garda Síochána when dealing with persons who are committed to custody on remand by a court, following events in 2011: Mr Celyn Eadon was released from custody and left Castlebar District Court with his mother, Ms Noreen Kelly-Eadon. At the conclusion of the court, a committal warrant remanding Mr Eadon in custody was issued by the court and handed to the Garda Síochána. This warrant was not executed. Some three weeks later, Mr Eadon was charged with the unlawful killing of his mother and in February 2014, he was convicted of murder.

Several recommendations were made in the report:

1. The Garda Síochána and the Irish Prison Service should formalise arrangements relating to the escort of remand prisoners by members of the Garda Síochána under a nationally agreed Protocol and/ or Standard Operating Procedure. This would provide clarity as to roles and responsibilities, effective and consistent procedures and accountability.
2. Specific instruction and training should be given to garda members who perform escort duties or prosecutorial duties, in particular in relation to legislation and court procedures.
3. The Garda Ombudsman endorses the recommendation of the Garda Inspectorate to

establish Criminal Justice Units (CJU) as post charge units, responsible for the management of files and their movement to and from prosecutors. This would result in shared accurate knowledge of court files.

4. The Garda Síochána should liaise with the Court Service to review the procedures surrounding warrants, in particular committal remand warrants. The Garda Síochána should seek to develop a mechanism whereby its members receive prompt and indisputable instruction from the Court Service as to when a committal warrant is to issue.
5. The Garda Síochána should liaise with the Court Service to ensure that all warrants, are entered onto PULSE without delay, as well as details of bail decisions and conditions. Such data may result in better informed decision-making and scrutiny of warrants.
6. The Garda Síochána should liaise with the Court Service and the Irish Prison Service to establish a system whereby committal remand warrants are forwarded electronically on the day of issue to the nominated prison or place of detention. A mechanism would thus be created whereby a failure to execute a committal remand warrant or return a prisoner would be highlighted.
7. This incident illustrates a vulnerability that exists in the management of warrants. Drawing up a Standard Operating Procedure for the management of warrants, including the establishment of warrant units, with responsibility for the tracking of warrants and the provision of guidance and supervision, could mitigate this risk.

It is the view of the Garda Síochána Ombudsman Commission that the role and responsibilities of the Garda Síochána in the matters of prisoner escorts, remand hearings and committal warrants cannot be viewed in isolation, and that these recommendations to address existing vulnerabilities can only be effectively progressed by a multi-agency group.

10 http://gardaombudsman.ie/docs/publications/S106_remind_pub.pdf

SECTION 5: IMPROVING EFFICIENCY AND EFFECTIVENESS

Section 67 of the Garda Síochána Act 2005 sets out that “the objectives of the Ombudsman Commission are—

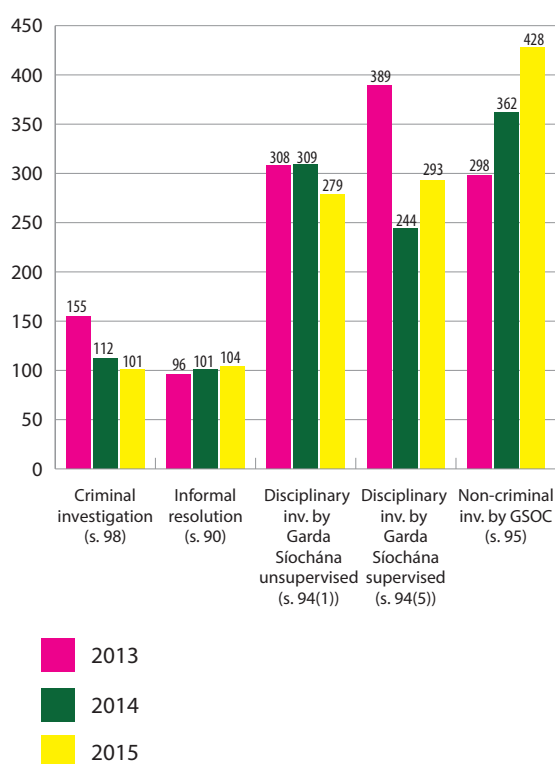
- (a) to ensure that its functions are performed in an efficient and effective manner and with full fairness to all persons involved in complaints and investigations...
- (b) to promote public confidence in the process for resolving those complaints.”

As such, the organisation is continuously endeavouring to improve efficiency and effectiveness.

TIME TAKEN TO CLOSE INVESTIGATIONS

There was a reduction in the median time¹¹ taken to complete criminal investigations and unsupervised disciplinary investigations, which, between them, account for over three-quarters of investigations.

Chart 7: Median time taken to close investigations by type at end 2015



Criminal investigations

All admissible allegations of criminal offences by gardaí, for example, assault, are investigated by the Garda Ombudsman’s own investigators. (These are governed by section 98 of the Act.)

At the end of 2015 the median time taken to close criminal investigations was 101 days, an improvement on 112 days in 2014.

2015 was the first full year of a review process which was implemented across all criminal investigations. The improvement in efficiency is attributed largely to this process, which implemented standard control measures in these investigations.

Senior Investigations Officers, who head up teams of investigators, receive a weekly list of cases which have been open for 60 days, for action by them during that week. This involves conducting a formal review and assisting the investigator in formulating an action plan. Similarly, the Deputy Director of Investigations receives a weekly list of cases which have been open for 90 days for action by him during that week; and the Director of Investigations receives a weekly list of cases which have been open for 120 days for action. At this level, the action will involve a presentation of the case with peer, internal or external review. The warning status on investigations continues until it is no longer relevant.

All cases categorised as containing a very serious allegation are subject of review on a bi-monthly basis by the Director of Investigations and the Ombudsman Commission.



All GSOC Senior Investigations Officers have completed a programme to achieve independent accreditation from the Institute of Criminal Justice Studies, University of Portsmouth, and the Law Enforcement Oversight Bodies Accreditation Board (LEOBAB).

¹¹ 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.

Disciplinary investigations

There are four ways allegations of breaches of discipline can be handled. The most common way is by disciplinary investigation by a Garda Síochána Investigations Officer (GSIO) according to the Discipline Regulations – almost eight in ten disciplinary allegations were handled in this way in 2015.

Disciplinary investigation by the Garda Síochána (under section 94 of the Act) – These can be supervised by a GSOC designated officer, depending on the seriousness and/or nature of the allegation, or investigated without supervision.

- The majority are *unsupervised* (84% in 2015), and the protocols between GSOC and the Garda Síochána say that these must be completed and an investigation report provided within 16 weeks/ 112 days.

In relation to these unsupervised disciplinary investigations undertaken by the Garda Síochána, the median duration at the end of 2015 was 279 days, which was an improvement on 2014 (309 days).

This improvement can be attributed to an initiative which ran throughout 2015 to leverage the knowledge and experience of our seconded Garda superintendent to try to improve the timeliness of unsupervised disciplinary investigations conducted by GSIOs under section 94 of the Act. 2015 was the first full year of this focused support.

The idea behind it was that face-to-face discussions between the seconded superintendent and the GSIOs might result in more focused and proportionate investigation of complaints, an increase in the level of information provided to GSOC during the course of the investigations, and a greater understanding within the Garda Síochána of the administrative processes within GSOC.

The programme, agreed with the Garda Síochána, targets cases which still have the potential to be completed within the agreed timeframe of 16 weeks. The superintendent seconded to GSOC visited the GSIOs responsible for undertaking these cases, providing them with assistance to facilitate the mutually beneficial goal of proportionate

and early closure of investigations. While 8 – 12 week old cases are being targeted specifically, older cases are also discussed, to identify the reasons for delay and explore possible solutions.

These visits are also viewed as an opportunity to gather feedback to perhaps change our own case handling processes, in order to make the investigation of these cases more efficient.

- If they are *supervised* (16% in 2015), a designated GSOC investigator will meet with the GSIO to agree the investigation plan, 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/ 140 days. The median duration for 2015 was 296 days, which was a dis-improvement on 2014 (244 days).

Informal resolution (under section 90 of the Act) – Sometimes it makes most sense for the Garda Ombudsman to try to work with both parties to resolve a situation informally, e.g. if a person is complaining that a garda was discourteous, didn't return phone calls, didn't answer letters etc. As can be seen by the median durations, this is much quicker than a formal investigation and allows for more flexibility in outcomes e.g. resolution or explanation.

For informal resolution, the median time taken to close a case was 104 days at the end of 2015, which was similar to 2014.

Non-criminal investigation by GSOC (under section 95 of the Act) – Certain cases which do not appear to involve offences, but which may involve disciplinary matters, may be undertaken by the Garda Ombudsman's own investigators. There were only 16 cases of this type closed in 2015 and the median duration for the year was 428 days, which is a dis-improvement on 2014.

Cases investigated under section 95 habitually incur lengthy delays for a number of reasons. To date, cases investigated in this way have often been very complex cases which involve examining the conduct of Garda investigations which themselves spanned years, and may have involved numerous garda members and large amounts of information and evidence. Garda members who are subject of such investigations will

often engage legal advice, as is their legal right, which can result in delays in completing investigations whilst legal matters are dealt with. And, following such investigations, the Garda Commissioner appoints a person of superintendent rank or higher to review GSOC's investigation under the Discipline Regulations. This person will decide on the matter – whether it is to implement a disciplinary sanction should they believe the member to be in breach, or to recommend that a Board of Inquiry be established for more serious cases – all of which can add to the time taken to close the case.

A review of the process for undertaking these investigations is currently underway, in an effort to establish more efficient methods and reduce the typical duration of this type of investigation.

ADMISSIBILITY

Once sufficient information is provided by a complainant, our aim is to make an admissibility determination on the complaint as soon as possible. The time taken to determine admissibility of complaints is, however, directly related to the particularities of each complaint received.

The number of complaints awaiting admissibility decisions peaked at 224 at the end of March 2015. This was a reduction of 20% on last year's peak of 285, which was the result of a reduction in the numbers of complaints received. It was reduced to 180 by year end. Nonetheless, it is still a high number and we are conscious that the time taken to process complaints through admissibility has a knock-on effect on the median times taken to close cases, as cases are measured from the day the file opens to the day it is closed.

Efforts to streamline GSOC's admissibility process and to reduce the time taken to make admissibility decisions must continue to be a focus for the organisation in 2016.

REQUESTS FOR INFORMATION FROM THE GARDA SÍOCHÁNA

The Garda Síochána put in place a new administrative system during 2013, whereby requests for documentation from GSOC were to be channelled through a dedicated e-mail address and team, who would be responsible for ensuring that responses were provided within the maximum time limit of 30 days agreed in the Protocols between the two organisations.

This system is used, typically, for routine or mandatory documentation. Examples of things regularly requested are names of garda members involved in an incident complained of; notebook entries made at the time of an incident; custody records and any related documentation; or a copy of any Garda Síochána investigation file related to an incident.

In 2015, we have received full responses to 93.6% of requests within the time limit of 30 days, with only 6.4% unfulfilled at 30 days. This represents a significant improvement in compliance with the Protocols over 2013 and again over 2014. It is a positive sign of improved cooperation between the two organisations.

Notwithstanding this marked progress, there is concern that most compliant responses come back quite close to the 30 day time limit; the average time taken to receive a compliant response was 22 days in 2015, similar to 2014.

Table 3: Time taken to respond to requests for information

| Response time | Completed compliant requests | % |
|---------------|------------------------------|----------------|
| 0-10 days | 27 | 8.85% |
| 11-20 days | 74 | 24.26% |
| 21-25 days | 68 | 22.30% |
| 26-30 days | 136 | 44.59% |
| Total | 305 | 100.00% |

22 days is quite a long time, considering that the majority of information requested through this system is of a standard nature. These waiting periods contribute significantly to long durations of

investigations into even minor matters. Numerous discussions took place with the Garda Síochána during 2015 to work towards improving efficiency.

Because of the long response times described above, it is not practical for requests for evidence, or information requests of a time-critical nature, to be processed through this system. In such circumstances, the GSOC Designated Officer makes their specific urgent request directly to the relevant District Officer, requesting the return of the information directly to them. (An example of a situation where information requests are typically time-critical would be a request for CCTV footage, or initial accounts in the context of a serious criminal or disciplinary investigation.)

In November 2014, an SLA was drafted formalising all of the above arrangements but no sign-off was achieved in 2015.

As timeliness in investigations is a key indicator of efficiency and effectiveness of the oversight system, working with the Garda Síochána to find a way to address these matters will be a priority for the Ombudsman Commission in 2016.

READINESS FOR NEW LEGISLATION

Several new pieces of legislation came into effect over the last year which GSOC has worked to implement.

Child protection

The Children First Act 2015¹² was published in November and parts of it enacted. In anticipation, GSOC has participated in a Justice Implementation Group over the last number of years. We have developed a Child Protection policy, in accordance with the “Children First – National Guidance for the Protection and Welfare of Children” guidelines.

All staff who may come into contact with children in the course of their employment have received Child Protection Training in accordance with the guidelines, and GSOC is in full compliance with the provisions of the Children First Act 2015.

Staff are trained to properly identify child protection concerns, such as suspected neglect or abuse, and

GSOC has two designated liaison persons who assess all cases where any such concerns are identified. They also maintain regular liaison with TUSLA (Child and Family Agency) and the Garda Síochána so that appropriate action can be taken in relation to any child welfare concerns.

In 2015, GSOC identified 202 cases where there was a potential risk to the protection and welfare of a child. 37 files were also carried over from 2014, so overall, GSOC handled 239 such cases in 2015. Of these:

- 75 resulted in referrals being made to TUSLA
- 113 cases were considered and a decision made not to refer to TUSLA
- 51 cases were still under consideration at year end, as they did not contain sufficient information to warrant making an informative referral. (A decision on all of these cases will be made in 2016.)

Forensic evidence and DNA database system

The Criminal Justice (Forensic Evidence and DNA Database System) Act 2014¹³ was enacted in November 2015. This Act has brought into law a national DNA database, similar to national databases already existing in the UK and many other European countries. The national database is stored within Forensic Science Ireland, which is currently located at Garda Síochána headquarters in the Phoenix Park, Dublin. We assigned two investigators as the key liaison officers to work closely with Forensic Science Ireland, to ensure that GSOC would be fully compliant with the legislation as soon as it was enacted.

All investigators have received instruction on how to take DNA and forensic samples in accordance with this new legislation. GSOC has developed a Code of Practice for implementation the Act. A Protocol of operation has also been agreed with Forensic Science Ireland.

Rights of victims of crime

Directive 2012/29/EU¹⁴ came into effect in November 2015, giving, for the first time, a specified set of rights to victims of crime. In anticipation, during 2015, we engaged with other agencies in the Justice area to coordinate practices in dealing with victims of crime. We updated our Code of Practice in relation to

12 <http://www.irishstatutebook.ie/eli/2015/act/36/enacted/en/pdf>

13 <http://www.irishstatutebook.ie/eli/2014/act/11/enacted/en/pdf>

14 <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32012L0029&from=EN>

victims of crime and worked to put in place systems to provide the information and support required by the Directive. This included awareness training for staff; development of website content and a specific leaflet with information for victims of crime in clear and understandable language; and implementation of new procedures in relation to assessment of victims of crime for Casework and Investigations staff.

As well as our dealings with victims of crime directly (complainants making allegations of criminal offences by gardaí), the Commission recognised that the Directive brings with it the possibility that GSOC may now receive complaints of neglect of duty from victims of crime in relation to their treatment by the Garda Síochána, in light of their rights under the Directive. We have established a line of contact with the Garda National Protective Services Bureau and hope that, by working together, we will be able to prioritise resolution to such matters over lengthy disciplinary processes, where possible.



Directive 2012/29/EU includes clear and understandable communication as a legal right of victims of crime. This also ties in with the tenet of fairness which is part of GSOC's mission statement. Part of being fair to the people we are dealing with is to communicate with them in way that they will understand. In view of this, a 'Plain Language' project was initiated by GSOC in 2015, and we began the work of reviewing our website content, leaflets, letters – and all our communications with the public – to see where we can make information easier to understand. This work will be ongoing in 2016.

Case Study

A man made a complaint to GSOC which appeared to allege that gardaí had come to his flat, unlawfully detained him and taken a sum of money from him, to give to another party in a dispute. As these allegations amounted to possible criminal offences, a criminal investigation under section 98 of the Act was opened.

As the man's English was limited, the GSOC investigator arranged an interpreter, and the man came to our offices and provided a full statement in an Asian language with translation by an interpreter. During this process, it became clear that his initial allegation had been misinterpreted. It transpired that he willingly gave the money to the garda to give to another person, to whom he owed a deposit. It transpired that he had no issues with his detention, but wished to make an allegation of assault against his flatmates.

The investigator confirmed that he was not actually complaining about any garda members and informed him of how to make a complaint of assault against his house mates to the Garda Síochána. The investigator invited him to get back in contact if he had problems with this. He never came back to us and stopped corresponding, so the case was closed on the assumption that the matter was resolved.

All letters sent to the complainant during the process were in English and in his native language, to afford him the best opportunity to participate.

SECTION 6: INFORMING POLICY DEVELOPMENT AND POLICING PRACTICE

Some investigations highlighted situations where the problem may have been more due to a systemic or management issue than due to the behaviour of an individual. With a view to reducing or eliminating the incidence of similar complaints in the future, 36 recommendations in relation to policies and practices, made on foot of investigation findings, were shared with the Garda Commissioner in 2015. The most common subject matters were crime investigation, treatment of detained persons and road traffic incidents.

Note: This lists only recommendations transmitted across 2015. However, it includes feedback received in relation to these over the following three months (up until 24 March 2016).

Table 4: Observations brought to the attention of the Garda Síochána in 2015

| General subject matter | Specific subject matter | Context | Recommendation | Date issued | Feedback received |
|------------------------|---|---|--|-------------|---|
| Arrest | Securing of premises following forceful entry | Investigation following a complaint that the Garda Síochána had used force to gain entry to a premises to make an arrest and that the security of the building was left vulnerable when garda member "secured" premises by pulling front door closed, resulting in a theft. | That clearer instructions be issued to members as to what is expected of them in securing premises which have been subject to lawful forced entry. | 26/03/2015 | Acknowledgment received 22/05/2015, Stating observations were forwarded to relevant department for consideration and attention. |
| Crime investigation | 999 Calls | Investigation carried out by GSOC which indicated information was received by the Garda Síochána via a 999 call that a person may be in danger, but enquiries were not followed up. The person died. | That the Garda Síochána re-issue guidelines regarding handling of 999 calls. | 07/08/2015 | Acknowledgment letter received 17/08/2015. |
| Crime investigation | Appearance of bias | An investigation which involved allegations of serious crime made by one Garda member against another. | That further guidance be provided to District and Divisional Officers where allegations of a serious crime are made against one member by another. That the investigation be carried out by a member with no prior professional knowledge or relationship with persons involved. | 19/05/2015 | Acknowledgment letter received 20/08/2015, stated all issues identified to be examined and appropriate action and instruction issued, if deemed appropriate. |
| Crime investigation | Juvenile witnesses | An investigation following a complaint that a witness under the age of 18 was interviewed without a parent or guardian present. | That the Garda Síochána issue guidelines to members regarding the informal interviewing of child witnesses under the age of 18. | 08/06/2015 | Letters received 22/06/2015 and 30/09/2015, stating issues have been notified to the Director of Training and Development at Garda College and Chief Superintendent Crime Policy & Administration Division at Garda Headquarters, for consideration. May be considered for training modules at Garda College. |

| General subject matter | Specific subject matter | Context | Recommendation | Date issued | Feedback received |
|------------------------|---|--|---|-------------|--|
| Crime investigation | Management of vehicle pursuit | In the investigation of a complaint, issues arose regarding members adhering to Garda Codes in regard to pursuit of a vehicle. Lack of management guidance was also highlighted. | That the Garda Síochána review and reinforce guidance regarding Initiation of Pursuit and Responsibilities of Radio Controllers During Pursuits. | 15/12/2015 | Acknowledgement letter received, dated 08/01/2016, stating records have been updated accordingly and referred to Divisional Officers Kilkenny/Carlow, Crime Policy and Administration for views and observations. Draft 'Garda Pursuit Policy' submitted for consideration by Garda Executive, in relation to issues raised. |
| Crime investigation | Management of vehicle pursuit | An investigation following a fatal road traffic collision. | <ul style="list-style-type: none"> That the Garda Commissioner considers reviewing section 35-41 of the Garda Code to assess the practicality of the instruction contained therein that the determination for authorisation/termination of a pursuit lies with the radio controller. Delivery of practical pursuit training to members of the Garda Síochána. | 14/10/2015 | Acknowledgment letter received 20/10/2015 |
| Crime investigation | Preservation of evidence | An investigation following allegations of neglect of duty in the investigation of serious crime reported by a member of the public. | That the Garda Síochána re-issue guidance to members when dealing with reports of serious sexual offence, in relation to the fact that the onus to secure and preserve potential evidence commences immediately. | 28/04/2015 | Acknowledgment letter received 08/05/2015 |
| Crime investigation | Preservation of scenes | An investigation carried out by GSOC into allegations of neglect of duty in the investigation of a death. | That the Garda Síochána introduce a minimum national standard regarding the investigation of deaths for the Coronial process. | 18/08/2015 | No response received. |
| Crime investigation | Preservation of scenes | An investigation carried out by GSOC into allegations of neglect of duty in the investigation of a death. | That scenes of sudden death should be photographed as a matter of course. | 18/08/2015 | No response received. |
| Crime investigation | Preservation of scenes | An investigation carried out by GSOC into allegations of neglect of duty in the investigation of a death. | That the Garda Síochána consider that, when young or inexperienced members are tasked with the investigation of a sudden and unnatural death, their decisions should be subject to supervision by a member of a higher rank. | 18/08/2015 | No response received. |
| Crime investigation | Provision of information / Victims of crime | An investigation following an RTC. | <ul style="list-style-type: none"> Provision of guidance to members as to when victims of crime should be updated and how frequently, if the investigation becomes lengthy or protracted. The implementation of a national standard regarding updating victims of crime. Further training regarding the needs of victims of crime. | 28/08/2015 | Acknowledgment letter received dated 16/10/2015 stating that a Victim of Crime Support Office has been established in each Garda Division with the capacity to deal with such matters. |

| General subject matter | Specific subject matter | Context | Recommendation | Date issued | Feedback received |
|------------------------|-------------------------------------|---|---|-------------|--|
| Crime investigation | Provision of information | Investigation into a complaint that gardaí failed to respond to the reporting of an incident and no updates were provided to complainant in relation to the investigation or suspect. | That the Garda Síochána give guidance to members as to frequency that complainants should be updated. | 23/09/2015 | Acknowledgment letter received dated 29/09/2015. Further correspondence received on 03/11/2015 requesting further information to ensure non re-occurrence. Follow up letter issued by GSOC on 04/11/2015. |
| Crime investigation | Record keeping | An investigation which involved allegations of serious crime made by one Garda member against another. | That garda members are reminded of the importance of properly recording matters on the PULSE system. | 19/05/2015 | Acknowledgment letter received 20/08/2015, stated all issues identified to be examined and appropriate action and instruction issued, if deemed appropriate. |
| Crime investigation | Recording of incidents | Investigation carried out by GSOC which indicated information was received by the Garda Síochána via a 999 call that a person may be in danger, but enquiries were not followed up. The person died. | That Garda Síochána re-issue guidelines regarding the importance of notebook entries and recording incidents on PULSE. | 07/08/2015 | Acknowledgment letter received 17/08/2015. |
| Crime investigation | Use of equipment | An investigation following an RTC, where it was evident that the Public Service Vehicle (PSV) Inspector did not have appropriate equipment. | Ensure all PSV inspectors are issued with a camera to photograph/record the damage to vehicles. | 16/12/2015 | Acknowledgment letter received dated 06/01/2016 stating relevant stakeholders advised of findings of GSOC investigation. |
| Miscellaneous | Producing Garda ID | In the course of an investigation it transpired that an off-duty member involved in a disagreement with a taxi driver regarding taxi fare produced his Garda ID in the course of the disagreement and, by doing so, placed himself on duty. | That the Garda Síochána give clearer guidance to members regarding the production of Garda ID. | 14/05/2015 | No response received. |
| PULSE | Provision and access to information | Investigation of a complaint regarding the level of access on the PULSE system by members of the Garda Síochána to a deceased person's profile. | That consideration be given to the role of the Garda Síochána in managing and protecting access to the data that they possess and ensure every member is complainant with the Data Protection Act. | 16/11/2015 | Acknowledgment letter received dated 29/12/2015 stating concerns raised have been forwarded to Assistant Commissioner, Organisation Development and Strategic Planning, for consideration. |
| PULSE | Sharing of information | In the course of an investigation it transpired that, during a Garda investigation, information was retrieved from the PULSE system and passed on to an external agency. | That the Garda Síochána revise and update Memos of Understanding, making it clearer as to what 'soft' information can or cannot be provided to other State Agencies, in accordance with section 7 (1) of the Garda Síochána Act 2005. | 19/05/2015 | Acknowledgment letter received 06/08/2015, stating the Assistant Commissioner National Support Services has advised the 1996 Memorandum of Understanding is currently under review to reflect legislative, tactical and administrative developments. |

| General subject matter | Specific subject matter | Context | Recommendation | Date issued | Feedback received |
|-------------------------------|-------------------------------------|--|---|-------------|--|
| PULSE | Use of PULSE | Investigation which indicated inconsistency amongst Garda members regarding the recording of licensed premises matters on PULSE. | That guide lines to members should be re-issued. | 23/09/2015 | Acknowledgment letter received dated 29/09/2015. Further correspondence received on 03/11/2015 requesting further information to ensure non re-occurrence. Follow up letter issued by GSOC on 04/11/2015. |
| Road traffic incidents | Record-keeping | An investigation following a fatal RTC. | That Garda members should record their specific actions taken during an investigation into a RTC and these actions should be available for review. | 04/02/2015 | Acknowledgment letter received 11/02/2015. |
| Road traffic incidents | Record-keeping | An investigation following an RTC, during which GSOC was informed that no notes were recorded by Garda members. | That the Garda Síochána advise members on the importance of record keeping and decision logs. | 16/12/2015 | Acknowledgment letter received dated 06/01/2016 stating relevant stakeholders advised of findings of GSOC investigation. |
| Road traffic incidents | Supervision | An investigation following allegations of neglect of duty in the investigation of a fatal RTI. | That DO should ensure that suitably trained and experienced Garda personnel are allocated to investigate road deaths and that regular reviews or case conferences are undertaken. | 04/02/2015 | Acknowledgement letter received 11/02/2015. |
| Road traffic incidents | Supervision | An investigation following an RTC highlighted that members attending the scene did not have a clear understanding of their roles and responsibilities. | That the Garda Síochána officers ensure adequate investigation is undertaken in all RTCs, by allocation of Garda personnel who are suitably trained and experienced, along with regular review of the Investigative procedures. | 16/12/2015 | Acknowledgment letter received dated 06/01/2016 stating relevant stakeholders advised of findings of GSOC investigation. |
| Road traffic incidents | Use of policy log books | An investigation following a fatal RTC. | That Senior Investigating Officers of any fatal RTC should accurately record their decisions in a policy log book which is available for review. | 04/02/2015 | Acknowledgment letter received 11/02/2015. |
| Search | Search log / Camera/ Record-keeping | Following an investigation where a Garda member only partially and insufficiently completed the search log (NB – it is not mandatory in Ireland to complete a search record). | <ul style="list-style-type: none"> That the Garda Síochána consider making it a requirement that search logs are fully completed. Garda members should be equipped with a camera to photograph scenes prior to and after searches. Garda members could be reminded of the importance of note-taking and that notes should be completed at the first available opportunity. | 10/03/2015 | Acknowledgment letter received 28/04/2015 stating correspondence and background forwarded to relevant department to consider recommendations. |
| Treatment of detained persons | Detention procedures | Investigation carried out by GSOC following the removal of a person from family home after becoming aggressive towards family members and gardaí. Handcuffs were not placed on detainee, which subsequently led to serious bodily harm whilst on route to the Garda Station, requiring medical assistance. | <ul style="list-style-type: none"> That informal advice be reissued to members in respect of handcuffing a detainee. That members to be apprised of Garda policies in respect of search following arrest. | 12/01/2015 | Acknowledgment of receipt of letter received 03/03/2015. Subsequent report received on 20/05/2015 stating members involved informally advised as recommended and issues highlighted were notified to Director of Training & Development at Garda College. |

| General subject matter | Specific subject matter | Context | Recommendation | Date issued | Feedback received |
|-------------------------------|--|---|---|-------------|---|
| Treatment of detained persons | Detention procedures | An investigation following a death in custody. | That the Garda Síochána consider revisiting the regulations and guidelines relating to the treatment of detained persons, with particular regard to the risks of intoxication. | 08/09/2015 | Acknowledgment letter received dated 25/11/2015, stating views have been received from the Office of DPP regarding HQ Directive on Assessment by Gardaí of Intoxicated persons and incorporated into the draft HQ Directive and forwarded to Commissioner for approval. |
| Treatment of detained persons | Documenting, securing and return of property | In the investigation of a complaint, issues arose regarding the return of a detainee's property. | That the Garda Síochána review management of prisoners' property at Garda Stations to ensure property seized is accurately documented, secured and returned to prisoners on release. This process would assist in processing of property and reuniting items to their rightful owners and reduce numbers of complaints. | 15/12/2015 | No response received. |
| Treatment of detained persons | Record-keeping / Custody Regulations | An investigation which found no record of regular checks on a detainee, who was intoxicated upon arrival at Garda station and also deemed to have visible injuries. | That the Garda Síochána advise members on the importance of updating custody records in sufficient detail and quality. | 30/03/2015 | Acknowledgment received 13/04/2015, stating observations were forwarded to relevant department for consideration. |
| Treatment of detained persons | Training | An investigation following a death in custody. | That consideration be given to training of dedicated custody officers. | 08/09/2015 | Acknowledgment letter received dated 25/11/2015 stating views have been received from the Office of DPP regarding HQ Directive on Assessment by Gardaí of Intoxicated persons and incorporated into the draft HQ Directive and forwarded to Commissioner for approval. |

Seven further recommendations were submitted to the Garda Commissioner in the form of the Ombudsman Commission's report following the examination of practice, policy and procedure in relation to remand in custody. These are listed in section 4.

SECTION 7: STAFFING

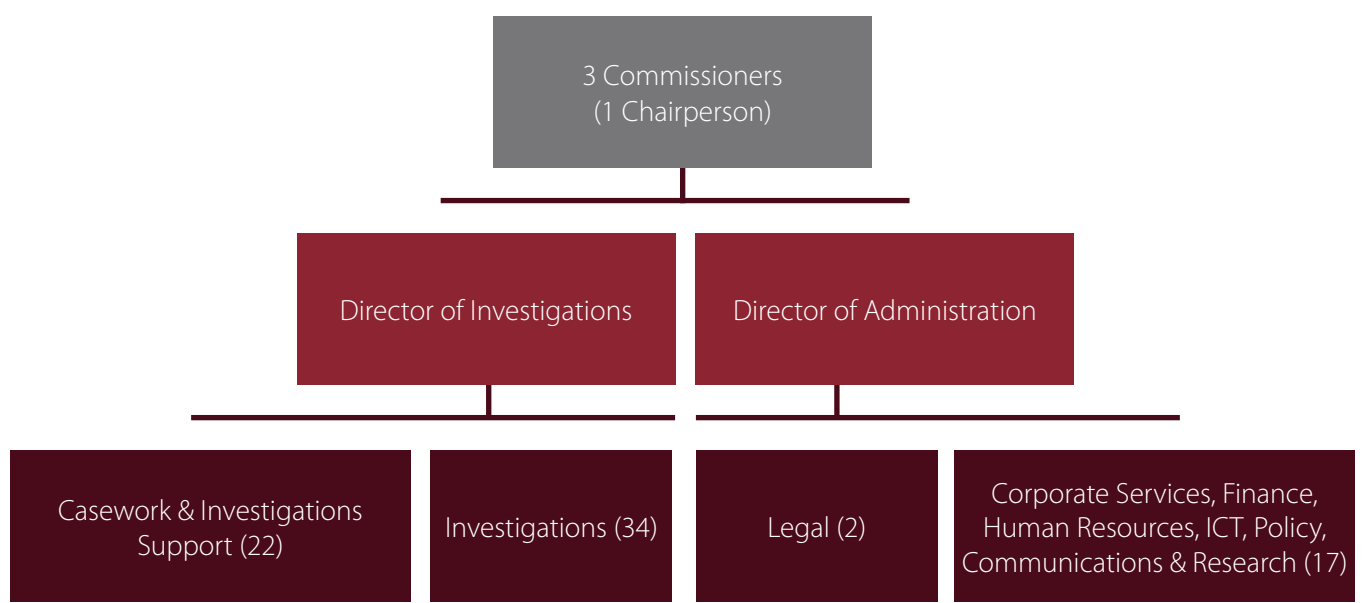
At 31 December 2015, GSOC had 77 staff, of which 20 were employed in its Administration Directorate and 57 in the Operations Directorate. Additional to this were the three Commissioners, a Superintendent seconded from An Garda Síochána and two ICT contractors.

During the year, Mr Simon O'Brien resigned and Ms Justice Mary Ellen Ring was appointed as Chairperson for the remainder of the current Commission's tenure. Several recruitment campaigns were successfully conducted by the Public Appointments Service on behalf of GSOC, to fill vacancies in a number of key positions, including Head of Legal, Head of ICT and two Senior Investigations Officer positions.

In the latter half of 2015, GSOC was accorded a greater level of independence in recruitment, and this resulted in accelerating the filling of any remaining and arising vacancies. It is anticipated that all vacancies will be filled by mid-2016.

Appendix 5 details staff training and development undertaken in 2015, listing the conferences, courses and workshops attended by staff, as well as further education pursued with the assistance of the Refund of Fees Scheme.

Chart 8: Human Resource Allocation and Organisation Structure



CONCLUSION

2015 was a busy year with significant operational achievements made by the organisation. There were continued improvements in efficiency and in dialogue and cooperation with the Garda Síochána.

There have been some further changes to the legislation governing police oversight, which is a positive development. The Commission is hopeful that this marks the beginning of a phase of constructive conversation and changes which will enable it to fulfil its functions more effectively.

Mindful of the fact that the legislative changes which have been enacted are likely to have the effect of increasing the organisation's remit, the Commission made it a priority in 2015 to explore possible solutions to staffing difficulties with the Department of Public Expenditure and Reform.

Finally, the Commission would like to acknowledge that the staff of GSOC, throughout 2015, displayed considerable focus on quality public service through another difficult year. We thank them sincerely.

APPENDIX 1: PROFILE OF COMPLAINANTS

The below charts illustrate the profile of complainants to GSOC in 2015. This is based on a survey which is distributed to all complainants when their complaint is first opened. 40% of complainants (798) responded in 2015. Responses are anonymous.

Chart 9: Gender

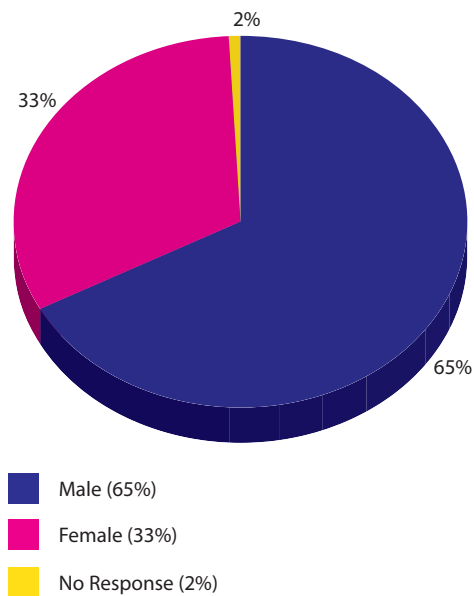


Chart 10: Age

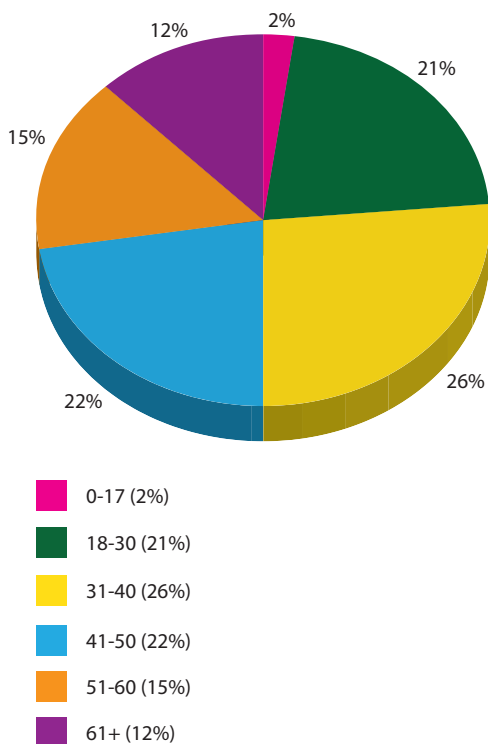


Chart 11: Nationality

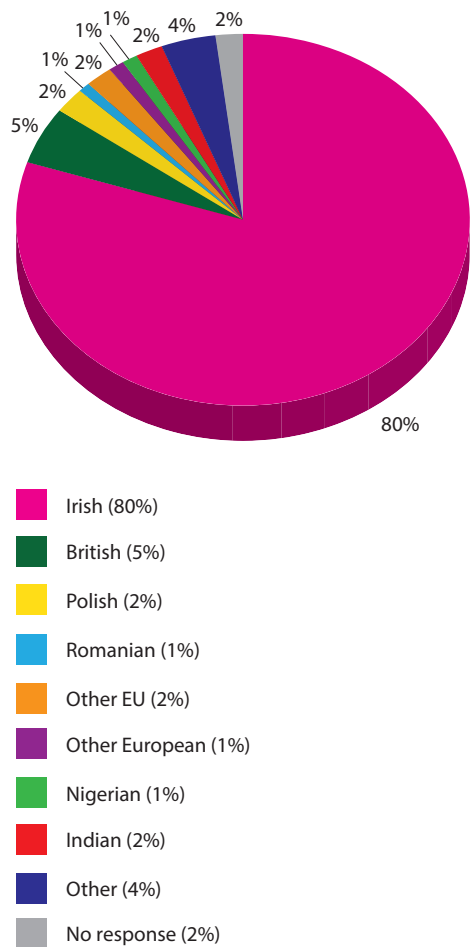


Chart 12: Country of birth

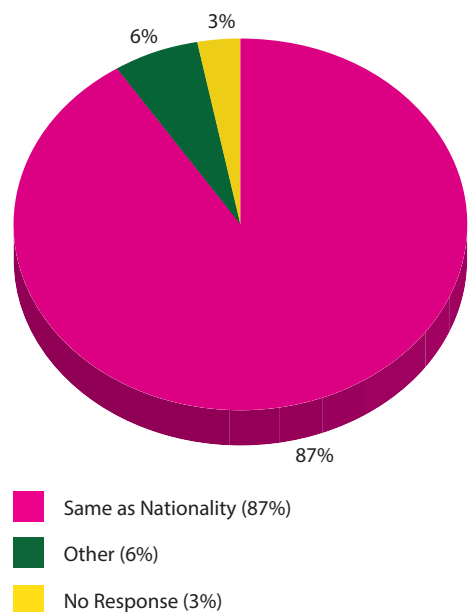


Chart 13: Ethnicity

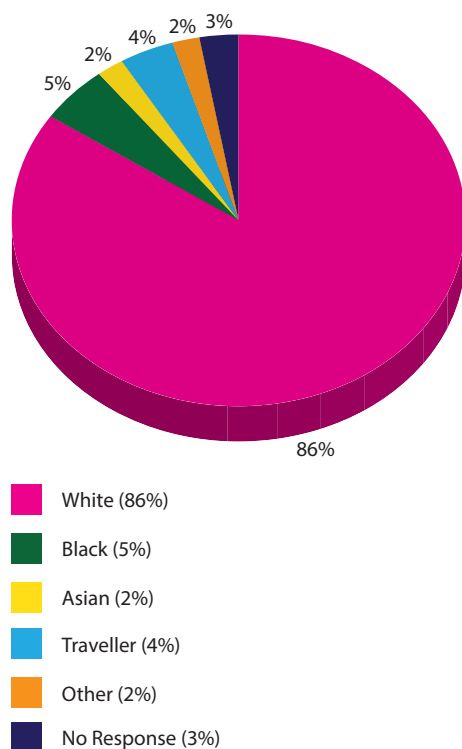


Chart 15: Health/Disability status

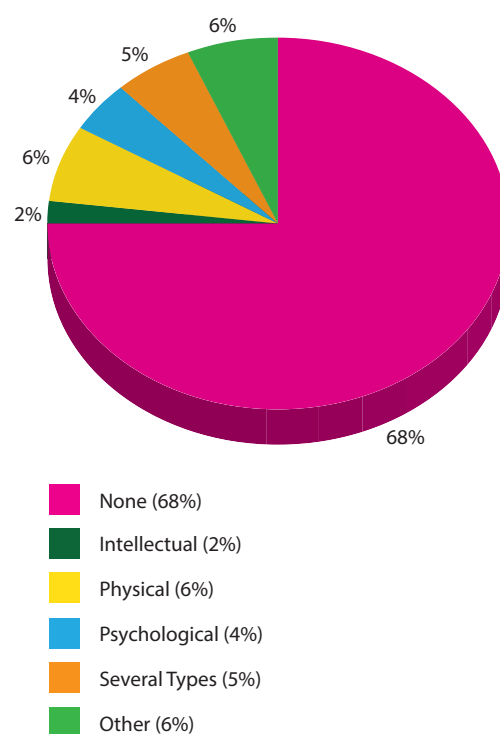


Chart 14: First language

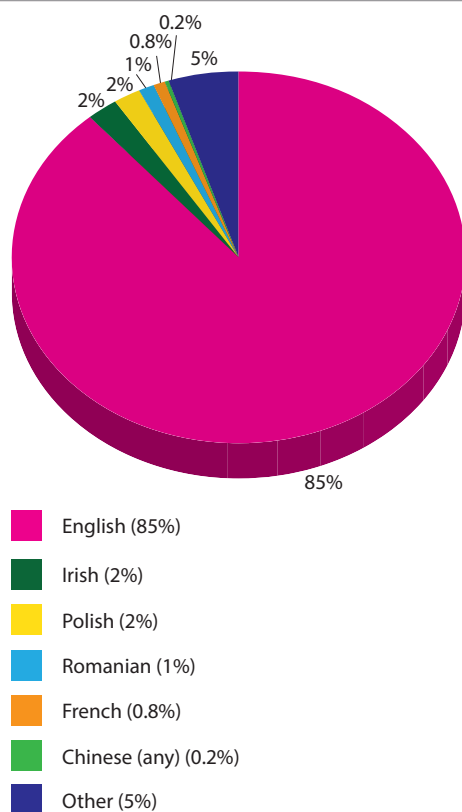


Chart 16: Religion

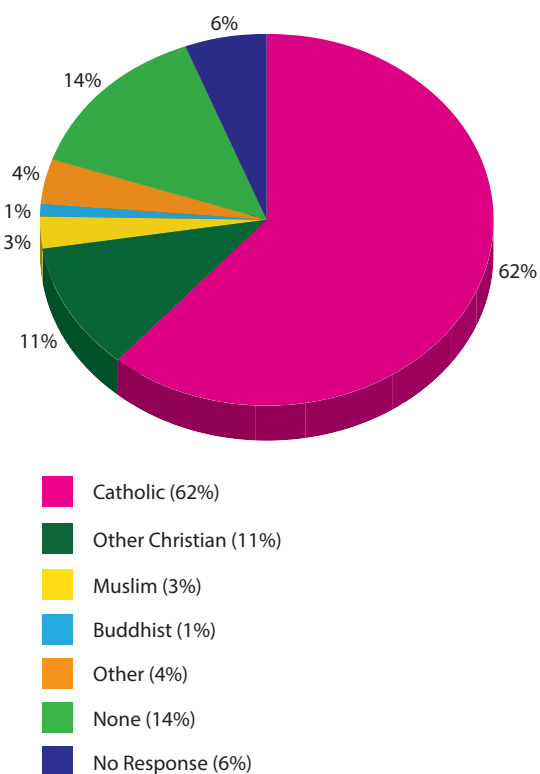


Chart 17: Housing status

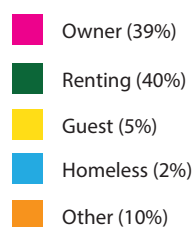
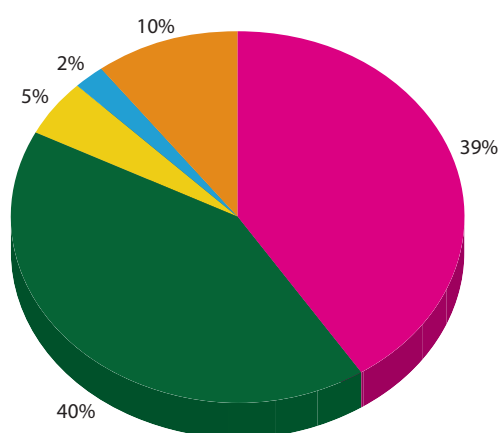


Chart 19: Employment status

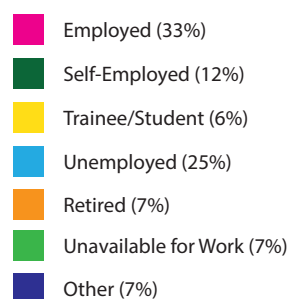
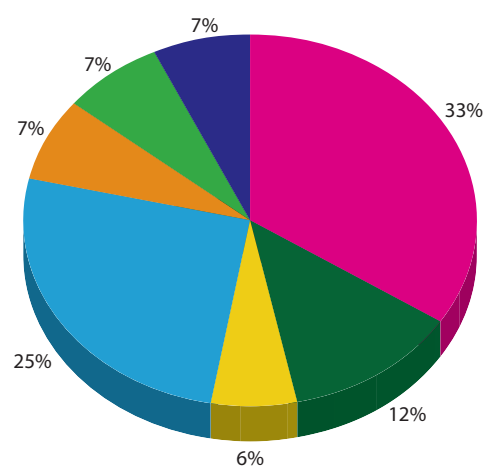
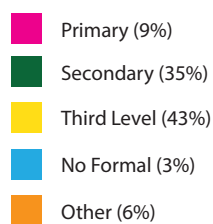
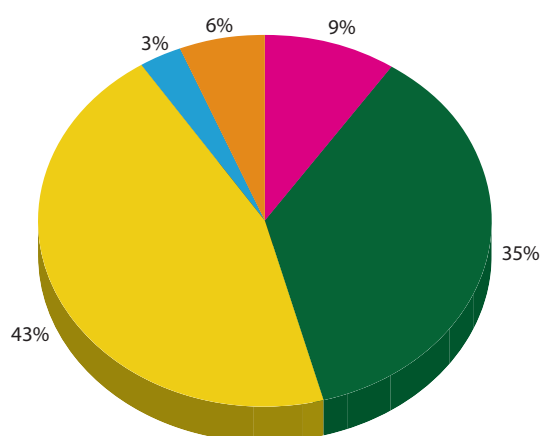


Chart 18: Level of education (Highest)



APPENDIX 2: PROFILE OF GARDAÍ COMPLAINED OF IN 2015

The below charts show the profile of gardaí complained of, in terms of rank and gender, based on all the admissible allegations investigated in 2015, where identities of gardaí complained of where known.

Chart 20: Garda rank

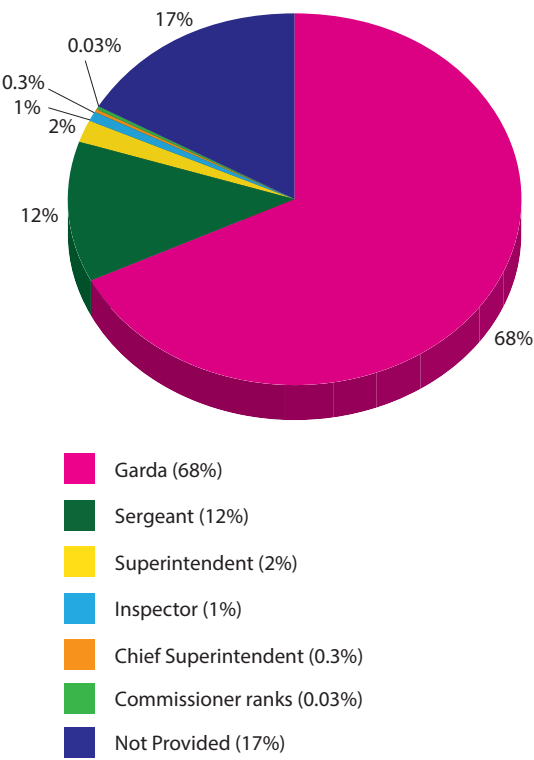
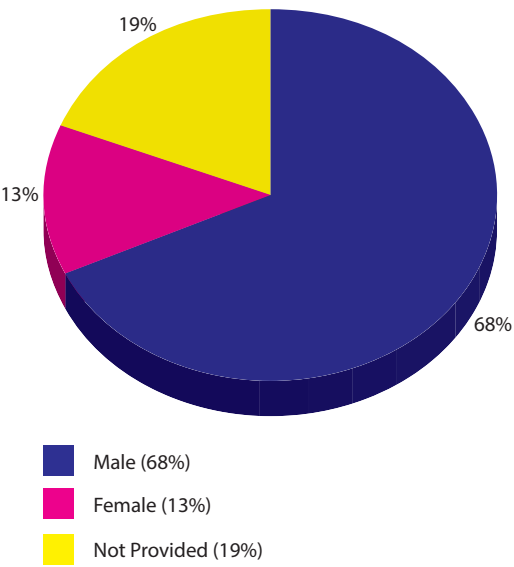


Chart 21: Garda gender



APPENDIX 3: LEGAL ACTIVITIES IN 2015 FOLLOWING CRIMINAL INVESTIGATIONS

FILES SENT TO THE DIRECTOR OF PUBLIC PROSECUTIONS (DPP) IN 2015

- 19 files were sent to the DPP, in relation to 69 allegations in total. This includes investigations resulting from complaints, from referrals from the Garda Síochána and from investigations in the public interest.
- The DPP directed prosecutions in two cases, one relating to a garda and one relating to a member of the public.

CASES BEFORE THE CRIMINAL COURTS IN 2015 ON FOOT OF GSOC INVESTIGATIONS

Eight cases, involving six gardaí and four others, came before the courts in 2015. Of these, one case was withdrawn by the DPP and four trials have concluded. Their outcomes were as follows:

- Two gardaí were convicted of assaults, contrary to section 2 of the Non-Fatal Offences Against the Person Act 1997.

- The court struck out the summons in respect of a garda member charged with an offence contrary to section 38(2)(a)(ii) of the Road Traffic Act 1961 (no driving licence), on the basis that €200 would be paid to charity.
- Two members of the public were acquitted of providing false and misleading information contrary to section 110 of the Garda Síochána Act 2005.

TRIALS PENDING

At the end of 2015, three matters on foot of GSOC investigations remain before the courts.

APPENDIX 4: EXPENDITURE 2015

At the beginning of 2015, GSOC was allocated an additional €1 million to undertake an investigation into allegations of wrongful cancellation of Fixed Charge Notices. A tender competition for Investigation Support Services was supported and facilitated by the Office of Government Procurement. However, the competition was not successful and no contract was awarded. As a result, the unspent allocation remained in the 2015 budget and remains available in the 2016 budget.

With regard to general expenditure, GSOC has had continuing engagement with the Fennelly Commission, the O'Higgins Commission and the Clark

Inquiry (under section 109 of the Garda Síochána Act 2005). These ongoing engagements require GSOC to obtain ongoing legal advice and to facilitate the attendance of witnesses at the Commissions/Inquiry. The additional costs associated with these matters were unavoidable and unanticipated when estimating annual expenditure for 2015.

Notwithstanding these legal costs, in 2015 GSOC underspent by €563,849.

Table 5: Expenditure 2015

| Category | Original Budget | Expenditure | |
|--|-----------------|--|---------------|
| Salaries, Wages & Allowances | €5,450,000 | A01 Pay & Allowances | €5,136,683.50 |
| | | A02 Travel & Subsistence | €78,484.04 |
| | | A03 - Incidental Expenses | €1,071,943.95 |
| | | A04 - Postal & Telecommunication Services | €49,792.40 |
| | | A05 - Office Machinery & Other Office Supplies | €719,805.23 |
| | | A06 - Office & Premises Expenses | €1,581,602.20 |
| | | A07 - Consultancy | €00.00 |
| | | A08 - Research Expenditure | €9,840.00 |
| Non-Pay | €3,762,000 | Non-Pay total | €3,511,467.82 |
| Total Budget Allocation 2015 | €9,212,000 | Total Pay & Non-pay Expenditure 2015 | €8,648,151.57 |
| Total underspend 2015 - €563,848.68 | | | |

Note: Figures quoted have not yet been audited by the Comptroller and Auditor General.

APPENDIX 5: STAFF TRAINING & DEVELOPMENT IN 2015

CONFERENCES ATTENDED

- Irish Human Rights Network Conference – International Human Rights Network
- Irish Ombudsman Staff Conference 2015 – Ombudsman Forum
- National Public Service Pensions Seminar – Institute of Public Administration
- In House and Public Sector Conference – Law Society
- Social Media Conference – BMF Business Services
- EDiscovery Conference – La Touche Training
- Conflict Management Master Class – Blossom Development
- British & Irish Ombudsman Association Annual Conference – BIOA
- Mobile Forensics Workshop – Micro Systemation
- Investigating Suspicious Deaths: Inquests and Inquiries – Franco British Lawyers Society
- Civil Litigation and Criminal Law – Central Law Training
- Drink Driving and Road Traffic Offences Updates 2015 – Central Law Training

COURSES AND WORKSHOPS ATTENDED

- Family Liaison Officer training course – Police Service of Northern Ireland
- Mediation Across Boundaries: From the Personal to the Global – Mediators Institute of Ireland
- Update to Advising Clients in Garda Custody – Ashville Media Group
- Annual Procurement Conference – Achilles Procurement
- Family Liaison Officer Professional Development and Training Day – GSOC
- Freedom of Information Training – Arcline Training
- Mental Health Awareness – Police Ombudsman for Northern Ireland
- Victims of Crime Training – GSOC
- Getting the Most from Microsoft Word – GSOC
- Understanding Trauma and Self Care When Experiencing Its Effects – CSEAS
- Interview Skills – Carr Communications
- Applying Human Rights Based Approaches – International Human Rights Network
- Media Relations Workshop – Public Relations Institute Ireland
- Certificate in Professional Irish – Gaelchultúr
- Core Copy Editing Skills – Irish Writers' Centre
- ArcGIS Software Training – ESRI Ireland

FURTHER EDUCATION PURSUED WITH THE ASSISTANCE OF THE REFUND OF FEES SCHEME

- BA in Public Management – Institute of Public Administration
- Masters in Mediation and Conflict Intervention – National University Maynooth
- International Masters in Conflict Resolution – United Nations Institute for Training and Research (distance learning)
- Applied Employment Law – Kings Inns
- Certificate in Mediation – Griffith College
- LLB Law Degree – Griffith College

APPENDIX 6: PUBLIC ATTITUDES

METHODOLOGY

Fieldwork for the survey was conducted via the Behaviour & Attitudes Face to Face Omnibus vehicle (Barometer) over the period 15 – 25 January, 2016. It was compared with a previous benchmark survey, carried out by telephone Omnibus (TeleBarometer) from 3 - 15 December 2013. Where relevant, comparisons are shown between the two survey periods.

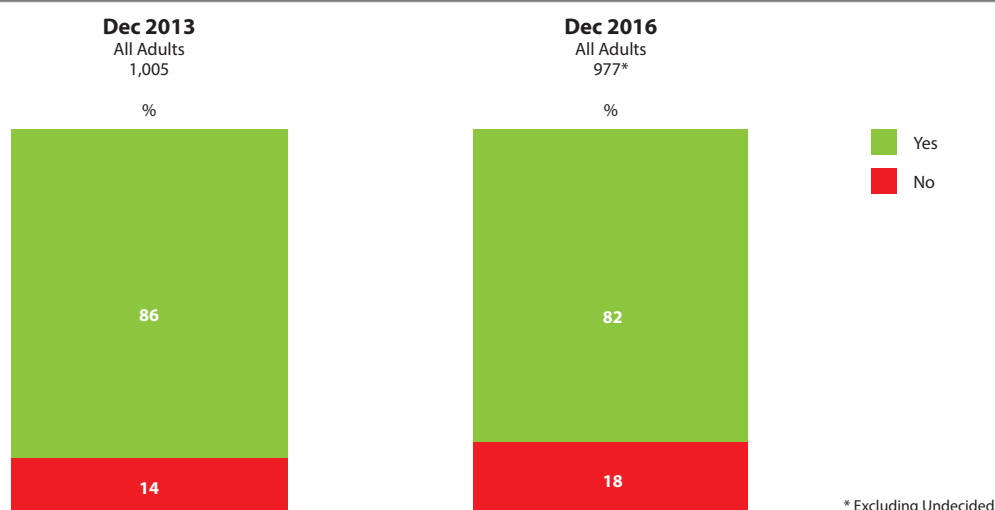
1,007 adults were interviewed. Interviewing was conducted across 63 separate sampling points per survey. Within each sampling point, respondents were selected on the basis of quota controls relating to gender, age and social class within region – to ensure that the resultant sample is a microcosm of the national adult population. Quota controls were based on the most recent Census statistics of the national population.

KEY FINDINGS

- Over eight in ten Irish adults say they have heard of the Garda Ombudsman (GSOC).
- It is generally assumed that the role of the Garda Ombudsman is to investigate complaints about the Gardaí (61% of adults).

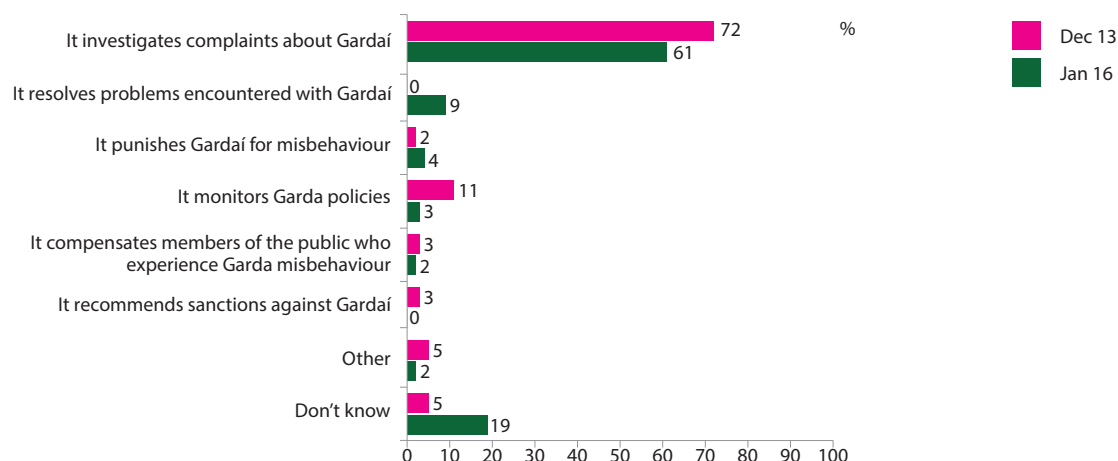
Awareness of Garda Ombudsman

Base: All Adults



Awareness of Garda Ombudsman Role

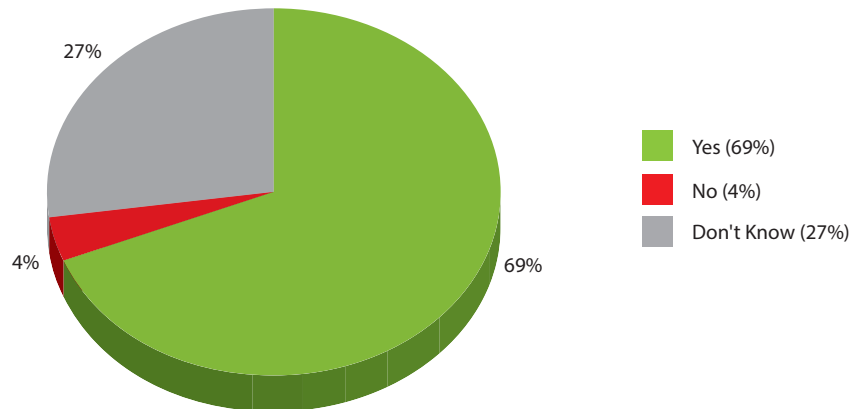
Base: All Adults – 1,007



- Seven in ten adults believe that the Garda Ombudsman provides an important service.
- Seven in ten of those expressing an opinion are aware that the Garda Ombudsman is independent, while three in ten think it is part of the Garda Síochána.
- Six in ten adults believe that, if they had a problem, they would be treated fairly if they went to the Garda Ombudsman.

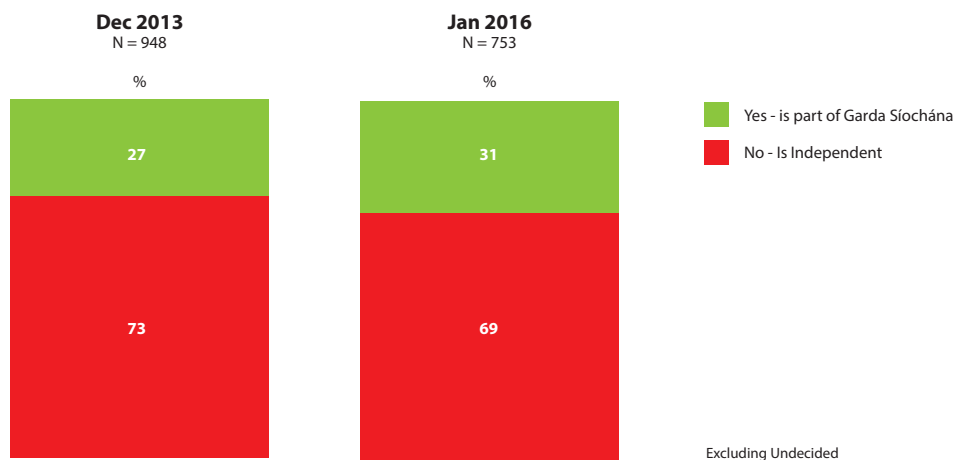
Does the Garda Ombudsman Provide an Important Service

Base: All Adults – 1,007



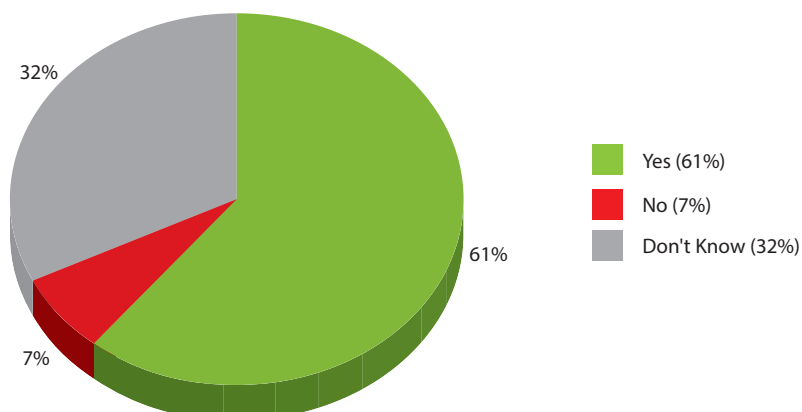
Perception of Ombudsman as Part of Garda Síochána

Base: All Adults excluding undecided



Confidence in Fairness of Garda Ombudsman

Base: All Adults – 1,007



- Less than half of the population is confident of the ability of the Garda Ombudsman to resolve problems.

Confidence in Garda Ombudsman Ability to Resolve Problems

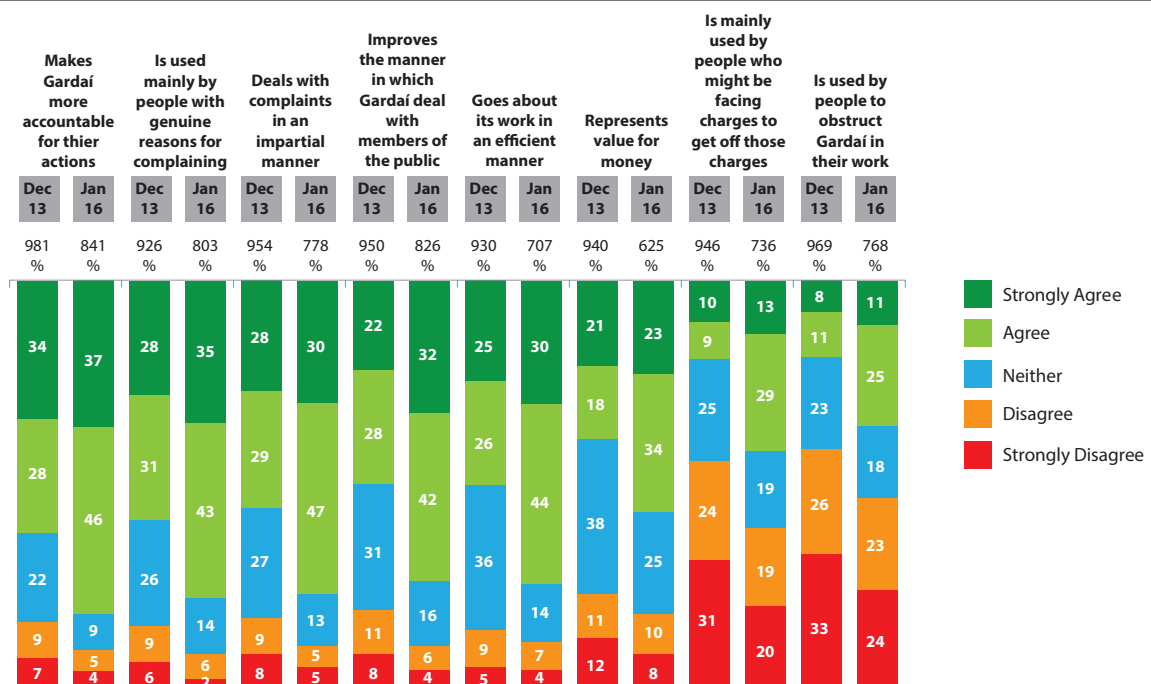
Base: All Adults – 1,007



- But, all in all, people are positive about the Garda Ombudsman, and the work that it conducts. In response to all statements, respondents expressed higher levels of positivity than two years ago. This was most notable in relation to GSOC making gardaí more accountable for their actions, where 83% agreed or strongly agreed.

Agreement with Statements Concerning Ombudsman – Excluding Don't Knows

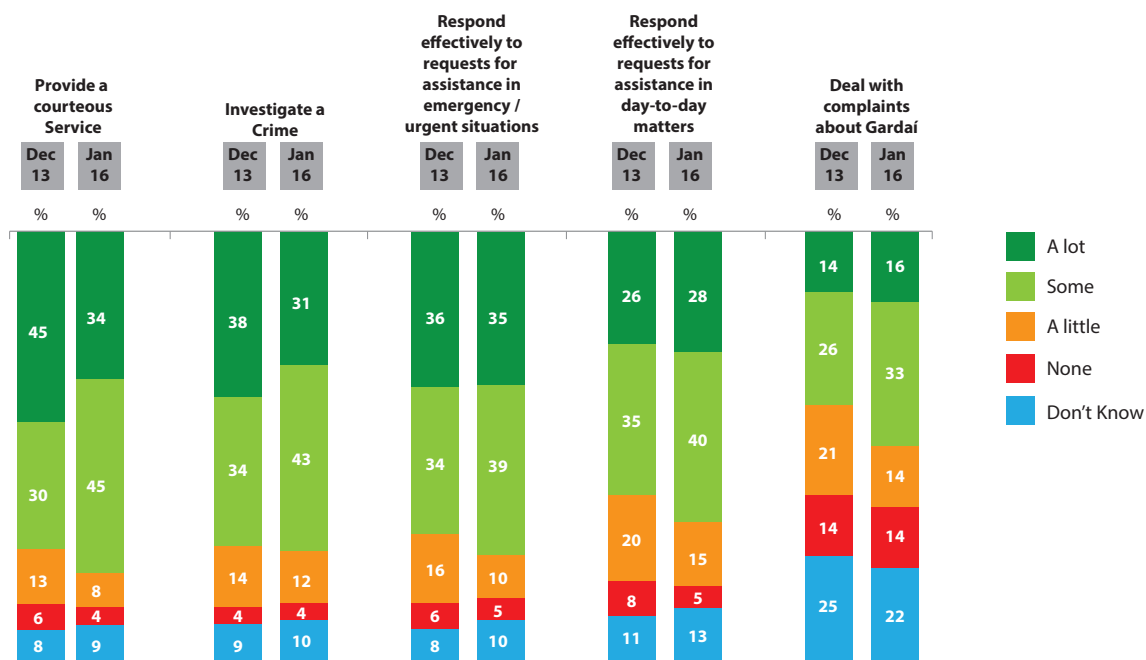
Base: All Adults – excluding undecided



- Confidence in the Garda Síochána appears to be improving, according to our research, with highest levels of confidence in the force's ability to provide a courteous service, investigate crimes and respond effectively to requests for assistance.

Confidence in Aspects of Garda Síochána's Ability

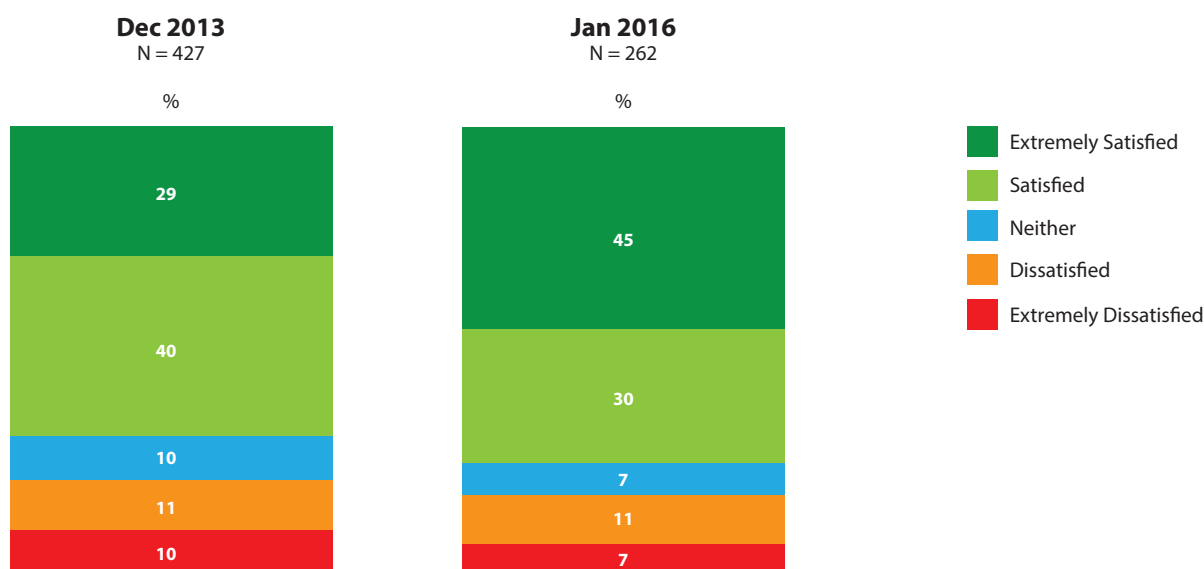
Base: All Adults – 1,007



- The last two years have also seen satisfaction with garda interactions increase.

Satisfaction with most recent garda interaction

Base: All in contact with Garda – 262





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