



Garda
Ombudsman
INQUIRY INDEPENDENCE IMPARTIALITY

GARDA SÍOCHÁNA OMBUDSMAN COMMISSION

2018 ANNUAL REPORT



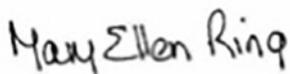
Mr Charlie Flanagan TD
Minister for Justice and Equality
51 St. Stephen's Green
Dublin 2

31 March 2019

Dear Minister,

It is with pleasure that we submit to you the thirteenth Annual Report of the Garda Síochána Ombudsman Commission which covers the period 1 January to 31 December 2018. This Report is submitted in accordance with section 80 of the Garda Síochána Act 2005.

Yours sincerely,



Justice Mary Ellen Ring,
Chairperson



Kieran FitzGerald,
Commissioner



Patrick Sullivan,
Commissioner

Garda Síochána Ombudsman Commission.

GLOSSARY OF ABBREVIATIONS AND TERMS

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.
Advice	This is a sanction, which may be applied by the Garda Commissioner, for breach of the Discipline Regulations – 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 is 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 will 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 gardaí. Each allegation against each garda is assessed individually for admissibility.
Custody Regulations	Criminal Justice Act, 1984 (Treatment of persons in Custody in Garda Síochána Stations) Regulations, 1987 – regulations related to the detention of people in garda stations. It can be seen at http://www.irishstatutebook.ie/eli/1987/si/119/made/en/print .
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 two levels of action provided for by the Discipline Regulations, relating to less serious breaches and serious breaches of discipline respectively.
DOp	Director of Operations
DDOp	Deputy Director of Operations
DLP	Designated Liaison Person under the “Children First – National Guidance for the Protection and Welfare of Children” guidelines.
DO	Designated Officer
DMR	Dublin Metropolitan Region
DPP	Director of Public Prosecutions
ECHR	European Convention on Human Rights
GSIO	Garda Síochána Investigating Officer
GSOC	Garda Síochána Ombudsman Commission
IO	Investigations Officer

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 point of view and coming to the agreement that the matter is resolved. It is provided for by section 90 of the Act.
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. GSOC may also investigate non-criminal matters, in line with section 95 of the Act.
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.
IO	Investigations Officer
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.
Member in charge	The member of the Garda Síochána who is designated as being responsible for overseeing the application of the Custody Regulations, in relation to people in custody in the garda station. This can be a member of any rank. The full legal definition and list of duties of a member in charge can be seen in sections 4 and 5 of the Custody Regulations (see above).
OGP	Office of Government Procurement
Ombudsman Commission	The three Commissioners of the Garda Síochána Ombudsman Commission.
Out of time	A complaint made more than twelve months after the incident being complained of.
PDA	Protected Disclosure Act, 2014
PD/PDU	Protected Disclosures/Protected Disclosures Unit.
RTC/RTI	Road Traffic Collision/Road Traffic Incident
SIC	Specialist Interview Coordinator
SIO	Senior Investigations Officer
The Act	The Garda Síochána Act 2005, as amended, is the principal act governing the functioning of GSOC. This can be seen at: http://www.irishstatutebook.ie/eli/2005/act/20/enacted/en/print .

GARDA SÍOCHÁNA OMBUDSMAN COMMISSION

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REVIEW OF THE YEAR

Introduction

The year began with the Garda Síochána Ombudsman Commission (GSOC) preparing a detailed business case for a 40 per cent increase in staffing, urgently required to meet its current workload and obligations.

The document was submitted in the context of GSOC having expressed concerns about staffing levels in the organisation almost from when it became operational in 2007.

Under-resourcing over the years had adversely affected GSOC's ability to provide the service and meet the objectives set for it. Commissioners were also concerned about the organisation's capacity to undertake important work such as public interest investigations without creating unacceptable delays in completing investigations already underway.

On 2 November 2018, the Minister for Justice and Equality, Charlie Flanagan TD, announced that all 42 posts sought by GSOC had been sanctioned. With five posts for the Protected Disclosures Unit having been approved in 2017, GSOC ended 2018 with its highest ever sanctioned staff level at 138.

The recruitment process was underway at the end of the year.

Another major development in 2018 which will have significant implications for GSOC, was the publication of the report of the Commission on the Future of Policing in Ireland.

GSOC welcomed the report, published in September, which recognised the importance of independence when dealing with complaints about police conduct and which set out changes which GSOC believes are necessary to improve public confidence in police oversight. Many of the recommendations echoed GSOC's Proposal for Legislative Change which was submitted to the Department of Justice and Equality in December 2017.

Key recommendations relevant to oversight included:

- GSOC should be superseded by a new independent complaints body and should

have a new name making it clear that it is independent of the Garda Síochána.

- The new body should investigate incidents rather than individuals, with a focus on whether policing occurred in accordance with accepted standards rather than on whether or not an individual garda breached the Disciplinary Regulations.
- All complaints about the police should be routed through the new complaints body which would determine whether the complaint was a performance management issue—in which case it would be referred to the Garda Síochána to review and resolve—or one which raised serious issues about the standards of policing and police integrity and required independent investigation.
- The new body should investigate all complaints which raised these serious issues, without recourse to garda investigators (most complaints of a non-criminal nature are currently investigated by senior gardaí on behalf of GSOC), and should be adequately resourced to do so.

The establishment of the new body would require an overhaul of the current legislation relating to complaints against police. The Minister for Justice and Equality, Charlie Flanagan TD, announced an implementation plan for the report in December, with work to be led by the Implementation Group on Policing Reform to be supported by a dedicated Programme Office in the Department of the Taoiseach.

He said that the Government had endorsed the report and agreed to his proposal to accept all 157 key recommendations.

GSOC looks forward to working with the implementation group.

Notable Events

Patrick Sullivan was appointed a Commissioner of GSOC in July 2018, filling a vacancy created by the departure of former Commissioner Mark Toland in November 2017. Mr Sullivan came to GSOC with 30 years' experience in law enforcement and oversight in the US, including more than 20 years spent in the US Secret Service where his last assignment was the worldwide supervision of

counterfeiting investigations. Immediately prior to joining GSOC, Mr Sullivan was the Assistant Inspector General for Investigations with the US Environmental Protection Agency's Office of the Inspector General (OIG). His staff conducted criminal investigations involving corruption and misconduct by EPA employees, fraud connected with the misappropriation of government funds, threats directed against EPA employees and facilities, and theft of EPA property or funds. He testified numerous times before the US Congress as a subject matter expert in corruption and misconduct investigation.

Drew Harris was appointed Garda Commissioner in June and took up the post in September— within four weeks, he paid his first visit to GSOC and met with GSOC Commissioners.

The third interim report of the Disclosures Tribunal was published in October. In it, Mr Justice Peter Charleton expressed concern about discipline in the Garda Síochána, echoing concerns highlighted by Mr Justice Frederick Morris more than a decade earlier. The system of enforcing garda discipline required reform so that gardaí accused of ill-discipline should be subject of correction by senior officers “without the need to resort to the elaborate structures which constitute what is in effect a private trial using procedures akin to our criminal courts”.

Mr Justice Charleton said garda discipline rules should be supplemented with open-ended obligations and breach of these should invoke a simplified disciplinary code.

Key Figures

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

- 1,921 complaints received by GSOC in 2018
- 2,944 allegations contained within those complaints
- 38 referrals from the Garda Síochána of matters where it appears “the conduct of a

member of the Garda Síochána may have resulted in the death of, or serious harm to, a person”

- 17 files referred to the DPP, resulting in 4 directions for prosecution, 9 directions for no prosecution and 4 decisions pending. In addition, the DPP directed no prosecution in 2018 in relation to a file that was awaiting a decision at the end of 2017
- 17 public interest investigations (those investigations undertaken in the absence of a complaint or referral by the Garda Commissioner) were opened and 14 were closed
- 24 protected disclosures were made to GSOC by members and/or employees of the Garda Síochána
- 74 sanctions were imposed by the Garda Commissioner on individual gardaí following complaints to and/or investigations by GSOC.

SECTION 1: COMPLAINTS AND INVESTIGATIONS

TOP-LINE DATA

CALLS



3,107

calls to lo-call number, answered by caseworkers.



97%

of calls received were answered within 60 seconds.



375

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

QUERIES



3,036

of these initial contacts were opened in our case management system, initially as "queries". Once sufficient information is received, a query's status is upgraded to become a formal complaint.

COMPLAINTS



1,921

complaints were opened in 2018 – 1.4% fewer than the previous year.

2,944

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

COMPLAINTS

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

1.1 VOLUME OF QUERIES

In 2018 caseworkers answered **3,107** phone calls to GSOC’s lo-call 1890 600 800 number, **97%** of which were answered within 60 seconds. This number represents a substantial increase on the **2,517** calls received in 2017.

Caseworkers also met **375** people in our public office.

Overall, caseworkers dealt with **3,036** queries via post, email, fax and correspondence from garda stations and members of the public. Initially each contact is opened on our system as a ‘query’, until we have sufficient information to upgrade it to a complaint and assess it for admissibility.

1.2 VOLUME OF COMPLAINTS AND ALLEGATIONS

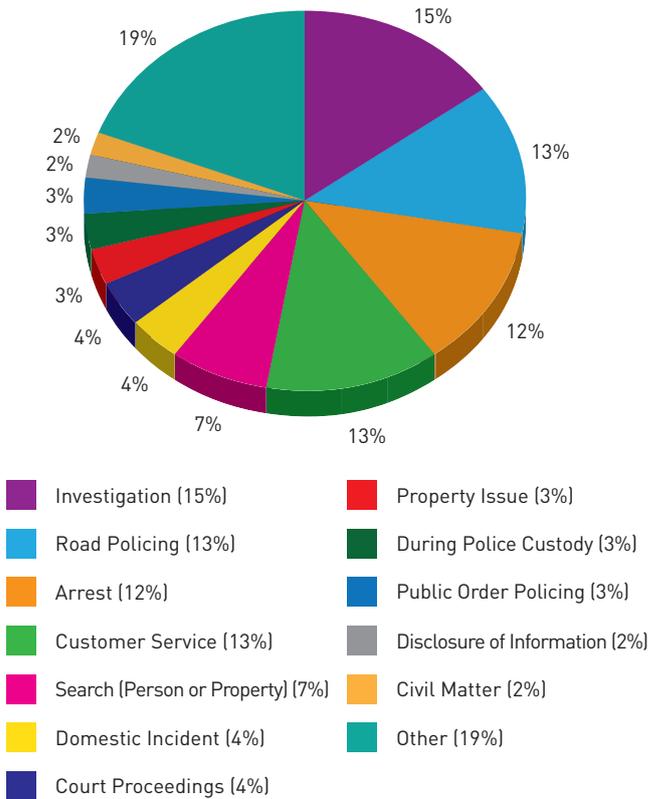
A total of **1,921** complaints were opened in 2018, a slight decrease (1.4pc) on the 2017 figure. These complaints contained **2,944** allegations—each complaint can contain several allegations.

The decrease in the number of allegations (down significantly on the 2017 figure of 4,459) reflects a change in the way that GSOC has recorded inadmissible complaints since late 2017.

Under the previous process, even complaints which were inadmissible and were not going to be investigated were examined to see if they contained more than one allegation; that number was recorded.

Under the current process, only complaints which have been admitted (and are therefore going to be investigated) are examined for the number of allegations they contain.

Chart 1: Circumstances of Complaints Received (Total Complaints: 1,921)



The three most common circumstances which gave rise to complaints in 2018 were: the conduct of investigations by gardaí, road policing incidents and customer service by gardaí.

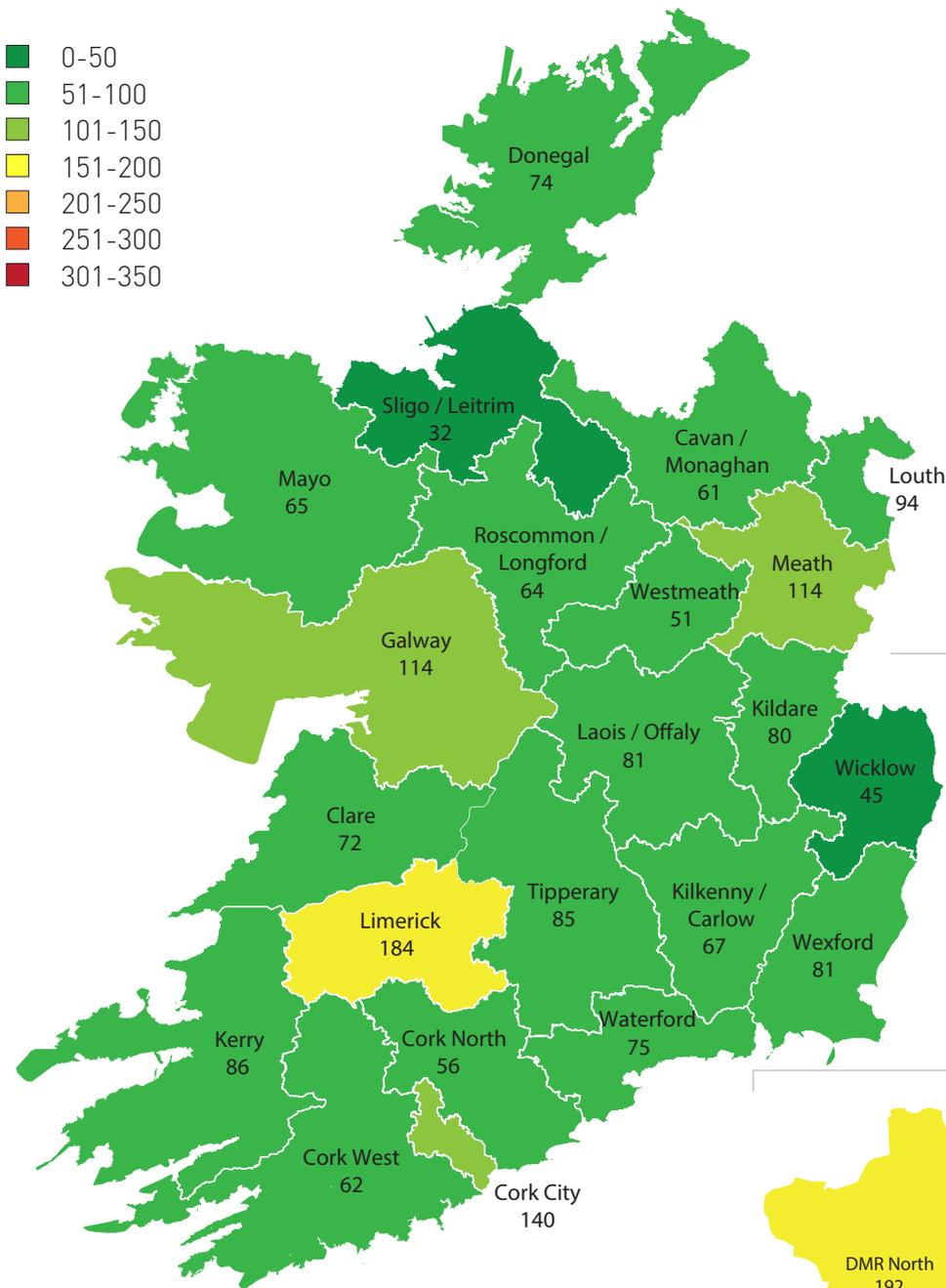
Find out about the profiles of people who made complaints, and of gardaí about whom admissible complaints were made, in the Appendices.

The maps on the next page show the geographical distribution of allegations in complaints made against gardaí in 2018. They show all allegations, prior to GSOC determining which could be admitted and dealt with and which could not. Excluded are 145 allegations for which garda divisions had not yet being established by 31 December 2018

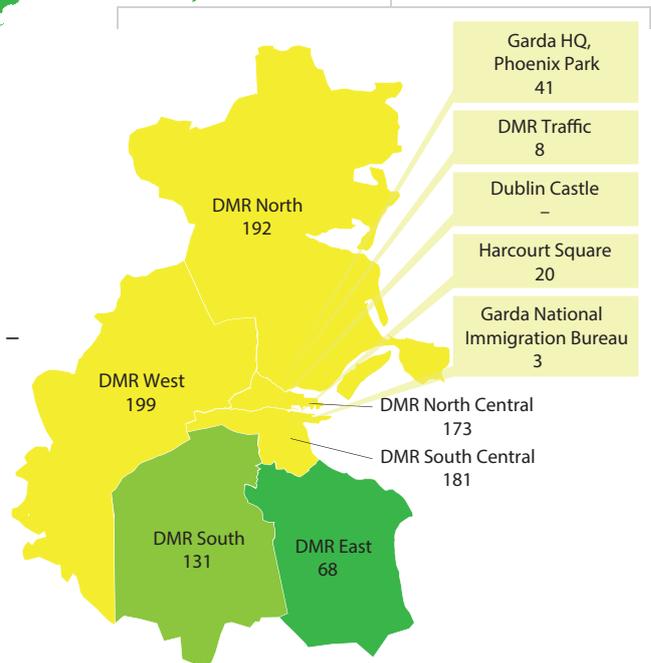
The greatest number of allegations in the country were recorded against gardaí in the Dublin Metropolitan Region (DMR), as could be expected given the population and police activity in the capital.

continued on page 12 »

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



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



» The highest numbers came from DMR North and DMR West. This differed from last year which saw the highest in DMR South Central and DMR West in 2017 and 2016.

Outside the DMR, Limerick and Cork City respectively were the Divisions with the highest number of allegations made against gardaí in 2018.

NOTE: The total number of recorded allegations arising from complaints (both admissible and inadmissible) was down in 2018 because of a change in a GSOC process. See section 1.2 for explanation.

1.3 WHAT PEOPLE COMPLAIN ABOUT

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

Chart 2: Allegation Types in admissible complaints (Total Allegations: 2,262)

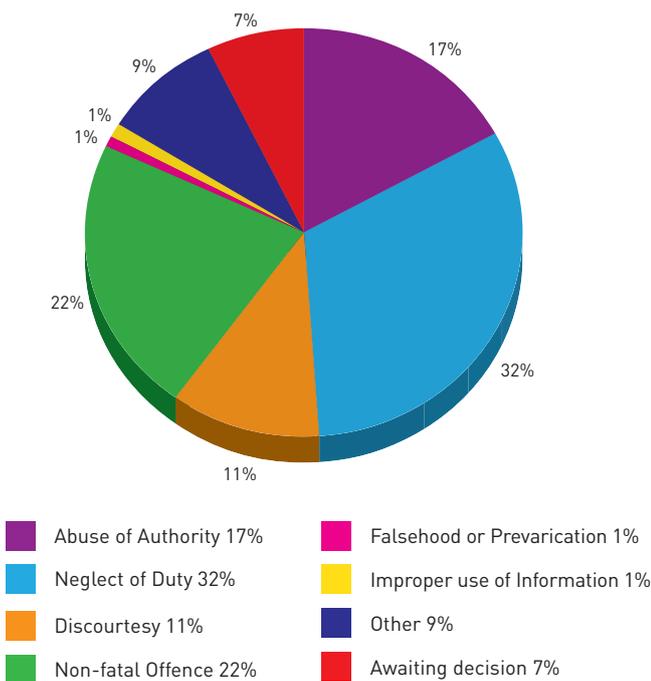


Chart 2 shows that the most common matters about which people complain are:

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

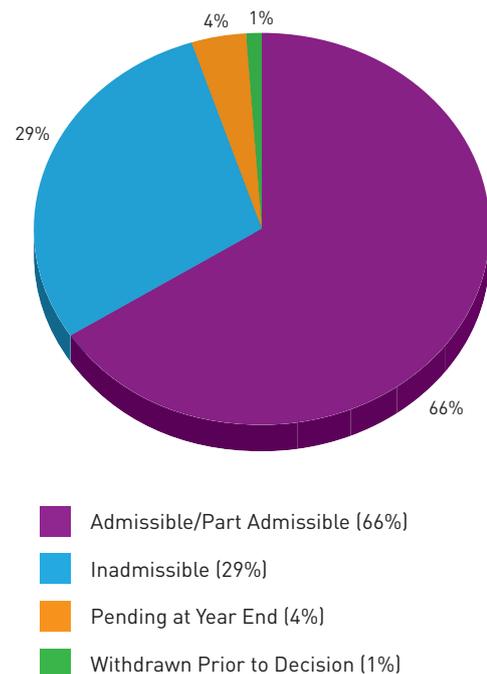
a phone call at one end of the scale, or properly investigating an alleged serious crime at the other end of the scale - would be typical examples of ‘neglect of duty’.

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

1.4 ADMISSIBILITY

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

Chart 3: Complaint Admissibility Decisions (Total Complaints: 1,921)



How do we Decide if a Complaint is ‘Admitted’ for Investigation?

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

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

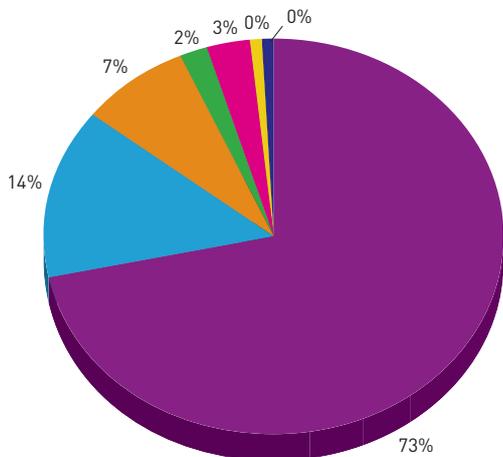
Garda discipline by a member of the Garda Síochána; and

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

1.5 INADMISSIBLE ALLEGATIONS

In 2018, 551 of the complaints received were deemed to be inadmissible, as none of the allegations in them (577 in total) fulfilled the admissibility criteria laid out in the Act. The chart below shows the reasons.

Chart 4: Reasons for Inadmissibility of Allegations in Inadmissible Complaints (Inadmissible Allegations 577)



- Inadmissible - does not constitute misbehaviour (73%)
- Inadmissible - out of time (14%)
- Inadmissible - not authorised to make a complaint (7%)
- Inadmissible - frivolous or vexatious (2%)
- Inadmissible - general control and direction of Garda Síochána (3%)
- Inadmissible - Garda not on duty (<1%)
- Inadmissible - not a Garda (<1%)

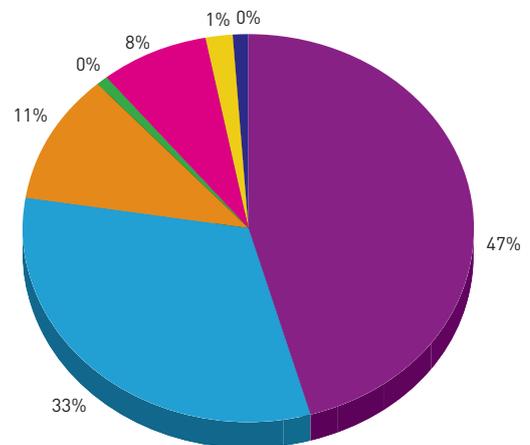
The most common reason – with **420** allegations – was that, even if proven, the alleged behaviour would not be a crime or a breach of the Discipline Regulations.

The second most common reason not to admit a complaint for investigation was because the allegation(s) contained in the complaint were outside the time limit—12 months after the date of the conduct complained of—specified in section 84 of the Act. In 2018, **78** allegations were determined to be inadmissible for this reason. While GSOC has some discretion to admit complaints outside the specified time period, there is a practical reason for a time limit in the majority of cases; the more time that has elapsed between the incident and the complaint, the more difficult it is to conduct an effective investigation which involves preserving evidence, finding potential witnesses, and securing accurate statements.

1.6 ADMISSIBLE COMPLAINTS

In 2018, 1,270 complaints (containing at least one admissible allegation) were received and admitted for investigation and dealt with in one of five ways. The chart below details the type of investigations opened in 1,268 of these cases. It also reflects two cases where the type of investigation to take place has yet to be decided.

Chart 5: Investigations Opened by Type (Total Complaints Admitted for Investigation: 1270)



- Disciplinary inv. by Garda Síochána unsupervised (s.94(1)) (47%)
- Criminal investigation (s.98) (33%)
- Disciplinary inv. by Garda Síochána supervised (s.94(5)) (11%)
- Informal resolution (s.90) (<1%)
- Non-criminal inv. by GSOC (s.95) (8%)
- Discontinued prior to initiation of investigation (1%)
- Admissible cases awaiting investigation type (<1%)

Chart 5 shows how each admitted complaint was initially dealt with. This can change during the

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

1.6.1 Criminal investigations

Criminal investigation by GSOC are conducted in accordance with section 98 of the Act. All allegations of criminal offences by gardaí (for example assault) are investigated by GSOC's own investigators. As a result of complaints received in 2018 there were **415** criminal investigations opened.

1.6.2 Disciplinary investigations

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

- **Unsupervised disciplinary investigations** (under section 94 (1) of the Act) are conducted by Garda superintendents in line with the Garda Discipline Regulations. The Protocols between GSOC and the Garda Síochána say that unsupervised investigations must be completed and a final report issued to GSOC within 16 weeks. An example of the kind of case that is investigated in this way is an allegation that there was abuse of authority in the manner in which an arrest was conducted. There were **598** such cases opened in 2018.
- **Supervised disciplinary investigations** (under section 94(5) of the Act) are also conducted by Garda superintendents but are supervised by GSOC investigators who meet with the Garda superintendents to agree an investigation plan. The GSOC investigator can direct and partake in the investigative actions, and must receive interim reports. The protocols say that supervised disciplinary investigations must be completed and an investigation report provided within 20 weeks. Supervised investigations are appropriate in more serious allegations of neglect of duty, for example, lack of, or insufficient, investigation of a serious crime reported to

gardaí. There were **135** such cases opened in 2018.

- **Non-criminal investigation by GSOC** (under section 95 of the Act) – Certain cases which do not appear to involve criminal offences, but which may involve disciplinary and/or systemic matters, may be undertaken by the Garda Ombudsman's own investigators. Public interest investigations and disciplinary investigations which follow on from criminal investigations would be among this kind of non-criminal investigation undertaken by GSOC investigators. There were **100** such cases opened in 2018.
- **Informal resolution** is provided for under section 90 of the Act and allows the Ombudsman Commission to try to work with the complainant and the garda (or gardaí) complained of to resolve a situation informally. It is intended to be used only with minor service-level complaints, and is a shorter process than a formal investigation. It is a voluntary process requiring the consent of both parties. While just one informal resolution case was opened in 2018, a number of complaints to GSOC which might previously have been considered suitable for informal resolution were dealt with under a new local intervention initiative, described in detail in section 4 of this report.

Case summary

A garda was found to be in breach of discipline for failing to respond to a request for a statement of facts following a road traffic collision. The collision occurred while the owner of a car was out of the country. The car was badly damaged when an uninsured driver crashed into it.

When the complainant returned to the country, the contact details of a garda who had attended the scene were found on the car. After a number of attempts, the complainant eventually got in touch with the investigating garda.»

» The garda informed the complainant that a third party had been identified as the cause of the road traffic collision and the complainant was not at fault. The garda informed the complainant to contact the insurance company who informed the complainant that a statement of facts was required from the garda as the crash was caused by an uninsured driver. The insurance company would not pay out until this statement was received.

It was at this point that the complainant started experiencing difficulties contacting the garda. The complainant made numerous calls and visits to the garda station but to no avail. No call was returned by the garda. During this time the complainant's insurance policy expired and as a result of the unresolved statement, the premium increased.

The investigation into the complaint was conducted by a garda superintendent on behalf of GSOC. The investigation found that the garda was in breach of the Garda Síochána (Discipline) Regulations 2007 on one count of neglect of duty—the sanction given was advice.

Case summary

A woman complained to GSOC about a failure to investigate a reported rape. She stated that she made a statement to two gardaí but the report was not investigated nor any contact made following the statement.

The complaint was admitted and designated for a supervised disciplinary investigation and a garda superintendent, supervised by a GSOC designated officer, carried out the investigation.

»

» The GSIO found that the investigating garda took a statement from the woman but did nothing further with the statement. The investigating garda maintained that the matter was referred to the detective branch for further investigation but no documentary proof of this referral was found by the GSIO. The records did show that the investigating garda received 15 separate reminders to progress the allegation but none of the reminders were acted upon. In the report sent to the Garda Commissioner, GSOC found that there was sufficient evidence to indicate a breach of discipline may have occurred and recommended that the Garda Commissioner take disciplinary action against the investigating garda.

The investigation found the second garda subject of the complaint was present when the statement was taken from the investigating officer but had no further dealings with the case and was unaware of the lack of progress. Having considered the evidence and circumstances GSOC recommended that no disciplinary action be instituted against this garda.

The investigating garda was found in breach of the Garda Síochána (Discipline) Regulations, 2007 on one count of neglect of duty for failure to investigate an allegation of rape and was fined.

Case summary

A garda was fined for being discourteous to a woman who attended a garda station to have a passport form completed concerning her child.

The woman went to the station to have a passport application certified by a member of the Garda Síochána. The passport application was on behalf of her young child. Section 7 of the passport form had already been filled in, but two other sections must be completed in a garda station in the presence of a garda of any rank. »

» The garda at the station refused to fill in the passport application insisting that both parents were required at the garda station. The woman tried to engage with the garda and also requested to speak with the garda's supervisor. The woman then contacted the other parent who came to the garda station with the small child. The passport application was then completed by a different garda member without further incident.

A complaint was made to GSOC about how the woman was dealt with by the garda member upon first entering the garda station. The complaint was found admissible and a Garda Síochána Investigations Officer (GSIO) was appointed to investigate. The GSIO investigating on behalf of GSOC interviewed the garda members on duty on the night of the complaint including the member who refused to sign the passport application, the member who eventually signed the application and their supervisor who also spoke to the complainant.

At the end of the investigation the GSIO established that the member had in fact been discourteous to the complainant and had been incorrect to insist that both parents must be present upon the signing of section 9 (Certificate of Identity) of a passport application.

The garda was found to be in breach Garda Síochána (Discipline) Regulations 2007 for two instances of discourtesy and was subject to two fines.

Case summary

A woman entered the public office of a garda station to report a road traffic incident to gardaí. She rang the bell for attention and received no response. She then rang the bell again and a short time later a garda came to the public office. The woman felt that the garda's response to her was both aggressive and rude. She became upset at this treatment and left the station without reporting the road traffic incident. »

» The woman then complained to GSOC. The complaint was found to be admissible and a Garda Síochána Investigations Officer (GSIO) was appointed to investigate. A superintendent investigating on behalf of GSOC interviewed the garda member in question. The member was found to be in breach of disciplinary regulations for discourtesy and received advice under Regulation 10 of the Garda Síochána (Discipline) Regulations 2007.

Case summary

A complaint was received after a family home was searched in the early hours of the morning for drugs.

The complainant outlined that the household was awoken to loud banging on the front door early one morning. When the door was opened the complainant was faced with two males in plain clothes asking "where are the drugs?" Two men entered the home and did not declare from the outset that they were garda members—it was only when two uniformed gardaí entered the home did the complainant realise that the first two men were gardaí and that a drug search was under way.

A search was carried out in the main bedroom, the kitchen and the garden. The complainant continued to be questioned by gardaí about the whereabouts of drugs. The complainant continued to state "this must be a mistake".

The complainant said that gardaí were in the house for about 15 minutes and as they were leaving, one of them said that it must be the wrong house. The complainant was shown a warrant and confirmed that the address was the one stated on the warrant.

The complainant subsequently contacted the garda station for an explanation and later made a complaint to GSOC. »

» The complaint was deemed admissible and an investigation into the complaint was conducted by a garda superintendent on behalf of GSOC.

Following the investigation, disciplinary proceedings were taken against the garda member who had obtained the search warrant. The warrant had the incorrect address for the target of the search operation. That garda was found to be in breach of the Garda Síochána (Discipline) Regulations 2007 on one count of discreditable conduct and was dealt with by way of caution and advice.

Case summary

Five garda members were found in breach of discipline for failure to investigate and record allegations of crime.

A person complained to GSOC that she had reported a number of incidents to a garda station but they had not been properly investigated. These crimes related to harassment, criminal damage and anti-social behaviour spanning over a three year period.

The complaint was admitted by GSOC and a senior garda was appointed to carry out the investigation into the complaint. However, because of a failure to progress the investigation and a failure to update GSOC, the case was subsequently escalated to a supervised investigation. A second garda superintendent was appointed to conduct an investigation supervised by a GSOC investigator. Six garda members were identified as subjects of the complaint.

Allegations against five of the six gardaí were upheld and disciplinary proceedings were instituted by the Garda Commissioner. »

- One member was accused of failing to investigate an allegation of assault. The investigation found that a file was prepared but because it was submitted seven months after it occurred it was statute barred (that is, a prosecution could not proceed). The garda member was found to be in breach of the Garda Síochána (Discipline) Regulations 2007.
- A second allegation alleged a garda member failed to investigate criminal damage to the complainant's property. The investigation found the garda was unsuccessful in locating any CCTV or witnesses, did not prepare an investigation file and made no record of the incident on the PULSE system. The garda member was found to be in breach of the Garda Síochána (Discipline) Regulations 2007.
- A third allegation alleged a garda failed to investigate another incident of criminal damage. The investigation found that the garda advised the complainant to contact a management company to report the damage, did not make a record on PULSE or in an official garda notebook and had no further dealings with the complainant. The garda was found to be in breach of the Garda Síochána (Discipline) Regulations 2007.
- A fourth allegation related to a failure to investigate an allegation of assault and verbal abuse. The garda took a statement from the complainant, but the matter was not recorded on PULSE and the garda failed to prepare an investigation file. The garda member was found to be in breach of the Garda Síochána (Discipline) Regulations 2007. »

- Allegations against a fifth garda member involved a failure to investigate allegations of assault and verbal abuse on two separate dates. Attempts were made by the garda to identify the alleged offenders in respect of both incidents. A statement was taken from the complainant and CCTV was canvassed for. The garda was unable to identify any witnesses to the allegations of assault. An investigation file was prepared and forwarded for the attention of a Superintendent but due to changes in the district office correspondence register this resulted in a loss of some records. Only one incident of assault was recorded on PULSE. The garda member was found in breach of the Garda Síochána (Discipline) Regulations 2007.
- A sixth garda was also the subject of the complaint. The GSOC investigation found this garda member attended an interview with the complainant but had no further dealings with the complainant. The garda was found not to be in breach of the Garda Síochána (Discipline) Regulations 2007.

Sanctions were imposed by the Garda Commissioner on the five garda members found to be in breach of the Garda Síochána (Discipline) Regulations 2007 for neglect of duty. The sanction imposed was 'advice'.

Case summary

A complaint was received on behalf of a deceased man following a road traffic collision. The man died a number of months after the collision. »

» His family made a complaint to GSOC that they were not kept updated about court proceedings relating to the traffic collision, and only found out about the outcome of the proceeding through a local newspaper. It transpired that due to the late issuing of summons, some offences were dismissed. The complainant also alleged that the preparation of the DPP file was unsatisfactory.

The complaint was deemed admissible and an investigation into the complaint was conducted by a garda superintendent and supervised by GSOC. The superintendent found one garda was in breach of the Garda Síochána (Discipline) Regulations 2007 on two counts of neglect of duty for failing to ensure the summons were received within the statutory time limit to institute proceedings, and for failing to provide updates regarding the investigation of the road traffic incident. The garda was dealt with by way of advice.

Case summary

A complaint was received by GSOC after a woman alleged a garda inappropriately accessed personal information held on PULSE about her.

The complaint was admitted and investigated by a garda superintendent, supervised by a GSOC officer. The investigation found that there was sufficient evidence to indicate that a breach of discipline may have occurred and recommended that the Garda Commissioner take disciplinary proceedings against the garda for accessing the personal information of a member of the public. »

» The GSOC report to the Garda Commissioner noted that the garda accessed the personal information of the complainant. The garda did not make notebook entries setting out the reasons for accessing the information and also failed to enter onto PULSE the reasoning behind the check. The garda member retrospectively provided a rationale, but this would not justify a second PULSE check which was carried out 19 days later. A GSOC report identified evidence of two counts of breaches of discipline for neglect of duty and corrupt/improper practice.

GSOC was subsequently informed that the garda was found in breach of Garda Síochána (Discipline) Regulations 2007 for corrupt/improper practice for improperly using the garda's position as a member of the Garda Síochána for the garda's own private advantage. The garda was dealt with by way of a warning.

Case summary

Two people complained to GSOC about the way they had been treated by a garda after they'd reported suspected abuse of a vulnerable adult.

The complainants told GSOC that they'd brought the vulnerable adult to a garda station to report their suspicions of physical abuse which they thought may have occurred in a care home. They believed that marks on the person's body were the result of abuse.

The garda member dealing with the complaint reviewed the marks and consulted with a superior officer and after considering other possible sources of the marks, decided that the injured person should be taken to hospital. The person was admitted to hospital, a care worker was appointed to stay with the person, and the family members who had made the complaint to gardaí were not allowed to see the person.

The complaint received from the family members was in relation to the failings on the garda's part in not taking their complaint and keeping them informed. »

» The garda member stated that to ensure the safety of the injured party, medical attention was first sought to establish where the marks on the person originated. A consultant dermatologist confirmed the marks were related to the vulnerable adult's disability. The consultant relayed his findings to the family carers and the garda was also subsequently advised. The garda was satisfied with the hospital findings and closed the case. The garda did not contact the carers in relation to the hospital findings.

The investigation into the complaint to GSOC was conducted by a garda superintendent and supervised by GSOC. It found the garda was in breach of the Garda Síochána (Discipline) Regulations 2007 on one count of neglect of duty for failing to keep the complainants (that is, the people who had brought in the vulnerable adult to the garda station) informed. The sanction imposed by the Garda Commissioner was advice.

Case summary

A garda was charged with assault following a GSOC investigation into a complaint from a man who alleged he was assaulted while in garda custody. The garda was found not guilty.

The complainant had told GSOC that as well as being assaulted, he was also told by the garda that if he (the complainant) made a complaint to GSOC, the garda member would claim that he was 'attacked and spat at' by the complainant.

A criminal investigation was initiated by GSOC and, as is the case in all criminal investigations by GSOC, the investigation was conducted by GSOC investigators.

The investigator found that the custody area in the garda station was not covered by CCTV, but accounts were sought from garda members present at the time of the alleged assault. »

» One garda said that the complainant was seen acting aggressively towards the garda member in charge¹. The complainant was observed taking hold of the member in charge's lapel and forming a fist with his other hand while in the cell. When the complainant failed to desist, a garda struck the complainant with a baton—both garda members then withdrew from the cell. A second incident of a similar nature occurred with the member in charge and the same garda later that day. The complainant was aggressive towards both gardaí and the member in charge again struck the complainant with a baton several times on the legs.

Medical records noted soft tissue damage on the complainant's wrist and face. The member in charge was asked by the GSOC investigator if the option of exiting the cell instead of using a baton was considered. The member in charge confirmed that this option was not considered.

The complainant also alleged discourtesy in that he was called "whinger", and abuse of authority in that he was allegedly told "if you make a complaint to GSOC, I will say you assaulted me".

These allegations were both denied by the member in charge concerned and there was no independent witnesses to support the allegations.

The GSOC investigator recommended that a file be sent to the Director of Public Prosecutions (DPP), as the use of force in the circumstances described may constitute an assault, contrary to section 2 of the Non-Fatal Offences Against the Person Act, 1997. The member in charge had the option of stepping back from the complainant in the second encounter, and leaving the cell without the need to use any force but didn't take that option.

The DPP directed that the garda be prosecuted—the garda was tried and found not guilty.

Case summary

A woman complained to GSOC about how she was treated by a number of gardaí when she reported being sexually assaulted. A supervised investigation—that is, an investigation where a garda superintendent carries out an investigation that is supervised by GSOC—was undertaken.

The woman made a number of allegations about gardaí including that they failed to act appropriately in responding to her report of being sexually assaulted and that they were discourteous to her.

The investigation by the Garda Síochána Investigating Officer (GSIO) included the taking of statements from a number of gardaí who had interacted with the complainant, as well as an audio and video recording of an interview conducted by gardaí with the woman who was reporting that she had been sexually assaulted.

In his final report to GSOC, the GSIO said he had found no evidence that any of the four garda members who had been the subject of the investigation were in breach of discipline.

The GSOC officer supervising the investigation recommended that disciplinary proceedings should be instituted by the garda authorities against one of the four gardaí. The GSOC officer who also reviewed the DVD of the interview said that the garda had repeatedly interrupted the woman, had used inappropriate language and was aggressive towards the complainant.

The garda got up before the end of the interview stating that the garda had to take another statement, then left the room despite the fact that the interview was still ongoing.

The GSOC report recommending that disciplinary proceedings be instituted against that one garda was sent to Garda Síochána Internal Affairs. »

1 Member in charge (sometimes abbreviated to MiC) - The member of the Garda Síochána who is designated as being responsible for overseeing the application of the Custody Regulations, in relation to people in custody in the garda station. This can be a member of any rank.

» Seven months later, the garda authorities notified GSOC that the garda was found NOT in breach of the Garda Síochána (Discipline) Regulations 2007. While the garda had been 'direct' in the language used, the language did not amount to discourtesy.

The senior garda who dealt with the case said that in his view, the garda (complained of) was not discourteous in terms of a breach of the regulations.

Case summary

A garda was found to be in breach of discipline for neglect of duty arising from a failure to record details of a road traffic incident on the PULSE system.

The failure led to delays in an injured party's legal representative getting the necessary details for an insurance claim.

The injured party complained to the Garda Síochána about how he was treated by gardaí after reporting the RTI.

Gardaí referred the complaint to GSOC under section 85 of the Garda Síochána Act, 2005 and GSOC began a supervised investigation—that is, a senior garda was appointed to investigate with a GSOC investigations officer supervising the investigation.

The complaint arose from an incident in which a person was injured. The driver of a car which struck the complainant left the scene and the injured party, who received hospital treatment that day, went to a garda station the next day to report the incident.

The injured party told GSOC that a few days after reporting the incident, he got a phone call from a garda saying they had the name of the driver and gardaí would be checking the matter out with the driver's insurance company. »

» But several attempts by the injured party's solicitor to get the driver's details from gardaí over subsequent months failed. Some months after the incident, the solicitor was told by gardaí that there was no record of the incident.

In the GSOC report following the supervised investigation into the complaint, the GSOC investigations officer said that based on the evidence, the garda may have breached discipline in failing to record on PULSE a road traffic incident reported to him, and in failing to record on PULSE the production of driving documents produced to him.

That report was sent to the Garda Commissioner and GSOC was later notified that the garda had been found to be in breach of the Garda Síochána (Discipline) Regulations 2007 and a sanction had been applied by the Garda Commissioner.

Case summary

A man was driving the wrong way down a one way street and was approached by a garda who informed him of this. The driver was upset at the manner in which the garda spoke to him, saying he found the language and tone with which he was addressed insulting and demeaning. He corrected his course on the street and continued on his way.

The man then complained to GSOC. The complaint was found to be admissible and a Garda Síochána Investigations Officer (GSIO) was appointed to investigate. The GSIO investigating on behalf of GSOC interviewed the garda who, when questioned, admitted that he was at fault and should not have spoken to the man in a rude and unprofessional manner. The member was found to be in breach of the Garda Síochána (Discipline) Regulations 2007 for discourtesy and received advice.

Case summary

A garda was disciplined for neglect of duty over a failure to correctly log a search performed on a man in a public place.

The man in question complained to GSOC – saying he felt that the search had been without basis and had caused him emotional distress from being searched in a public place. The search turned up no results.

A Garda Síochána Investigations Officer (GSIO) was appointed to investigate the matter. The garda who had carried out the search was found to be in breach of the Garda Síochána (Discipline) Regulations 2007 for neglect of duty having failed to correctly log the search.

Case summary

A complaint was made on behalf of a child, injured in a road traffic incident (RTI), that a garda failed to properly investigate the RTI. The complainant outlined that the investigating garda had not taken a statement from the child, months after the incident and despite numerous phone calls. When a statement was eventually taken, more than five months later, important details about the incident, such as the identities of witnesses, were not known by the garda and had to be pointed out by the complainant.

Ultimately, the driver involved in the RTI was not prosecuted.

The complaint was found by GSOC to be admissible and a Garda Síochána Investigations Officer (GSIO) was appointed to investigate. The GSIO found the garda member to be in breach of the Garda Síochána (Discipline) Regulations 2007 on three counts of neglect of duty—one was for failing to investigate the incident, one was for failing to keep the victim updated and one was for failing to respond to correspondence from a garda superintendent about the road traffic incident. »

» The garda accepted responsibility for the breaches, and a monetary penalty was imposed on the garda by the Garda Commissioner.

1.6.3 Outcomes of Investigations

1,897 complaints containing 3,949 allegations were closed in 2018.

Of these, 1,352 complaints containing 3,370 allegations were admitted and investigated (the remainder were closed after being deemed inadmissible or after being withdrawn).

While the 1,352 complaints all contained one or more admissible allegations, 132 of the allegations contained in them were inadmissible, so these were not investigated. In total 3,238 allegations were investigated and the outcomes are described in Table 1 on the opposite page.

Table 1: Outcomes of complaints closed in 2018

Outcome/ Reason	Explanation	Type of investigation concerned	Number of allegations
Discontinued - Further investigation not necessary or reasonably practicable	The most common scenario here is that an investigation is discontinued because there is no independent evidence to prove an allegation.	All types	2,104
No breach of the Discipline Regulations identified	The allegations were investigated and the garda whose conduct was complained of was found to have acted correctly.	Disciplinary investigation by the Garda Síochána (s.94) or by GSOC (s.95)	549
Allegation withdrawn	The person who made the complaint indicated that they would not pursue it.	All types	232
Non-cooperation by the complainant	The complainant failed to engage with investigation.	All types	151
Breach of Discipline Regulations identified and sanction applied	A range of sanctions may be applied depending on the gravity of the breach found (see Table 2). The identification of the specific breach and any sanction to be applied is a matter for the Garda Commissioner under the Discipline Regulations. GSOC has no role in this process.	Disciplinary investigation by the Garda Síochána (s.94) or by GSOC (s.95)	74
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)	99
Garda Discipline Regulations no longer apply	The garda subject of a disciplinary investigation retired or resigned prior to, or during, the investigation.	Disciplinary investigation by the Garda Síochána (s.94) or by GSOC (s.95)	14
Referred to the DPP - No Prosecution Directed	If there is evidence that an offence may have been committed following criminal investigation, the case is referred to the DPP, who takes a decision whether to prosecute or not. In certain cases, the Ombudsman Commission may refer a case to the DPP to ensure full transparency and public confidence. <i>(See further detail in Section 5)</i>	Criminal investigation by GSOC (s.98)	13
Referred to the DPP – Prosecution Directed	As stated above, the DPP may also make a decision based on the evidence to direct a prosecution and a trial will commence <i>(See further details in Section 5)</i> .	Criminal investigation by GSOC (s.98)	2*
TOTAL OUTCOMES			3238

* This figure refers here to the number of files, arising from complaints, which were sent to the DPP and for which the DPP directed prosecution. **The trial may not have taken place in 2018.**

2 Either supervised or unsupervised investigations.

Discontinued Cases

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

Among the investigations discontinued in 2018 were:

A taxi driver called gardaí saying he had been assaulted by a passenger who had identified himself as a garda. Gardaí attended the scene and later made statements confirming that they witnessed a confrontation between the taxi driver and a person identified as a member of the Garda Síochána. The garda was said by garda witnesses to have been intoxicated.

The matter was forwarded to GSOC by the Garda Síochána and the taxi driver consented to GSOC conducting an investigation.

GSOC began an investigation under section 98 of the Garda Síochána Act, 2005 as the allegations outlined in the complaint may have amounted to criminal offences.

Statements were taken from the taxi driver and gardaí who had arrived at the scene. The driver said the passenger had got into his taxi and had asked the driver to turn off the meter. When the driver said it would be illegal for him to turn off the meter, the passenger assaulted him. »

» The taxi driver called 999 and gardaí responded, arriving to find the passenger and the driver out of the car, with the passenger, identified as a garda, in an intoxicated state.

GSOC's investigation was proceeding when the taxi driver told the GSOC investigator that he did not want to pursue the matter.

His withdrawal brought the GSOC criminal investigation to an end, that is, it was discontinued.

GSOC contacted garda authorities, and at the end of 2018, disciplinary action was being considered by the garda authorities.

Case summary

A person complained to GSOC that a garda had checked a third party's details on PULSE and had shared details of the third party's record in a way that had a harmful effect on the complainant.

The complainant said he was in the company of a number of people when the group encountered a garda who took the complainant's details and the details of one of the other people.

The complainant said the garda had run the other person's details through PULSE and had told someone who was NOT a garda that that person had a criminal record. The complainant alleged that the person who was given this information by the garda had shared that information with someone else.

The complainant said that as a result of the garda sharing this information with others, the complainant had been cut off from some members of the complainant's family. »

» A criminal investigation was begun by GSOC—it was designated a criminal matter as the allegation outlined could, if proven, be considered an unwarranted and serious infringement of a person’s right to privacy. This may have amounted to an offence of breaching section 62 of the Garda Síochána Act 2005, as amended. (Section 62 prohibits gardaí or civilian staff or contractors from disclosing information obtained in the course or carrying out their duties if the person knows the disclosure of that information is likely to have a harmful effect).

Shortly after the investigation began, the complainant withdrew the complaint. The GSOC investigation was then discontinued.

Case summary

A person who was asked to leave a public place complained to GSOC about the manner in which he was removed by gardaí.

Gardaí had been called by hotel staff after a number of guests complained about the behaviour of the man. The man was asked by gardaí to leave and was eventually escorted out of the building.

The man complained to GSOC and the investigation was designated a section 98 investigation (that is, a criminal investigation), because of the alleged use of force by gardaí. The complainant said in his statement that he was ‘manhandled’ out of the hotel—he was also unhappy about the way he was spoken to by gardaí.

GSOC got statements from hotel staff who said that a number of guests had complained about the behaviour of a man in the bar area. GSOC also viewed CCTV footage. »

» The investigator found that the CCTV disclosed no offences. GSOC also concluded that the gardaí had dealt ‘patiently and fairly’ with the complainant, and there was no evidence of discourtesy on the part of the gardaí.

The investigation was discontinued.

Case summary

A person told GSOC that he was conducting an ‘educational display’ in a public place when a garda told him there had been complaints about the material he and others were displaying in public. The complainant told GSOC that that garda told him to take down a sign and he refused, saying he and the others had a right to be there.

He said the garda pulled the sign down himself and then ‘pushed a colleague’ of the complainant. The complainant told GSOC that property had been damaged in the process (of the garda’s action) and the complainant believed the garda showed a bias against his views and that of his colleagues.

GSOC began an investigation under section 98 of the Garda Síochána Act, 2005 (that is, a criminal investigation), as the allegation outlined suggested an offence of assault and an abuse of authority may have been committed.

The person who the complainant alleged had been pushed by the garda made a statement to GSOC and said there were graphic banners. This witness said he wasn’t making a complaint—he was one of the protesters but just wanted to make a statement on what happened. As he declined to make a complaint, the matter was recommended for discontinuation and the case was closed.

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.

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

GSOC received **55** requests for review in 2018 (in relation to investigations completed in 2018 or other years), of which **50** were completed by year end and **5** remained open.

Sanctions

Should an investigation by the Garda Síochána under section 94 (either supervised or unsupervised) or by GSOC under section 95 find evidence of a potential breach of the Discipline Regulations by a garda, the Garda Síochána makes a decision on whether or not there has been a breach. A range of sanctions may be applied, depending on the gravity of the breach found. Sanctions are a matter for the Garda Commissioner. The sanctions applied in 2018, following decisions of a breach of discipline, are set out in Table 2.

Table 2: Sanctions applied by the Garda Commissioner in 2017, following disciplinary investigations

Sanction	Number
Advice	36
Fine imposed	9
Warning	6

Sanction	Number
Caution	10
Reprimand	3
Reduction in pay not exceeding 2 weeks’ pay	8
Reduction in pay not exceeding 4 weeks’ pay	2
TOTAL SANCTIONS	74

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

1.6.4 Time Taken to Close Cases

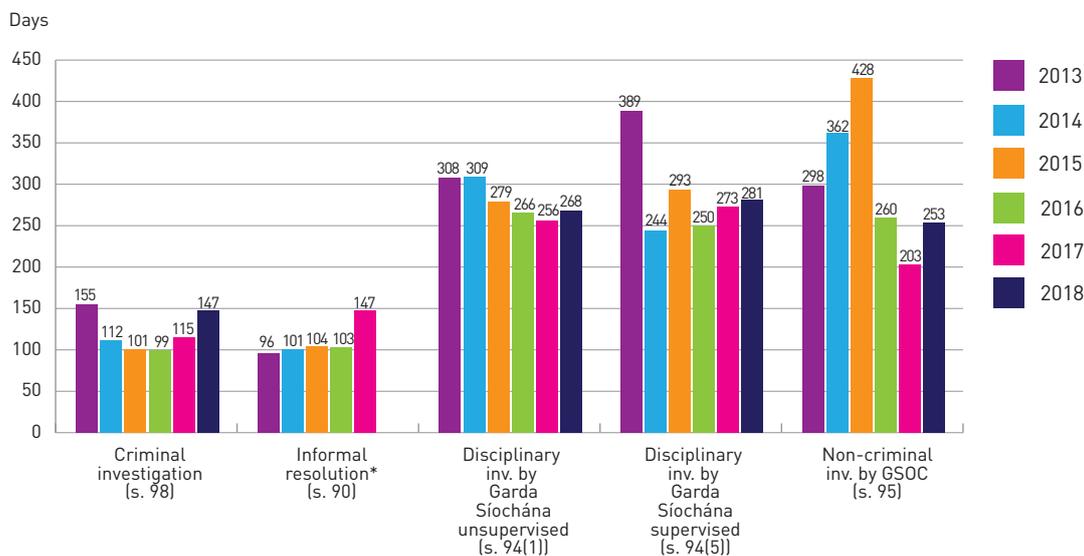
In 2018 GSOC reduced the time it took to close cases in some investigations, but in others, notably criminal investigations and informal resolutions, the length of time increased. Factors including the complexity of cases or resources within GSOC may have contributed to the increased time taken to close investigations. GSOC is committed to improving the time it takes to close/complete investigations. Chart 6 shows the median time it took to close cases by type by the end of 2018.

Criminal Investigations

At the end of 2018, the median time taken to close criminal investigations was **147** days, an increase of 32 days on the 2017 figure.

Criminal investigations are subject to a review process, which includes standard control measures. As part of this process, cases which have been open for 60 days are formally reviewed by Senior Investigations Officers and those which have been open for 90 days are formally reviewed by the Deputy Director of Operations. Cases open

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



* As only one new informal resolution case was opened in 2018, no meaningful 'average' can be provided

for 120 days are brought to the attention of the Director of Operations for appropriate decisions. In parallel, cases categorised as containing a very serious allegation are subject of review on a bi-monthly basis by the Director of Operations and the Ombudsman Commission.

Unsupervised Disciplinary Investigations

Unsupervised disciplinary investigations are undertaken by Garda Síochána Investigating Officers (GSIOS). The median duration of such investigations at the end of 2018 was **268** days, an increase on the 2017 figure of 256 days. Up until 2018 there was a continued improvement that saw the median time drop by nearly two months in the past number of years.

Supervised Disciplinary Investigations

Supervised disciplinary investigations are undertaken by Garda Síochána Investigating Officers supervised by GSOC investigations officers. The Protocols say that supervised disciplinary investigations must be completed and an investigation report provided within 20 weeks/140 days. The median duration for such investigations in 2018 was **281** days, which is an increase of 8 days on the 2017 figure.

Non-Criminal Investigation by GSOC

Non-criminal investigations by GSOC may, under section 95 of the Act, be undertaken by the Garda Ombudsman's own investigators. The median duration of such investigations was **253** days. This is an increase of 50 days on the 2017 figure.

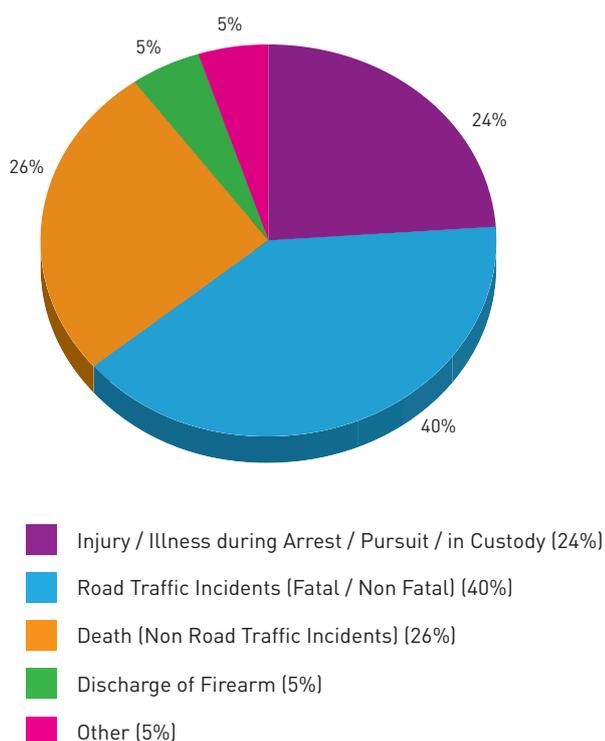
SECTION 2: INDEPENDENT INVESTIGATIONS FOLLOWING DEATH OR SERIOUS HARM

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

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

GSOC received 38 referrals in 2018 compared with 24 in 2017 and 51 in 2016. The power to refer is delegated by the Garda Commissioner to superintendents whose responsibility it is to decide if it is appropriate to refer an incident, in order that it be investigated independently.

Chart 7: Circumstances in Referrals

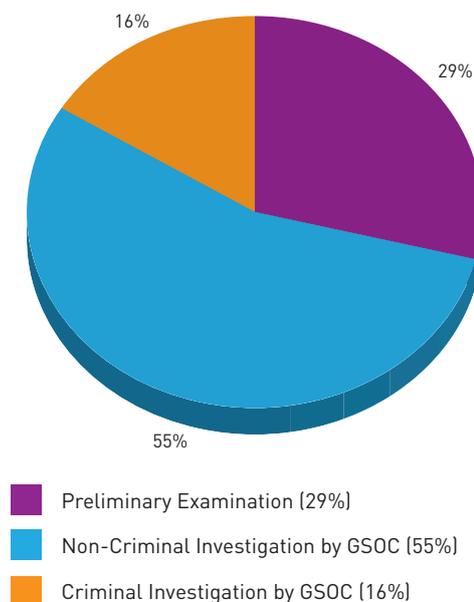


How GSOC Investigates Matters under Section 102

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

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

Chart 8: Investigation Types in Referrals (Total Referrals Received: 38)



Fifteen of the referrals received in 2018 related to fatalities. Of these, five related to road traffic incidents.

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

the State’s obligations under the convention provisions” (section 3(1)).

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

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

The fact that such investigations are undertaken by GSOC fulfils the requirement for independence. We are conscious of upholding the other four principles too. Victim involvement is directly related to the work undertaken in 2018 to comply with legislation outlining the rights of victims of crime.

Case summary

The death of a man, who had attempted suicide before gardaí were called by family members, was referred to GSOC.

Gardaí who went to the scene decided the man should be detained under section 12 of the Mental Health Act.

They handcuffed him for his own safety and that of others. The man became unresponsive, an ambulance was called and two first responders on the scene started CPR. A defibrillator was also used but the man was pronounced dead sometime after his removal to hospital.

Gardaí referred the matter to GSOC under section 102(1) of the Garda Síochána Act, 2005—this stipulates that the Garda Commissioner ‘shall’ refer to GSOC any matter that appears to indicate that ‘the conduct of a member of the Garda Síochána may have resulted in the death of or serious harm to a person.’

GSOC carried out an investigation and concluded that no culpability could be attributed to the actions of gardaí in the death of the man.

»

» GSOC did however submit a file to the Director of Public Prosecutions in accordance with the requirements of Article 2 of the European Convention of Human Rights.

A file was sent to the DPP with a recommendation from GSOC that there be no prosecution—a direction for no prosecution was given by the DPP.

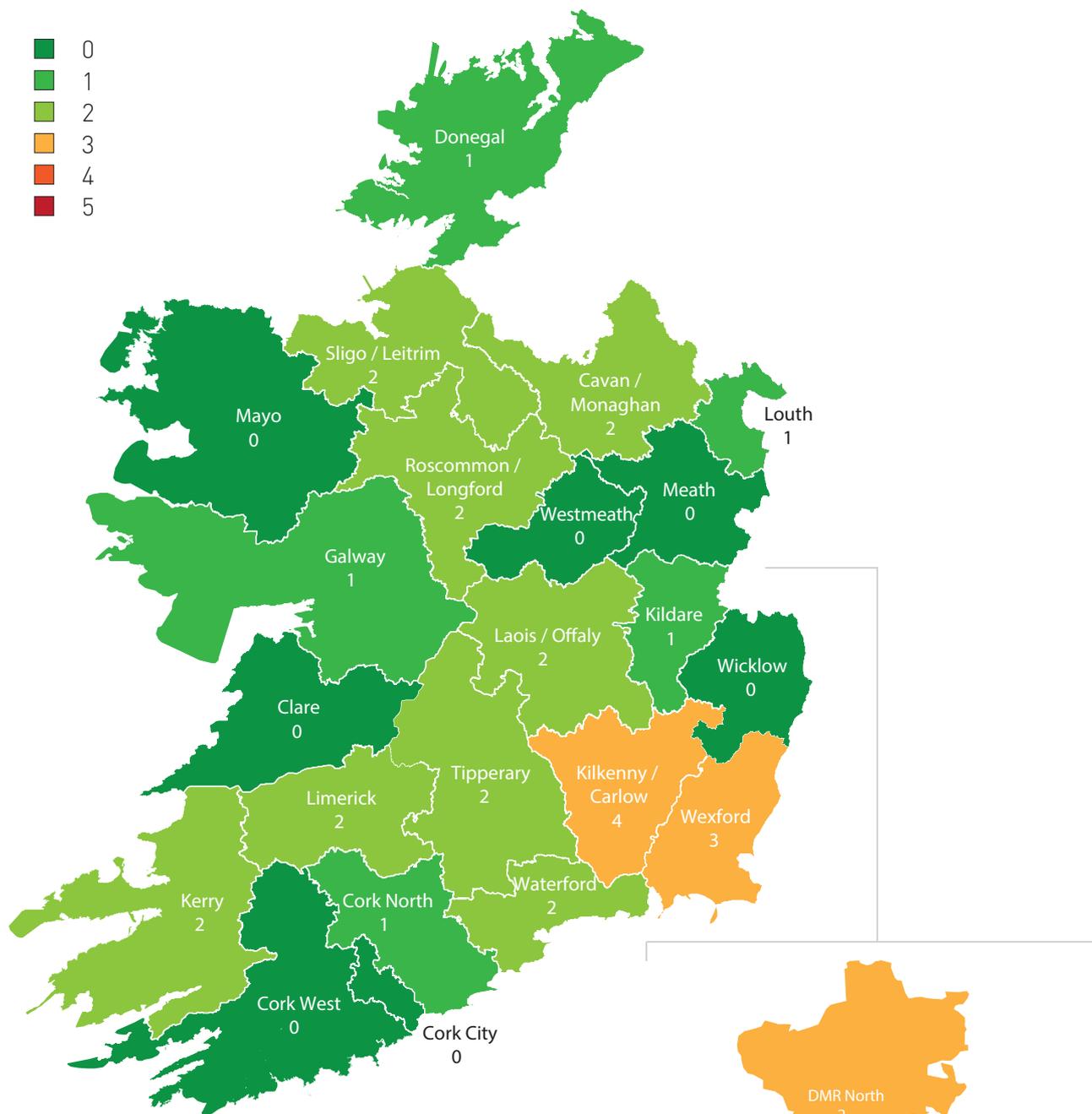
Case summary

A referral under section 102 (1) of the Garda Síochána Act, 2005 was made to GSOC by the Garda Síochána following the death of a woman who, immediately prior to her death, was in contact with gardaí. An independent investigation was conducted to establish the circumstances of the woman’s death. The investigation established that gardaí were called after a woman was observed by a member of the public walking along the roadside in the evening while intoxicated. Gardaí located the woman and drove her to the house she identified as her address, left her there and continued their duties. Sometime later the woman walked from this location and was hit by a vehicle and killed.

The matter was referred to GSOC. The GSOC investigation established that gardaí responded to calls of concerns regarding a woman walking on an unlit roadway at night. To ensure the safety of the woman they offered to drive her home. The gardaí had no reason to suspect the address given by the female was incorrect and her level of sobriety did not require garda intervention. The investigation did not disclose any breaches of discipline by gardaí and no further action was taken by GSOC.

The maps below show the geographical distribution of referrals made by the Garda Síochána in 2018.

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



Map 4: Referrals by Garda Division –
Dublin Metropolitan Region



2.1.2 Outcomes of investigations following referrals

GSOC closed 30 investigations in 2018, initiated (in 2018 or previous years) as a result of referrals from the Garda Síochána.

Table 3: Types of investigation and their outcomes (investigations following referrals, closed in 2018)

Type of investigation and outcome	Cases
Case closed after initial examination showed no evidence of misbehaviour or criminality by a garda.	10
Non-criminal investigation undertaken and concluded, finding no evidence of misbehaviour by a garda – no further action taken.	11
Non-criminal investigation undertaken and concluded – sanction applied by the Garda Commissioner.	0
Non-criminal 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.	3
Criminal investigation undertaken and concluded – referred to the DPP – prosecution directed.	1
Criminal investigation undertaken and concluded – referred to the DPP – no prosecution directed.	3
Case discontinued due to lack of cooperation from the injured party and no other issues of concern.	0
TOTAL	30

SECTION 3: INVESTIGATIONS IN THE PUBLIC INTEREST

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

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

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

Section 102 (4) of the Act provides that:

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

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

Section 102 (5) adds that:

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

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

Seventeen (17) public interest investigations were opened in 2018 and 14 were closed.

Three of the 17 public interest investigations opened by GSOC in 2018 are described briefly here:

- The Ombudsman Commission became aware through media reports of the temporary loss of a garda sub-machine gun from an official garda vehicle and the return of the lost firearm by a member of the public. The Commission was concerned about the reports in the media and the apparent lack of security that these reports suggested. The Commission was of the view that an independent investigation was necessary to ensure public confidence in the civilian oversight of policing at a time of an increased number of armed gardaí on the streets. The investigation is ongoing.
- The Ombudsman Commission initiated an investigation in the public interest on foot of media reports that a member of the public gained access to the presidential residence, Áras an Uachtaráin. The member of the public was reported to have driven through the front gate, walked in the front door and confronted President Higgins. This front gate is guarded by the Garda Síochána. The Ombudsman Commission initiated an investigation based on the media reports and the apparent lack of security that was suggested. The investigation is ongoing.
- The Ombudsman Commission initiated an investigation in the public interest on foot of information received from the Garda Síochána. This information suggested that a garda van driven from a garda station carrying a prisoner may have been driving dangerously and without due care prior to a collision with a vehicle driven by a member of the public. The investigation is ongoing.

Case summary

Gardaí referred a matter to GSOC after three members of the Garda Regional Support Unit (RSU) discharged their conducted electrical weapons (Tasers) in a family home.

The RSU gardaí had been sent to a house after a call to gardaí saying that a person with a knife was threatening to hurt herself and her partner. The door was opened by the person who called gardaí.

While the person was speaking with the officers, the armed person emerged in front of the gardaí. Officers asked her to show them her hands, and when she did gardaí saw that she was carrying a knife.

Gardaí demanded that the person drop the knife, and warned that they were armed with Tasers and would discharge them if necessary. The knife-wielding person then lunged towards the gardaí, at which point all three members discharged their Tasers simultaneously.

The woman was given first aid by the members before being brought to hospital to have the Taser 'barbs' removed.

GSOC was notified and an investigation was launched into the circumstances of the discharge of the Tasers.

The GSOC investigation concluded that the discharge was lawful and that the RSU members reacted proportionately in the circumstances.

Case summary

GSOC opened an investigation in the public interest following the discharge of firearms by gardaí following the pursuit and interception of armed men. »

» The Garda Síochána received information that individuals driving a vehicle, in possession of a firearm, were planning to shoot another individual.

A number of units, including armed units were deployed to the location of a suspect vehicle containing two men.

The vehicle took off at speed and the three gardaí pursued. During the course of the pursuit a bag containing a handgun was thrown from the vehicle—the bag was later recovered by gardaí.

The vehicle then came to a halt and the occupants fled towards another waiting vehicle. The gardaí in pursuit succeeded in apprehending one man and arresting him. Meanwhile the other man attempted to leave the scene in the waiting vehicle, colliding with parked cars on his way.

The garda who had arrested the first man, believed they were in danger due to the aggressive driving of the other man in the vehicle so the garda discharged one shot from a firearm at the driver. Six more shots were discharged by other gardaí at the driver.

The driver continued to aggressively manoeuvre the vehicle and ultimately escaped.

Upon considering the available information GSOC decided to investigate the incident in accordance with Section 102(4) of the Garda Síochána Act, 2005.

The investigation centred on whether the discharge of the firearms was lawful and necessary, and if there were any potential offences under the Section 8 of the Firearms and Offensive Weapons Act 1990 (Reckless discharge of a firearm).

The GSOC investigation found that the discharge of firearms by the members was legal and necessary in these circumstances.

INDEPENDENT REVIEW MECHANISM

In addition to the above, four investigations which came to GSOC from the Independent Review Mechanism (IRM) remained open at the end of 2018.

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

Under section 102(5) of the Garda Síochána Act, the Minister requested GSOC to investigate 21 cases arising from the IRM. Ten of the investigations were opened in 2015 and 11 in 2016. Of the 21 investigations received, four remained open at the end of 2018.

SECTION 4: LOCAL INTERVENTION INITIATIVE

BACKGROUND

For many years GSOC has been very conscious of the lack of satisfaction felt by people who make complaints of failure in service provision by gardaí. There was also an awareness that the length of time taken to investigate this type of complaint under the Garda Síochána (Discipline) Regulations could cause considerable stress to a garda subject of complaint. Discussions had taken place with the garda authorities some years ago with a view to identifying a more satisfactory method of complaint resolution so, when GSOC was approached by the Garda Síochána at the end of 2017 with a proposal for Local Intervention, it was viewed as a very positive step towards working collaboratively to achieve GSOC's section 67 objectives³ and the initiative was, and is, strongly supported by GSOC.

A pilot scheme for resolving service level complaints was begun in the Dublin Metropolitan (South Central) Region at the beginning of 2018.

Table 4: Outlines the activity over the pilot period to the end of 2018

District	No. Referred	No. Resolved	Other outcome
A (Kevin Street)	12	10	2 investigations
B Pearse Street)	29	14	7 investigations 6 closed 2 outstanding
E (Donnybrook)	6	5	1 closed

62% of complaints were resolved to the satisfaction of the complainant. Nine cases merited further investigation and were referred to the Garda Commissioner for unsupervised investigation. Three cases were closed because complainants failed to pursue their complaint by engaging with GSOC and a further three were closed because the complainant achieved satisfaction before the process could begin. Two cases remained on hand at the end of the year.

The pilot scheme was extended to the South Eastern Region—comprising Carlow/Kilkenny,

Tipperary, Waterford and Wexford—in the latter part of 2018.

Discussions also took place with the DMR (West) Region at the end of 2018 and arrangements put in place for the introduction of Local Intervention from early 2019.

In the absence of the scheme, the majority of these matters would most likely have been dealt with in the formal complaints process under the Garda Discipline Regulations. This entails a garda superintendent or garda inspector investigating complaints and a GSOC staff member managing the process.

Statistical data over the past ten years shows that the member of the public making the complaint, and the garda or gardaí against whom a complaint was made, could expect to wait nine months (or more) for the investigation to be completed and outcome to be notified. The investigation could only address whether or not there had been misbehaviour on the part of the garda or gardaí, and could not 'resolve' the issue which caused the complainant to contact GSOC in the first instance.

Several hundred investigations into allegations of discourtesy and 'low-level' neglect of duty (such as failure to return phone calls) are opened by GSOC every year with the concomitant deployment of GSOC and garda resources.

It was against this background that the Garda Síochána and GSOC agreed to initiate this new process and develop what we described as the Local Intervention initiative.

It was introduced with the aim of achieving satisfaction for complainants who were dissatisfied with the level of service received from the Garda Síochána and, equally importantly, providing senior garda management the opportunity to monitor and improve customer service. The key to the entire process however was the agreement of the complainant to engage in the new process, without which local intervention could not be attempted. The assignment of a designated garda inspector to intervene was also essential and proved to be

³ Section 67 (1) of the Garda Síochána Act 2005 sets out the objectives of GSOC as follows: To ensure that its functions are performed in an efficient and effective manner with full fairness to all persons involved in complaints and investigations under Part 4 (of the Act) concerning the conduct of members of the Garda Síochána, and to promote public confidence in the process for resolving those complaints.

beneficial. Complainants appreciated the fact that a garda with authority contacted them and was working on their behalf to establish the facts and resolve the matter for them.

Significantly, the timescale for the new process was set at a maximum of six weeks. If the matter could not be resolved within that timeframe, it would then revert to the standard process applied to all other complaints. There were however a small number of matters referred for intervention which took longer than the six weeks intended because the inspector wanted to ensure a process was being undertaken and would progress.

The alternative to local intervention is to initiate a lengthy disciplinary process which does not address the core issue complained of.

Discussions are already underway to expand the programme incrementally until it is in place nationwide by the end of 2019.

THE PILOT SCHEME

This section describes the features of the pilot scheme of the local intervention initiative which will be replicated as the initiative is extended to other garda divisions.

When a complaint is received by GSOC, GSOC decides whether or not the matter is suitable for local intervention.

Only service level issues, such as discourtesy or low level neglect-of-duty type complaints, are considered for local intervention. The types of issues which are considered include:

- Poor quality or standard of service provided
- Inefficient or no service
- Incivility/impoliteness/rudeness
- Lack of response to communications

If the issue is suitable for this process, GSOC contacts the person making the complaint, explains the local intervention process and asks if they will consent to having the matter dealt with in this way. If the complainant consents, GSOC refers the matter to a nominated garda inspector

who manages the process on behalf of the Garda Síochána.

The process involves the nominated garda inspector contacting the complainant by phone to identify what actions or outcomes he/she is seeking to achieve. It also entails the garda inspector having a discussion with the member concerned to explore what may have led to the issue. This process is not about apportioning blame—it is about addressing the issue raised and learning from what has happened to prevent a reoccurrence.

If a complaint is resolved to the satisfaction of the complainant, the garda inspector notifies GSOC. GSOC contacts the complainant to confirm satisfaction and obtain feedback on the process. Once the complainant is satisfied, the file is closed.

Should attempts to resolve the complaint through local intervention be unsuccessful, the complaint is referred back to GSOC which decides if the complaint should be admitted for further investigation.

THE PROCESS

All cases received by GSOC are recorded initially on the Case Management System (CMS) as 'queries'. These cases are not upgraded to complaints until such time as there is sufficient information available to allow GSOC to make an admissibility determination.

Cases which are identified as suitable for local intervention remain as 'queries' rather than 'complaints'. This is significant as the Garda Síochána Act, 2005 under which GSOC operates is quite prescriptive in the actions GSOC must take once a query has been categorised as a complaint. For example, the Garda Commissioner must be notified of the receipt of all complaints, whether or not they are deemed admissible; garda members must also be notified; and, once a complaint is admissible, Garda Síochána Investigations Officers must be appointed or GSOC's own investigators tasked to carry out the investigations.

Stage 1

After a 'query' is assessed by GSOC as being suitable for local intervention, the member of the public who has raised the issue is contacted by

GSOC and asked if he or she will agree to local intervention.

When the person gives consent, GSOC sends the matter to the nominated inspector.

Stage 2

The nominated garda inspector contacts the complainant and establishes what actions or outcomes the complainant hopes to achieve. This is done within seven days of receipt of the matter from GSOC.

Stage 3

The nominated garda inspector contacts the garda complained of in relation to the issues raised with a view to discussing the complainant's expressed dissatisfaction and seeking to establish a possible resolution.

Stage 4

The inspector contacts the complainant to advise on the action taken to address the matter. If the matter is resolved to the complainants' satisfaction, the outcome is notified to GSOC. The garda member will also be advised by the inspector that the matter is concluded. If the matter is not resolved, the inspector informs GSOC who will then decide on what further action, if any, is to be taken. GSOC determines the admissibility or otherwise of the complaint at that point.

Stage 5

GSOC contacts the complainant to confirm resolution or, if the matter is not resolved, GSOC decides if the complaint should be admitted for further investigation.

Anonymity

It is important to note that unlike complaints, GSOC does not associate members of the Garda Síochána with these cases on our Case Management System (CMS). The rationale for this is to encourage members of the Garda Síochána to engage with the process, knowing in advance that there will be no negative impact on them as a result.

STATISTICS

Statistics in relation to the number and type of service-level complaints made and resolved will be maintained by GSOC and the nominated inspectors.

The statistics will be compiled jointly with GSOC and furnished on a quarterly basis to the local Regional and Divisional Garda Officers and to GSOC's Communications and Research Unit. A copy of same will also be furnished to Garda Síochána Internal Affairs. These statistics reflect the number of issues referred, resolved, returned to GSOC unresolved and the type of resolution required/achieved. In addition, the nominated inspector will be required to identify trends and, through the provision of anonymous data, communicate the findings locally to improve the service provided in their local area and afford GSOC the opportunity to consider the appropriate referral of future complaints for local intervention.

CONCLUSION

Trends emerging

GSOC has already identified four trends which have caused members of the public to contact the office expressing dissatisfaction. These have been highlighted to the garda authorities with a view to bringing about change.

Supervision

PULSE provides an opportunity for garda supervisors to view the workloads of their staff and take action in cases where there has been none. It appears that the flags which signify delay in progress have not been acted upon by supervisors (there may be mitigating factors at play) and investigations can be and have been delayed. In addition, members of the public remain in the dark as to progress.

Sick Leave

There have been cases where members of the Garda Síochána were on sick leave for varying lengths of time. Members of the public are not aware that the garda has no access to email out of the workplace and there is no automated response. They are unaware and are not directed towards supervisors for assistance in these cases.

Communication

The majority of complaints related to allegations of failure – local intervention has established that in the main there has been no failure in duty but a failure to communicate. It is important that gardaí communicate more with members of the public whether relaying good or bad news. Communication of any kind is likely to reduce the number of contacts with GSOC by the public.

Discourtesy

Members of the public allege gardaí display their annoyance/frustration inappropriately and spontaneously. Gardaí who react in this way lose the moral high ground if they lower their standards and speak in a discourteous manner to an individual.

COST IMPLICATIONS

This initiative predates the report of the Commission on the Future of Policing in Ireland (published in September) but is very much in line with the report's recommendations. The Commission on the Future of Policing strongly recommended that what it called 'service' complaints should be dealt with as a management matter by the Garda Síochána rather than immediately going into a formal disciplinary process.

The local initiative displays collaborative working relations between GSOC and the Garda Síochána in a manner which can be of benefit to all stakeholders including the public.

The resource implications of a large number of complaints being resolved locally and quickly are significant—and positive—for both GSOC and the Garda Síochána. Each complaint that goes into the formal investigation process (under section 94 of the Garda Síochána Act, 2005) requires many hours work over months, and sometimes years, on the part of a garda superintendent and garda inspector who investigate on behalf of GSOC. It also places demands on GSOC staff who have responsibility for managing the complaints process and/or supervising the investigation.

The diversion of service complaints which might otherwise become the subject of lengthy investigations into local intervention would free up

the time of many senior garda officers and GSOC staff for their other duties.

SECTION 5: LEGAL ACTIVITY FOLLOWING CRIMINAL INVESTIGATION.

Criminal investigations are undertaken by GSOC following complaints (described in section 1) and referrals (described in section 2) from the Garda Síochána and others, who may include the Minister for Justice and Equality.

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

GSOC also sends files to the DPP in cases where there has been a death in garda custody or following from the deceased's interaction with gardaí even when GSOC has found no evidence of wrongdoing on the part of gardaí. GSOC has adopted this policy having regard to Article 2 of the European Convention on Human Rights.

It is the DPP who decides whether or not to prosecute the case in court.

FILES SENT TO DPP

In 2018, GSOC sent 17 files to the DPP following criminal investigation by GSOC investigators. Arising from these, there were:

- 4 directions for prosecution
- 9 directions for no prosecution
- 4 decisions pending at the end of 2018

In addition, the DPP directed no prosecution in relation to a file that was awaiting a decision at the end of 2017.

Directions for prosecution were given in the following cases:

- One count of making a false report contrary to section 12 (A) of the Criminal Law Act 1976 (this is not against a member of the Garda Síochána)
- Assault causing harm contrary to section 3 of the Non-Fatal Offences Against the Person Act 1997 against two separate garda members
- Dangerous driving contrary to section 53 of the Road Traffic Act 1961
- One count of assault contrary to section 2 of the Non-Fatal Offences against the Person Act (summary charge only), one

count of dangerous driving (summary charge only), one count of using a vehicle for which motor tax licence is not in force contrary to section 13 (1) of the Road Traffic Act 1920 and one count of failing to display a tax disc contrary to section 73 (1) of the Finance Act 1976.

CASES CONCLUDED IN COURT IN 2018

Six cases which followed GSOC criminal investigations were before the courts in 2018—all related to files sent to the DPP before 2018.

- On 5 February 2018 a garda pleaded guilty to sexual assault contrary to section 2 of the Criminal Law Rape Amendment Act 1990. The garda was sentenced to two years imprisonment on 12 October 2018. (see panel for case study).
- On 23 February 2018 a charge was brought against a garda of assault contrary to section 2 of the Non-Fatal Offences Against the Persons Act. The garda was acquitted.
- On 5 March 2018 two members of the Garda Síochána were dealt with by way of adult caution. Both were charged with assault contrary to section 2 of the Non-Fatal Offences against the Person Act 1997 (see panel for case study). The decision to administer an adult caution is made by the DPP.
- A garda member was convicted of careless driving and fined €500 in March 2018.
- A garda member charged with two counts of assault contrary to section 2 of the Non-Fatal Offences Against the Person Act, 1997 was dealt with by way of adult caution. On the 9 November 2018 an adult caution was administered.
- A garda was convicted in December of dangerous driving causing death.

Adult Caution

The Adult Cautioning Scheme came into effect in 2006 as an alternative to prosecuting people for certain offences. The decision to administer an adult caution rather than initiate a prosecution is one for the local garda superintendent (or a garda inspector acting as the District Officer). However, in GSOC investigations the decision to administer a caution is a matter for the DPP.

The caution must be administered in a garda station, save in exceptional circumstances.

The administration of an adult caution requires the person accused of an offence accepting responsibility for the behaviour in question, and a warning (caution) that any future behaviour of a similar criminal nature will likely result in prosecution.

The offender must be deemed suitable for cautioning and often those without previous convictions will be deemed eligible for an adult caution. A person should ordinarily receive an adult caution once — it is then only in exceptional circumstances (for example, when a subsequent offence is very minor, or where a long time has elapsed since the previous offence) that a person could be considered for a second adult caution. In these cases the permission of the DPP must be sought.

Before an adult caution is administered, the views of the victim should be sought and considered.

An adult caution can only be administered in relation to certain specified offences.

These include:

- minor assaults (that is, contrary to section 2 of the Non-Fatal Offences Against the Persons Act, 1997)
- being drunk in a public place, disorderly conduct in a public place and a number of other offences contrary to the Criminal Justice (Public Order) Act 1994 »

- theft where the value of the property doesn't exceed €1,000 (contrary to section 4 of the Criminal Justice (Theft and Fraud offences) Act 2001), and
- offences by a drunken person (contrary to section 6 of the Intoxicating Liquor Act, 2003).

In cases which arise from GSOC investigations, the caution is administered in the presence of GSOC officers. GSOC officers will be requested to seek the views of the injured party, and while the views of the injured party will be taken into account, they are not determinative. If an injured party is opposed to the matter being dealt with by means of an adult caution, the matter should be referred by the Garda Síochána to the DPP who will make the final decision.

Cases Pending before the Courts at the end of 2018

- A garda charged with sexual assault of a minor
- A garda charged with assault contrary to section 3 of the Non-Fatal Offences Against the Person Act 1997 and criminal damage contrary to section 2 (1) of the Criminal Damage Act 1991
- A member of the Garda Síochána was facing charges of dangerous driving causing death contrary to section 53 of the Road Traffic Act 1961, dangerous driving causing serious harm contrary to section 52 of the Road Traffic Act 1961, leaving the scene of an accident contrary to section 106 (1) (B) and failure to offer assistance contrary to section 106 (A) of the Road Traffic Act 1961
- A member of the Garda Síochána charged with assault contrary to section 2 of the Non-Fatal Offences Against the Person Act, 1997
- A member of the Garda Síochána charged with theft contrary to section 4 of the Criminal Justice (Theft and Fraud Offences) Act 2001 and assault contrary

to section 2 of the Non-Fatal Offences Against the Person Act 1997

- A person (not a member of the Garda Síochána) is charged with making a false report contrary to section 12 (A) of the Criminal Law Act 1976
- Two members of the Garda Síochána charged with assault causing harm contrary to section 3 of the Non-Fatal Offences Against the Person Act
- A member of the Garda Síochána charged with assault contrary to section 2 of the Non-Fatal Offences Against the Person Act, dangerous driving, using a vehicle for which motor tax is not in force, and failing to display a tax disc.

Case summary

A garda was sentenced to two years imprisonment for sexual assault following an investigation by GSOC.

The criminal investigation was begun after a woman made a statement at a garda station in which she described being sexually assaulted by a man who she knew to be a garda a few days earlier. Some inquiries were made by gardaí before the complaint was sent to GSOC—the victim was asked and consented to having the matter dealt with by GSOC.

GSOC investigators interviewed the victim and other witnesses to the events surrounding what was then an alleged sexual assault.

It was established that the incident happened after a charity event which had been attended by the woman and a number of friends and acquaintances. The group, which included the off-duty garda, was staying overnight in apartment-style accommodation, and had had a meal and a few drinks together before returning to the accommodation and continuing to socialise. »

» The woman retired to bed while others continued to talk in the sitting-room area of the accommodation. She was woken sometime later by a man—a member of the group—who had got into bed with her and was molesting her.

The man sought to apologise to the woman and her husband on Facebook the next day, but the couple went to a garda station soon after and made a statement.

GSOC's investigation included the analysis of phone and social media messages, as well as interviews with people who had attended the charity event.

Following its investigation, GSOC sent a file to the Director of Public Prosecutions who directed the garda be prosecuted for sexual assault contrary to section 2 of the Criminal Law (Rape)(Amendment) Act 1990.

The trial, before a jury, took place over a number of days during which the victim and others gave evidence. In her evidence, the woman spoke of her initial difficulties in reporting the incident saying:

"Who would take my word above that of a garda who is supposed to be a pillar of the community and above the law?"

Shortly before the jury was due to begin its deliberations, the accused garda pleaded guilty.

He was served with dismissal papers by the Garda Commissioner after he was sentenced to two years in prison. He then resigned and his resignation was accepted.

Case summary

Two gardaí were charged with assault following an investigation by GSOC.

The investigation followed a referral to GSOC by a garda superintendent of an incident in which a man was arrested following a 45 minute pursuit of him by several garda vehicles—the pursuit ended when the car being pursued by gardaí was in collision with a garda vehicle.

The man was arrested and taken to a garda station where a test showed that his alcohol level was below the legal limit. On his release the man attended hospital where he was treated for a number of injuries including a wound which required a number of stitches.

Gardaí who were involved in the pursuit and were present at the scene of the arrest provided accounts of what happened—these accounts were forwarded to GSOC.

Several gardaí described the man as struggling and resisting arrest as he was taken from the crashed car.

In their accounts, two of the gardaí described the man being kicked and struck by two other gardaí after he had been handcuffed and was lying face down on the ground.

While GSOC's investigation was begun on foot of a referral under section 102 of the Garda Síochána Act, 2005, the man also complained to GSOC that he had been assaulted by gardaí.

GSOC conducted a criminal investigation which resulted in a file being sent to the Director of Public Prosecutions (DPP). The DPP directed that two gardaí be prosecuted for assault under section 2 of the Non-Fatal Offences Against the Person Act, 1997. »

» A short time before the court hearing, a solicitor for the two gardaí made an application to the DPP for the matter to be dealt with under the Adult Caution Scheme (this is explained earlier in this section). The injured party and GSOC were consulted and made no objection.

The two gardaí were subsequently administered an adult caution—in accepting the caution, the two admitted the offence under section 2 of the Non-Fatal Offences Against the Person Act.

GSOC closed its investigation and took no further action.

Case summary

GSOC launched a criminal investigation after a person complained to GSOC about an encounter he and another family member had with an off-duty garda. The two family members were doing some work on a car when a man, who identified himself as a garda, ordered them to move the vehicle.

The complainant told GSOC that the off-duty garda had repeatedly demanded that they move the car, and had put his hand on the arm of the other family member on a number of occasions.

The off-duty garda phoned the local garda station after the incident.

The complainant told GSOC that he later went to the garda station and, when asked at the station if he wanted to make a complaint, said he just wanted the off-duty garda to apologise to his family member.

The complaint came to GSOC and, because the allegation may have amounted to an allegation of assault, a criminal investigation—under section 98 of the Garda Síochána Act, 2005—was conducted by GSOC. »

» During the course of the investigation, the GSOC investigator reviewed dash-cam footage from the car on which the complainant had been working at the time of the encounter.

The GSOC investigator said the dash-cam had captured the incident and showed the off-duty garda to be acting in a demanding and unreasonable manner—he did not give the complainant and the other person an opportunity to move the car before going on to make further demands.

It also showed the complainant and the other person as being generally cooperative with the garda.

At the conclusion of the investigation, GSOC sent a file to the DPP.

The DPP directed that there be no prosecution in the case.

GSOC informed the Garda Commissioner of the DPP's decision, and said there was no basis for any further investigation by GSOC in relation to disciplinary matters.

SECTION 6: INFORMING GARDA POLICY AND POLICING PRACTICE

SYSTEMIC RECOMMENDATIONS

GSOC investigators sometimes encounter practices or issues during the course of their investigations which GSOC believes need to be brought to the attention of garda management. The practices or issues outlined here relate to systemic or management issues rather than to the behaviour of individuals.

The Ombudsman Commission believes that highlighting systemic or management issues when they arise, and making recommendations to avoid the recurrence of similar incidents, is an important element of oversight.

Table 5: Recommendations made to the Garda Síochána in 2018

	General subject matter	Specific subject matter	Recommendation and response
SR1	S.102 Referral	Family Liaison Officer Deployment	<p>GSOC began an investigation into circumstances surrounding the sudden death of a member of the public. Although the investigation found that the garda concerned was not in breach of discipline, he could have done more as a member of the Garda Síochána to impart the seriousness of the family’s request for assistance to gardaí stationed locally. Further, as a professional police officer, the garda should have documented to whom he had relayed the message in the garda station.</p> <p>It was also found that the manner of engaging with and managing the needs and expectations of grieving relatives would have been much better addressed through the dedicated use of trained Family Liaison Officers (FLO).</p> <p>GSOC highlighted systemic failures identified in this case and in particular, sought to remind the Garda Síochána of the following policies:</p> <ol style="list-style-type: none"> 1. A Directive that requires that all calls for service received by the Garda Síochána will be recorded at the time of the initial report. 2. A Directive that requires that a garda member receiving a complaint or report has a duty to provide their name and station telephone number. 3. Garda Family Liaison Policy - requires that where the District Officer deems necessary a Garda FLO will be deployed to an incident which involves a sudden death. Further the policy outlines <i>“that the early deployment of a Garda FLO by the District Officer is central to the success of the Garda FLO service. The leadership role of the District Officer and the adoption of professionally structured communications with victims / victims’ families, in the immediate aftermath of traumatic incidents, is paramount.</i> <p>Recommendation sent 15/02/018.</p> <p>Letter of acknowledgement received 31/07/2018.</p>

	General subject matter	Specific subject matter	Recommendation and response
SR2	Public Interest Investigation	Information Awareness among Members re Warnings	<p>In the course of investigations into a case involving very serious injury, a recommendation was made by GSOC highlighting concerns in relation to the information available throughout the general garda membership about the risks posed by one of the people involved, which were known to certain gardaí. As part of the recommendation, reference was made to the greater use of the Alert section of the PULSE system.</p> <p>Recommendation sent 20/04/2018</p> <p>Reply received demonstrated that the Garda Síochána gave serious consideration to the recommendation. The Garda response pointed out their current practice is to disseminate material as widely as they consider safe and operationally appropriate. The response also pointed out that the general diffusion of information throughout the Garda Síochána can have a negative effect as the impact of warnings could be reduced if they were to become more frequent.</p>
SR3	94(1) Investigation/ 94(10) Review	Role of Members in House Repossessions	<p>This arose during an investigation relating to the supporting role of Garda members in a house repossession. GSOC recommended that guidance be issued regarding the attendance of gardaí at the repossession of property.</p> <p>A similar recommendation was made in 2013</p> <p>Recommendation sent 23/07/2018</p> <p>Letter of acknowledgment received from Internal Affairs dated 24/09/2018</p>
SR4	94(1) Investigation/ 94(10) Review	Mutual Assistance Section/ Delay in Applying for Communications Data	<p>This arose during an investigation by GSOC into abusive and threatening messages received by the complainant and his fiancée through their social media accounts. The investigating garda submitted a request for Mutual Legal Assistance who advised him they were monitoring the matter on his behalf. A reply was received 1 year later, six months after which the garda applied for details relating to IP addresses. The data was no longer available. The delay resulted in relevant evidence being lost.</p> <p>GSOC recommended that a review be conducted of the processes within the Mutual Assistance section to ensure that requests for communication data are monitored effectively so that subsequent enquiries can be initiated within the timescale allowed by legislation.</p> <p>Recommendation sent 19/10/2018</p> <p>Letter of acknowledgment received from Internal Affairs dated 25/10/2018</p>

	General subject matter	Specific subject matter	Recommendation and response
SR5	S. 102 Referral	Wearing of Seatbelts by Garda Members	<p>An investigation was carried out by GSOC following a road traffic collision between a private motor vehicle and a garda van. Examination of the seatbelts confirmed that the garda travelling in the passenger seat was not wearing a seatbelt at the time of the collision.</p> <p>GSOC recommends that the Garda Síochána remind all members of the requirement for all gardaí to wear seatbelts given the potential for serious injury and the example that members should be expected to set for members of the public when it comes to observing the provisions of the Road Traffic Legislation.</p> <p>Recommendation sent 18/12/2018</p> <p>No reply received by 31/12/2018</p>
SR6	Criminal Investigation	Custody Records -Recording of Property	<p>This set of recommendations relates to three separate investigations carried out by GSOC. The circumstances of each case differ slightly, but all cases involved a common situation where a prisoner's property was not handed over directly to the Member in Charge or Gaoler at the time of processing and it was not recorded in the custody record.</p> <p>GSOC recommends as follows:</p> <ul style="list-style-type: none"> • That all operational gardaí are reminded of the requirement to complete an accurate and complete custody record, and that the proper recording of all property taken from a prisoner is essential. • That all gardaí are reminded that all property should be recorded on the custody record in the presence of the prisoner and signed for by the prisoner. Any refusal to sign must be recorded in the custody record. • That a directive is issued, instructing all gardaí that any property seized or taken from the prisoner post-initial processing should also be recorded in the custody record. Any refusal to sign should be recorded. • That all gardaí are reminded of the obligation to have a prisoner sign for the return of their property, and that any refusal to sign should be recorded. • That all gardaí are instructed that any property seized from a prisoner prior to presentation to the member in charge should be documented in the member's notebook, and the member in charge informed so that it can be recorded in the custody record.

General subject matter	Specific subject matter	Recommendation and response
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- That the Garda Síochána conduct a review across the Divisions to establish what “in house” practices may have evolved, and ensure consistency. This would assist in reducing the number of theft allegations against gardaí being submitted to GSOC, and will provide members with additional protection when such allegations are made.
- That the Garda Síochána consider introducing the use of sealed tamper-proof property bags for storage of prisoners’ property whilst in custody.

Recommendation sent on 18/12/2018

No reply received by 31/12/2018

SR7	Crime Investigation	Record Keeping/ Planning and Management of Garda Operations	<p>An investigation was carried out by GSOC following the search of a complainant’s home. Amongst the allegations, the complainant stated that her son was injured during the search and required hospital treatment for wounds sustained from broken glass when gardaí forced entry. Although it was found that there was insufficient evidence to prove the criminal allegations, a number of issues arose regarding the planning of the garda search operation, and the documentation produced.</p> <p>GSOC recommends the following:</p> <ul style="list-style-type: none"> • That all operational gardaí should make a notebook entry regarding their presence during a search, describing any matters which arise. • That all operational gardaí should be instructed that any evidential or potentially evidential finds made during a search should be noted by the relevant member in their own notebook, detailing when and where found. • That the Garda Síochána issue a standardised search log, and issue a directive requiring that it is used in every search. • That all gardaí are reminded of the requirements of chapter 8 of the Garda Overarching Use of Force Policy, specifically in that planning meetings for any planned operation involving armed officers or where the use of force is anticipated be properly documented. • That all gardaí are reminded of the requirement of chapter 8 of the Garda Overarching Use of Force Policy, in that all planned operations should have a detailed operational plan and operational briefing order, and that all briefings must be properly documented.
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General subject matter	Specific subject matter	Recommendation and response
		<ul style="list-style-type: none"> That the Garda Síochána consider amending operational order templates to include an equipment check-list, to confirm that any breaching equipment has been checked and confirmed in working order prior to deployment. <p>Recommendation sent 18/12/2018</p> <p>Letter of acknowledgment received from Internal Affairs dated 28/02/2019, advising that GSOC's recommendations have been forwarded to AC Security and Intelligence and Others for consideration and GSOC will be updated of any action taken on foot of same</p>

SECTION 7: PROTECTED DISCLOSURES

In March 2018, the first full time GSOC investigators were allocated to the new GSOC Protected Disclosures Unit following its establishment and a recruitment process run by the Public Appointments Service (PAS).

Sanction had been given the previous year (2017) by the Department of Public Expenditure and Reform (DPER) for five staff for the unit, and the recruitment of an additional five people for the unit was authorised in November 2018.

The year ended with four investigating officers, including the senior investigating officer who heads the unit and who was already working with GSOC, and one support staff member working in the unit and dealing solely with protected disclosures. A further five investigators and an analyst will join the unit in 2019.

The Ombudsman Commission had previously identified the need for a separate unit within GSOC which would deal with protected disclosures but not with any other complaints made in the usual way to GSOC. Gardaí and other employees of the Garda Síochána make protected disclosures directly to the three Ombudsman Commissioners—the disclosures are then processed within the Protected Disclosures Unit.

FIGURES

Section 22 of the Protected Disclosures Act 2014 requires each public body to publish an annual report outlining the number of protected disclosures received in the preceding year.

In 2018, **24** protected disclosures were made to GSOC by members and/or employees of the Garda Síochána under sections 7 and 8 of the Protected Disclosures Act. With **25** protected disclosures remaining under examination or investigation at the end of 2017, this brought to **49** the number on hand in 2018.

During the year, **13** were discontinued. GSOC can discontinue if, following an examination, it is determined that the matter falls outside of the parameters set out in section 5(3) of the 2014 Act which details the relevant ‘wrongdoings’ covered by the legislation.

It may also be decided that it is not necessary or reasonably practicable to proceed if matters are already under investigation by a statutory agency, or information about the matter has already come into the public domain through a process such as court proceedings. It may also be discontinued if the disclosure relates to matters for which GSOC has no statutory investigative powers.

Matters can be discontinued at any stage following the withdrawal or disengagement from the process of the person making the disclosure.

The remaining **36** were being examined or under investigation at the end of 2018.

GSOC STAFF AND PROTECTED DISCLOSURES

In 2016 GSOC established policy and procedures for its own staff to make disclosures under the Protected Disclosures Act 2014.

No internal disclosures were received in 2018, nor had any been received during 2014, 2015, 2016 and 2017.

SECTION 8: GDPR AND DATA ACCESS

GDPR

The General Data Protection Regulation (GDPR) came into effect on 25 May 2018 and applies to the processing of personal data within the EU. Because GSOC processes personal information for the purposes of criminal investigations, GSOC is also subject to the Law Enforcement Directive (LED) which applies to the processing of personal data by data controllers who are competent for the investigation, detection, prevention or prosecution of criminal offences. The Data Protection Act 2018 gives further effect to the GDPR and transposes the LED into Irish law. GSOC has been working towards compliance with the obligations and requirements of this new data protection regime since 2017 and throughout 2018.

A Data Protection Officer was appointed in May 2018.

The Data Protection Officer is responsible for informing and providing guidance to GSOC staff and the Commission regarding their obligations under the data protection law as well as liaising with the office of the Data Protection Commission as required and acting as the point of contact for all data subjects.

GSOC sought additional resources to support this role in the business case (which was later approved) sent to the Department of Justice and Equality with a view to establishing a Data Protection & FOI Unit in early 2019. The work of the GDPR Implementation Group continued throughout the year, mapping, quantifying, reviewing and revising GSOC's data handling processes, reviewing its data protection policies and procedures as well as redrafting our standard complaint form, privacy notices and website content.

GDPR awareness presentations were delivered to all staff throughout the year and a GDPR Awareness in the Workplace course was procured and will be delivered in 2019 to all staff on a mandatory basis. The work of the Implementation Group continued throughout 2018 and was ongoing into 2019.

GSOC's Data Protection Unit can be contacted at dataprotection@gsoc.ie.

FOI AND OTHER REQUESTS FOR INFORMATION

In addition to providing information under data protection legislation, GSOC is also partially subject to the Freedom of Information Act, 2014 and regularly deals with requests for information under this Act.

In 2018, requests were received for various types of information such as garda firearm discharge statistics, complaint statistics, correspondence between GSOC and other public bodies and information from specific case files. Requests came from different sources – journalists, members of the public and complainants mostly. Overall, GSOC processed 47 FOI requests in 2018.

GSOC also provides information to the public through representations made by members of the Oireachtas to GSOC directly or via the parliamentary questions process.

GSOC liaises regularly with the Policing Division in the DJE to provide such information. The volume of information requests received in 2018 is set out below.

Table 6: Information requests processed in 2018

Request Type	Volume
Requests under the Data Protection Acts 2003 and 2018	65
Requests under the Freedom of Information Act 2014	47
Representations from members of the Oireachtas	16
Media Enquiries	208
Submissions in response to Parliamentary Questions	59

SECTION 9: STAFF

STAFF NUMBERS

At 31 December 2018, GSOC had 92 staff of whom 22 were employed in its Administration Directorate and 70 in the Operations Directorate. Two of GSOC's investigations officers were on secondment to the Disclosures Tribunal for the entire year.

In addition to these staffing numbers, GSOC had three Commissioners, two ICT contractors and one person contracted to provide media and communications services.

In February 2018, GSOC submitted a business case to the Department of Justice and Equality (DJE) and the Department of Public Expenditure and Reform (DPER), outlining the urgent need for additional staff to allow the organisation fulfil its current remit. This document was chiefly concerned with GSOC's immediate requirement for an additional 37 staff, 24 of whom are needed for the organisation's core function of complaint handling and investigation, and 13 for administrative and support roles which have arisen in recent years. The document also provided detail of further resources in the event that some or all of the legislative changes recommended by GSOC come to pass.

Discussions took place with the two departments throughout 2018 during which a further 5 additional staff were sought by GSOC to work in its newly established Protected Disclosures Unit. On 2 November 2018, the Minister for Justice and Equality confirmed in writing that sanction had been received from DPER for the full complement of 42 additional staff that GSOC sought.

GSOC immediately began to make arrangements for the recruitment of these additional staff and it is intended that all 42 will be employed as soon as practicable in 2019. In this regard, and mindful that the organisation had submitted its business case, the Public Appointments Service (PAS), on behalf of GSOC, successfully conducted a campaign in 2018 to establish panels from which GSOC will be able to recruit the additional investigations officers provided for in the sanction.

GSOC recruited a number of new staff from open PAS panels to fill vacancies within GSOC's Administration Directorate in 2018 and we will

use these panels in 2019 to fill the additional administrative staff provided for in the sanction received.

LEARNING AND DEVELOPMENT

The Ombudsman Commission continued with its commitment to the on-going training, up-skilling and development of its staff in 2018. The work of GSOC's L&D Manager, separate to the more general human resources function, ensured that the needs of GSOC staff for increased access to training and development opportunities were met. Apart from planning and implementing our own internal training programme, GSOC staff have also been able to avail of the suite of programmes centrally operated by the One Learning Shared Service under the Civil Service Renewal Plan 2014.

In 2018, the L&D Unit facilitated 26 different training courses or programmes for GSOC staff, 15 of which were provided by the One Learning Framework. Out of the 95 staff (including three Commissioners), 73 attended one or more of these courses. This equates to 80 per cent of all staff.

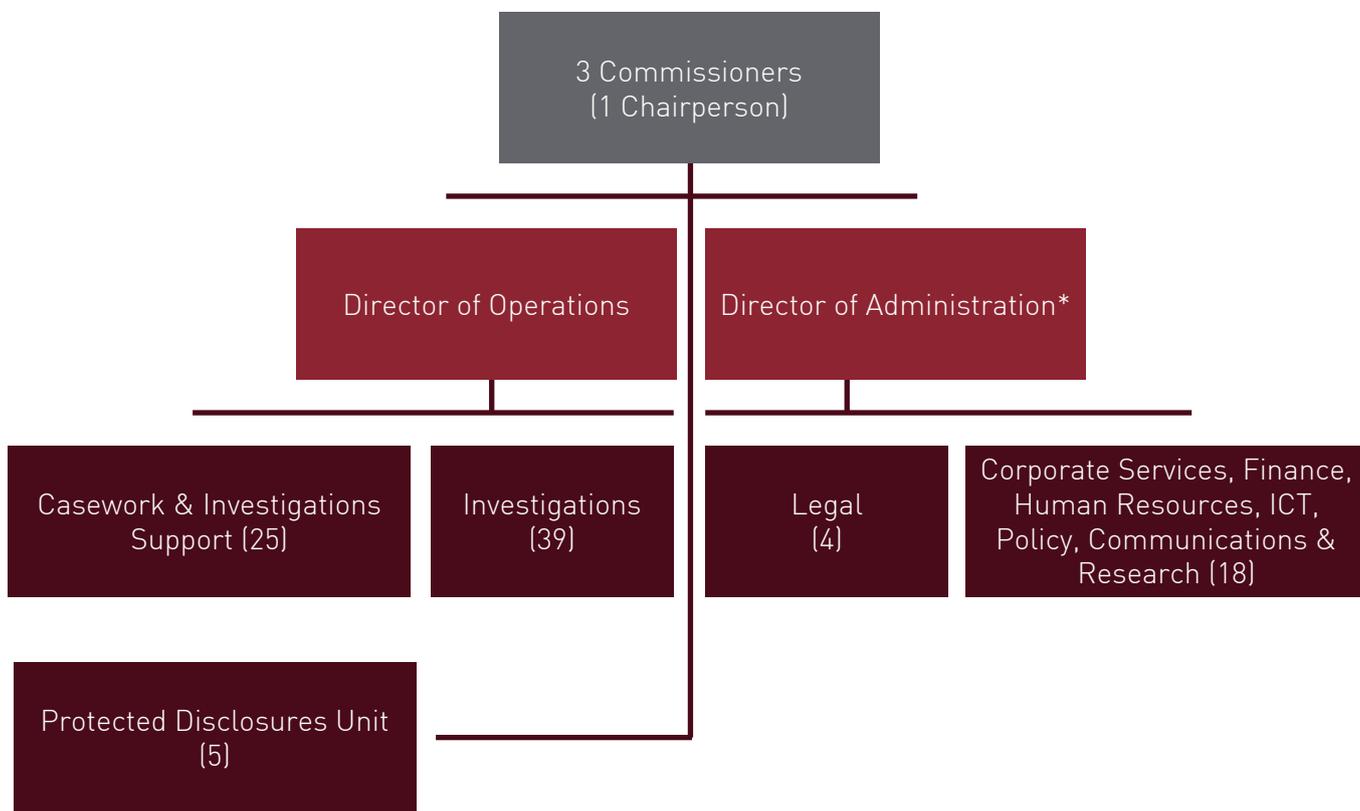
Some of the more significant training provided to GSOC staff in 2018 included:

- Children First awareness training (54 Operations staff)
- Designated Liaison Person (DLP) training (14 Operations staff)
- Investigative Interviewing training (Investigators)
- Injury Photography training (6 Caseworkers – In-house training)
- Data Protection training for Data Controllers (2 staff)
- ITIL Foundation training course (1 IT staff member)
- SharePoint 2013 Site Owner training (Various staff).

GSOC's line managers completed programmes for Executive Leadership and Management Development in 2018. In addition, a number of GSOC staff pursued educational and training courses on their own time and in accordance with the refund of fees scheme provided for under DPER Circular 23/2007.

This circular sets out the arrangements to facilitate Government Departments and Offices in building appropriate skill and expertise levels and in supporting officers' efforts in the area of self-development and life-long learning. By supporting staff in this way, GSOC is committed to the on-going need to develop new skills and new ways of working in order to enhance workplace performance in the organisation in addition to recognising that assisting staff's career development is a worthwhile investment.

Chart 7: Human Resource Allocation and Organisation Structure



* The Director of Administration retired before the end of the year.

CONCLUSION

2018 saw the publication of the Report of the Commission on the Future of Policing in Ireland. In particular it recommended that all complaints of alleged misconduct by garda members, and civilian staff, be investigated by an expanded complaints body, referred to as the Independent Office of the Police Ombudsman (IOPO).

GSOC also got the sanction for additional staff as set out in the Business Case submitted in 2018 and by the end of the year a number of the extra 42 staff had begun to take up their posts throughout the organisation.

The Protected Disclosures Unit began its own staff expansion and was in a position to begin to deal with a backlog of investigations that had grown up during the preceding years.

A permanent office for the Cork team was also secured and the Blackpool premises was ready for occupancy by the end of the year.

The Ombudsman Commission noted the Government's adoption of the Report of the Commission on the Future of Policing in Ireland on 18 December 2018 and in particular the recommendations in relation to complaint oversight. It is anticipated that 2019 and 2020 will be busy for GSOC in transitioning to a new organisation with a greater mandate.

In July 2018 the Commission was joined by Mr Patrick Sullivan who came from Washington D.C. with a lifetime experience of investigations and oversight. He brought new ideas as to structures of oversight and the need for greater communication between the gardaí and GSOC.

GSOC met with the new Garda Commissioner, Drew Harris, soon after he took up his post in September 2018. It was noted that he had the experience of dealing with our sister organisation, the Police Ombudsman for Northern Ireland, since its inception in 2000. The Commission expressed its thanks for meeting so early on in his tenure and it is anticipated that the Garda Commissioner's experience of oversight in Northern Ireland will contribute to a positive relationship with GSOC into the future.

The challenge of information sharing between the Garda Síochána and GSOC continues daily. For investigations undertaken by GSOC to progress smoothly it is imperative that any relevant information held by the garda organisation be made available promptly to investigations teams. It is important that this be done in fairness not only to members of the public but also to gardaí who are subject of complaints.

Delays or failures to provide the information lead to extending investigations which adds to the distress caused to all parties. GSOC plans to pursue this issue into 2019 with a view to reaching agreed procedures which will cut times taken for investigations and also facilitate appropriate oversight.

A continuing concern for GSOC is the failure to notify GSOC of complaints against garda members. It is the experience of GSOC that the media can provide notice of alleged misconduct to the public, and to GSOC, where no such notice has previously been made to GSOC by the garda organisation.

Gardaí investigating themselves runs the risk that the investigation is seen as neither full nor fair. This may do a disservice to the investigators but the lack of oversight on such investigations leaves the garda organisation open to challenge. It is in the interests of the gardaí to be able to confirm that they do not investigate themselves so that when a decision not to prosecute/discipline a member over alleged misconduct is made, no suggestion of cover-up is able to be generated.

This is also an issue GSOC plans to pursue in 2019, especially as new legislation is being drafted and particularly in light of the Commission on the Future of Policing in Ireland's recommendation that all complaints should be investigated by the new oversight body.

APPENDIX 1: GOVERNANCE, FINANCE AND INTERNAL CONTROLS

GOVERNANCE

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

The Ombudsman Commission

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

In 2018, the Ombudsman Commission comprised: Ms Justice Mary Ellen Ring (Chairperson), Mr Kieran FitzGerald, and Mr Patrick Sullivan (Mr Sullivan took up his appointment in July 2018). The Senior Management Team (SMT) comprised Mr. Anthony Duggan, the Director of Administration (Mr Duggan retired from GSOC in November 2018); Mr. Darren Wright, the Director of Operations; Mr Garrett Croke, Deputy Director of Operations and Ms. Niamh McKeague, Head of Legal Affairs.

Meetings and Matters for Decision by the Ombudsman Commission

The Ombudsman Commission formally meets with the SMT at least once a month, excluding the month of August, to discharge its duties (See Table A for schedule of 2018 meetings). It is

obliged to ensure compliance with statutory and administrative requirements in relation to the approval of the number, grading, and conditions of appointment of all staff. The Ombudsman Commission and its Senior Management Team met 11 times in 2018. The Ombudsman Commission makes the following types of decisions:

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

Responsibilities and Objectives

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

- promoting the success of GSOC by leading and directing GSOC's activities;
- providing strategic guidance to GSOC while still monitoring and supervising the discharge of any of its delegated functions;
- reviewing and guiding strategic direction, major plans of action, risk management policies and procedures, annual budgets and business plans, setting performance objectives, monitoring implementation and performance, and overseeing major capital expenditure decisions;
- acting on a fully informed and ethical basis, in good faith, with due diligence and care, and in the best interest of GSOC, subject to the objectives set by Government;

- promoting the development of the capacity of GSOC including the capability of its leadership and staff, and
- holding senior management to account for the effective performance of their delegated functions and responsibilities.

Performance Evaluation

The Ombudsman Commission commenced a Self-Assessment Effectiveness and Evaluation Review in respect of its own performance in 2018 and this review will be completed in early 2019.

Table A: Dates and attendance at Commission Meetings.

Date	Attendance (Commissioners / Directors / Head of Legal Affairs)	
16 January 2018	Ms Justice Mary Ellen Ring Dr Kieran FitzGerald Mr Anthony Duggan	Mr Darren Wright Ms Niamh McKeague
13 February 2018	Ms Justice Mary Ellen Ring Dr Kieran FitzGerald Mr Anthony Duggan	Mr Garrett Croke Ms Suzanne Hackett
13 March 2018	Ms Justice Mary Ellen Ring Dr Kieran FitzGerald Mr Anthony Duggan	Mr Darren Wright Mr Thomas Flanagan
10 April 2018	Ms Justice Mary Ellen Ring Dr Kieran FitzGerald	Mr Darren Wright Ms Niamh McKeague
8 May 2018	Ms Justice Mary Ellen Ring Dr Kieran FitzGerald	Mr Garrett Croke Ms Niamh McKeague
12 June 2018	Ms Justice Mary Ellen Ring Dr Kieran FitzGerald	Mr Darren Wright Ms Niamh McKeague
10 July 2018	Ms Justice Mary Ellen Ring Dr Kieran FitzGerald Mr Patrick Sullivan	Mr Darren Wright Ms Suzanne Hackett
11 September 2018	Ms Justice Mary Ellen Ring Dr Kieran FitzGerald Mr Patrick Sullivan	Mr Darren Wright Ms Niamh McKeague
9 October 2018	Ms Justice Mary Ellen Ring Dr Kieran FitzGerald Mr Patrick Sullivan	Mr Darren Wright Ms Niamh McKeague
13 November 2018	Dr Kieran FitzGerald Mr Patrick Sullivan	Mr Garrett Croke Ms Niamh McKeague
11 December 2018	Ms Justice Mary Ellen Ring Dr Kieran FitzGerald Mr Patrick Sullivan	Mr Darren Wright

FINANCE

GSOC is funded through the provision of an annual grant from the Vote for the Department of Justice and Equality. The Secretary General of the Department is the Accounting Officer for GSOC. The Chairperson is responsible, in conjunction with the Accounting Officer, for preparing GSOC's accounts.

Section 77 of the Garda Síochána Act 2005 requires the Garda Ombudsman Commission to keep, in such form as may be approved by the Minister for Justice and Equality with the consent of the Minister for Public Expenditure and Reform, all proper and usual accounts of money received and expended by it. The Commission is responsible for keeping adequate accounting records which disclose, with reasonable accuracy at any time, its financial position and enables it to ensure that the financial statements comply with Section 77 of the Garda Síochána Act 2005.

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

In addition, GSOC is subject to annual audit by the Comptroller and Auditor General and has an internal risk management process which is overseen by a Risk Management Officer and a Risk Management Monitoring Group (RMMG).

With regard to general expenditure, GSOC was required to undertake essential building maintenance work which cost €119,494 in total. Costs included urgent repair work on the air conditioning system at GSOC's offices at 150 Upper Abbey Street, Dublin 1, in order to ensure the proper functioning of the system and prevent a potential health and safety risk occurring.

In early 2018, following an appropriate procurement process, GSOC identified suitable office accommodation at Unit 4D, The Atrium, Blackpool Retail and Office Park, Blackpool, Cork,

which fully meets the specifications required for its southern regions investigations team. Having received the necessary sanctions from both the Department of Justice and Equality and the Department of Public Expenditure and Reform, GSOC has agreed a ten-year lease for this office space. Its southern region investigations team moved into the premises in late November 2018.

This new office space provides high quality accommodation for the GSOC staff assigned to the team. It is located in a modern secure premises with facilities to provide suitable interview rooms (including for victims and children) and a high standard of information, communications and networking technology which enables the team to carry out its work in a more efficient and effective manner.

The Commission is fully satisfied that this office space is the best available and most practicable option for providing a long term solution to the accommodation needs of its southern region investigations team. It also provides GSOC with an ability to enhance, and if necessary expand, its operations in the wider southern area of the country to a level not previously considered practical or feasible. This will be an important consideration for the future in terms of the planning which will be required for the major transformation which GSOC will undergo, both structurally and functionally, over the next couple of years as a result of new legislation which has been approved by the Government following the recommendations made in 2018 by the Commission on the Future of Policing in Ireland.

The Ombudsman Commission ensured that GSOC fully complied with the Public Spending Code throughout 2018.

Table B: Expenditure by GSOC in 2018.

Category	Original Budget	Expenditure	
Salaries, Wages & Allowances	€6,063,292.00	A01 - Pay & Allowances	€6,066,188.35
Non-Pay	€3,984,708	A02 - Travel & Subsistence	€121,125.28
		A03 - Incidental Expenses	€803,733.79
		A04 - Postal & Telecommunication Services	€131,534.78
		A05 - Office Machinery & Other Office Supplies	€885,490.88
		A06 - Office & Premises Expenses	€1,819,603.60
		A07 - Consultancy	€0
		A08 - Research Expenditure	€19,680
Total Budget Allocation 2018	€10,048,000	Total Pay & Non-pay Expenditure in 2018	€9,847,356.68

Notes:

- Figures quoted have not yet been audited by the Comptroller and Auditor General.
- The table above does not include Appropriation in Aid, which was €255,725.44 in 2018.

NON-SALARY RELATED FEES

In relation to non-salary related fees paid in respect of members of the Ombudsman Commission for 2018 this figure is NIL.

KEY MANAGEMENT PERSONNEL

Total salaries paid to key management personnel by the Garda Síochána Ombudsman Commission amounted to €452,647.

CONSULTANCY COSTS

Consultancy costs include the cost of external advice to management and exclude outsourced 'business-as-usual' functions. The total cost for 2018 was €145,415.

Table C: Employee benefits breakdown:

Range From-To	Number of Employees	
	2018*	2017
€60,000 - €69,999	13	17
€70,000 - €79,999	11	7
€80,000 - €89,999	4	3
€90,000 - €99,999	3	2
€100,000 - €109,999	1	-
€110,000 - €119,999	-	1
€120,000 - €129,999	1	2
€130,000 - €139,999	1	1
€140,000 - €149,999	1	0

* The 2018 figures include salary, overtime allowances and other payments made on behalf of the employee but exclude employer's PRSI.

Statement regarding the system of internal control in GSOC

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

Purpose of the System of Internal Control

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

Capacity to Handle Risk

The Senior Management Team (SMT) has engaged fully in the monitoring of risk and, in so far as possible having regard to the operating environment, dealing with the risks that have presented throughout 2018. The following steps have been taken to ensure an appropriate control environment:

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

Risk and Control Framework

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

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

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

The role of the RMMG is to provide oversight to the management of risk by line managers and heads of business units, ensure the implementation of a cohesive approach to risk management throughout GSOC,

and provide assurance to Senior Management that all known risks are mitigated against. The RMMG met eight times in 2018 to review risk and update GSOC's risk register.

GSOC's risk register identifies specific risks, details the controls and actions needed to mitigate those risks and assigns responsibility for the mitigation and operation of controls to key staff. Every month, the Ombudsman Commission reviews material risk incidents and notes or approves actions taken by staff to mitigate or manage the identified risks to a tolerable level. The principle risks identified for 2018 were:

1. Strategic Risk – Lack of resourcing
2. Reputational Risk – Negative media engagement
3. Operational Risk – Lack of compliance with EU General Data Protection Regulation.

Action taken throughout the year to mitigate these risks included the submission of a business case to the DJE and DPER seeking additional resourcing, engagement with the media and the roll-out of a GDPR implementation and review programme.

Monitoring and Review

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

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

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

Incidents of Significant Control Failings

In 2018, there has been no incidence of significant control failings.

Compliance with the Public Spending Code

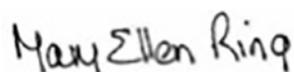
The Ombudsman Commission has procedures in place to ensure compliance with current procurement rules and guidelines as set out by the Office of Government Procurement.

Approval by the Commission

The DJE Internal Audit Unit carried out a review of internal controls to ensure that the Ombudsman Commission has considered all aspects of risk management, ICT, internal controls and management practices for 2018 and up to the date of approval of the annual report and financial statements. The review will be signed off by the Commission and will be included for review by the external auditors when auditing of GSOC's financial statements for 2018 takes place in 2019.

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

Signed:



Justice Mary Ellen Ring,
Chairperson

APPENDIX 2: PROFILE OF PEOPLE WHO COMPLAINED IN 2018

Charts below illustrate the profile of people who complained to GSOC in 2018.

Results are based on a survey distributed to all complainants when they submit a complaint. 23% of complainants (433) responded in 2018. All responses are anonymous.

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

Chart 8: Gender

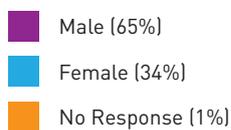
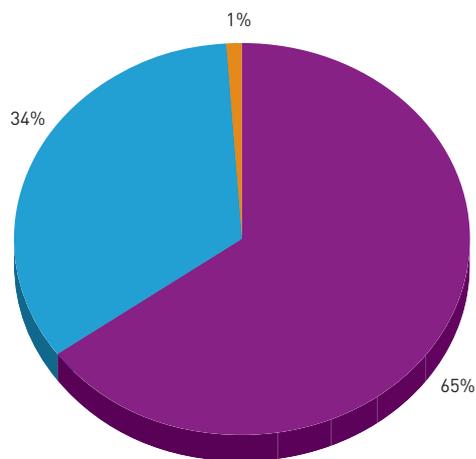


Chart 9: Age

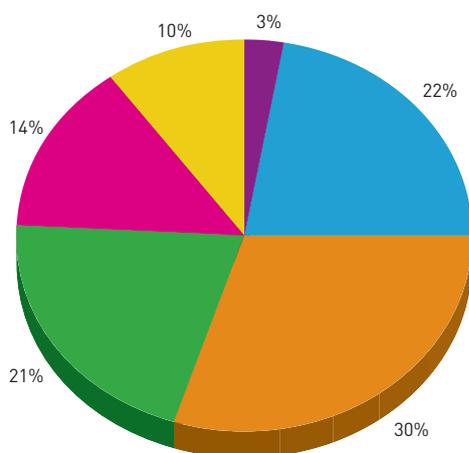


Chart 10: Nationality

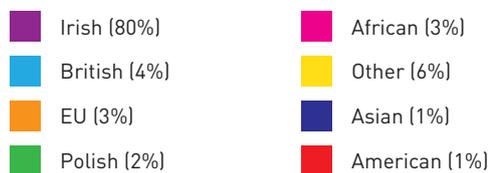
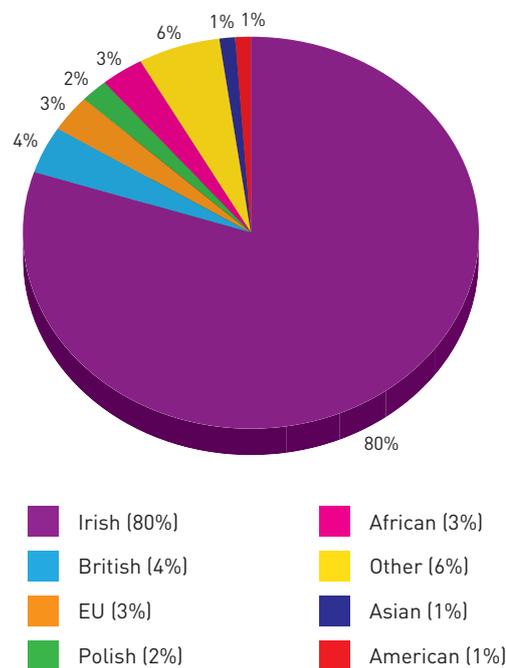


Chart 11: Country of birth

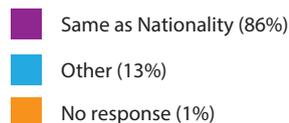
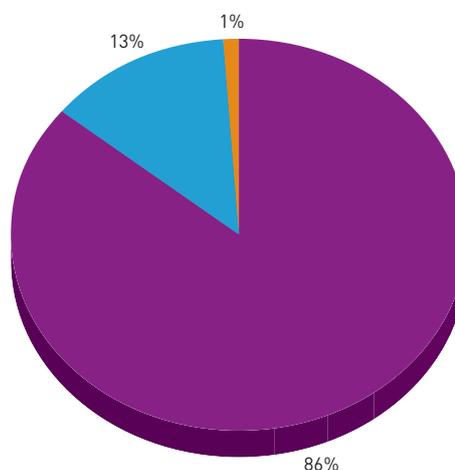
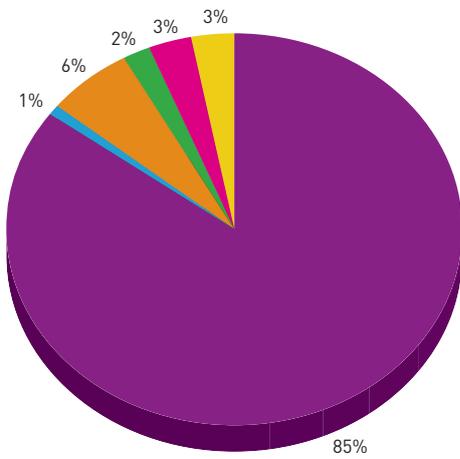
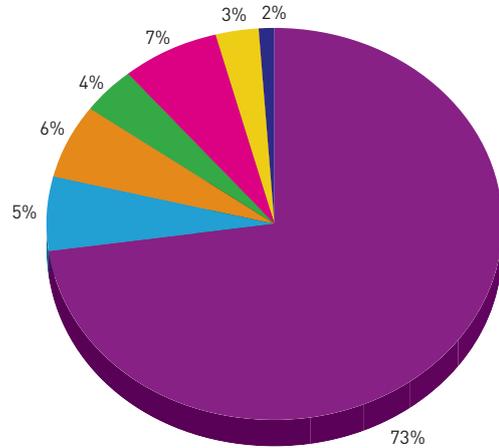


Chart 12: Ethnicity



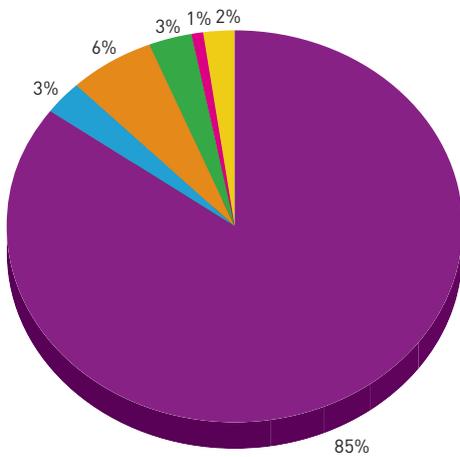
- White (85%)
- No Response (1%)
- Black (6%)
- Traveller (2%)
- Other (3%)
- Asian (3%)

Chart 14: Disability



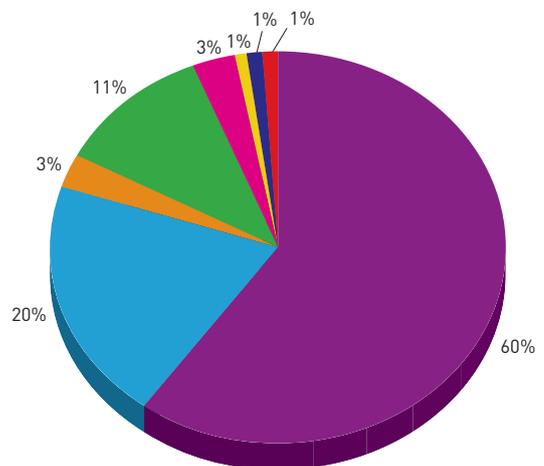
- None (73%)
- No Response (5%)
- Physical (6%)
- Several Types (4%)
- Other (7%)
- Psychological (3%)
- Intellectual (2%)

Chart 13: Language



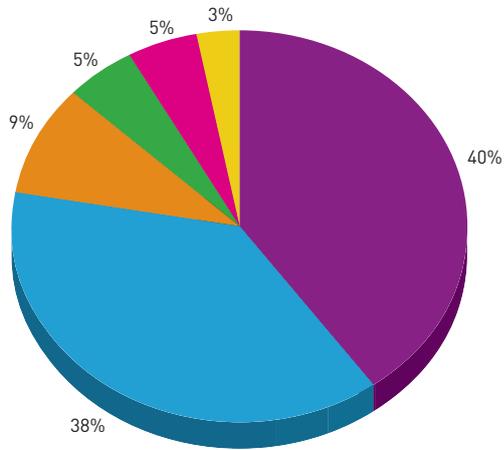
- English (85%)
- No Response (3%)
- Other (6%)
- Lithuanian (3%)
- Irish (1%)
- Polish (2%)

Chart 15: Religion



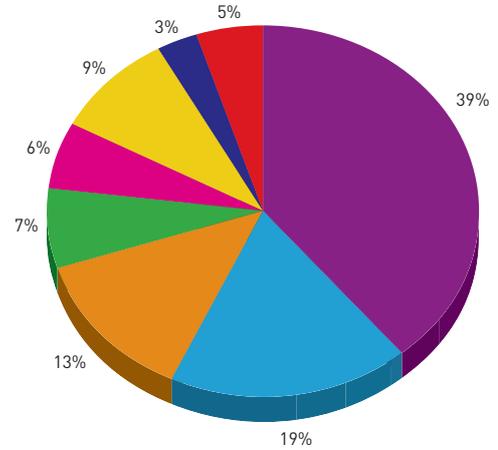
- Catholic (60%)
- No Religion (20%)
- Muslim (3%)
- Other (11%)
- No Response (3%)
- Jewish (1%)
- Buddhist (1%)
- Orthodox (1%)

Chart 16: Housing



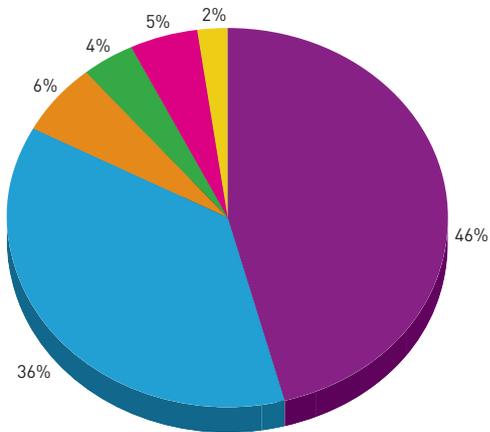
- Owner (40%)
- Renting (38%)
- Other (9%)
- Guest (5%)
- No response (5%)
- Homeless (3%)

Chart 18: Employment



- Employed (39%)
- Unemployed (19%)
- Self-employed (13%)
- Retired (7%)
- Other (6%)
- Unavailable for work (9%)
- No response (3%)
- Trainee/Student (5%)

Chart 17: Highest Level of Education



- Third Level (46%)
- Secondary (36%)
- Primary (6%)
- No response (4%)
- Other (5%)
- No formal education (2%)

APPENDIX 3: PROFILE OF GARDAÍ COMPLAINED OF IN 2018

The charts on this page show the profile of gardaí complained of in admitted allegations in 2018 where the identity (gender and rank) of the gardaí was known.

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

Chart 19: Gender of members of the Garda Síochána in allegations admitted in 2018

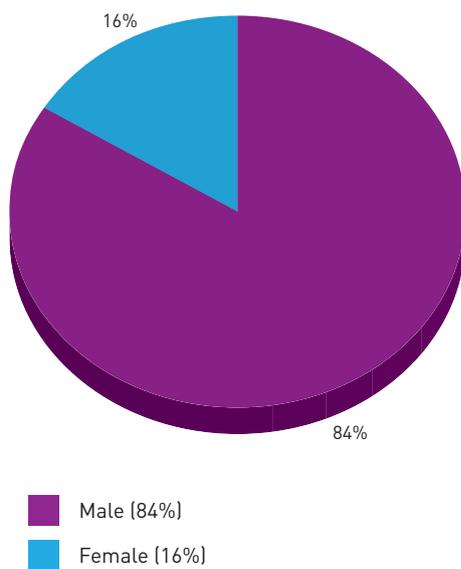
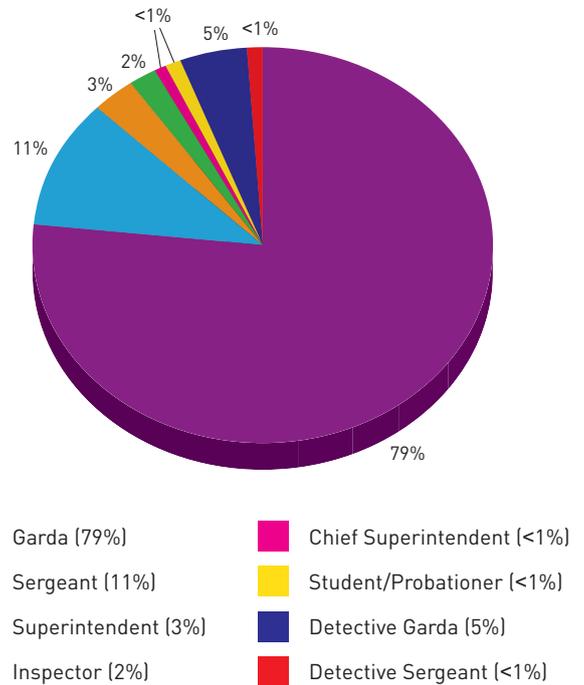


Chart 20: Rank of members in admitted allegations in 2018





Garda
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