

Submission to the Commission on the Future of Policing in Ireland

In discussing the workings of the Gardaí, it should first be noted that the organisation still holds a broadly positive place in public opinion. The recent *Garda Public Attitudes Survey* found a high degree of public trust and satisfaction with the organization's performance. However, only 36% of respondents felt that it is well managed, with fewer agreeing that An Garda Síochána provides a world class police service¹. While disappointing, these figures are far from surprising. The many scandals that have engulfed the Gardaí in recent years have demonstrated widespread failings in organisational structure, management, and conduct at all levels. As a result there is a clear need for radical reform in its operations, oversight, recruitment, and training.

This submission will set out the key actions the Social Democrats believe are required to deliver an organisation deserving of the public's trust. Our goal throughout is to move the model of the Gardaí away from that of a police 'force' and towards a police 'service' - An organisation based on the principles of transparency, community involvement, and accountability.

Before turning to the specific proposals for the reform of policing, it is important that the work of the Garda Inspectorate is acknowledged. There exists a number of excellent reports and reform proposals. However, the issue has been one of implementation. In their third progress report, the Policing Authority notes that "a sizable number of recommendations marked complete by the Garda Síochána and included as such in the Authority's second report to the Minister, were, on further examination, revealed not to be complete and sometimes not even well advanced"². This submission will first set out our party's views on the necessary operations of the Gardaí, many of which are drawn from the work conducted by the Inspectorate, before examining the much needed strengthening of the oversight regime.

¹ *Garda Public Attitudes Survey 2017 Q3*.

² Policing Authority, *Third Report to the Minister in response to the request under Section 117A (2) of the Garda Síochána Act 2005*, (July 2017)

Organisational Framework and Remit

At present the Garda force is something of a monolith, with a remit that encompasses community safety, state security and immigration. While there are clear anecdotal arguments for separating these functions into distinct agencies, the aim of this submission is to make evidence based recommendations. As we do not have access to the standard of research required to make a determination on this matter, we would only suggest that the Commission on the Future of Policing seek expert opinion. With regard to operational matters, this submission will focus on what we believe to be the primary function of the Gardaí, protecting the public from criminal and antisocial behaviour. Achieving this objective requires striking a balance between visible community policing and intelligence led crime prevention and investigation.

Community Focused Policing

While An Garda Síochána's mission statement indicates that the community is central to its function, community policing simply does not work without the public's confidence and active support. Consequently, it is vital that a Garda presence is not only felt in all neighbourhoods, but that it is viewed as a welcome and reassuring presence. This must be backed up by a proactive approach that delivers results on specific local issues.

While the community-policing model introduced in the *National Model of Community Policing* has been generally successful, the Garda Inspectorate have noted inconsistencies in its delivery and questioned the real value that is placed on community policing. In particular, they cite concerns in regard to the resourcing levels, and in the 2015 review found significant reductions in the numbers of Garda members assigned to community policing, with some divisions having no dedicated community policing units at all³.

³ Garda Inspectorate, *Changing Policing in Ireland*, (November 2015).

While steps appear to have been taken to reverse or slow this trend, it does not seem as though they have reached a critical mass of visibility. According to the latest *Garda Public Attitudes Survey*, only 37% of respondents were aware of Garda patrols in their local area, with 60% of people feeling that there is not enough of a Garda presence in their local area⁴. To ensure public confidence in the police service there can be no postcode lottery. Regardless of their address every citizen should be able to expect the same level of protection and assistance from the police.

As a result, we propose the agreement of national minimum standards to be set out in parallel to the Garda Declaration, Charter, and Code of Ethics. While these documents are a necessary and valuable exercise, they are primarily aspirational. We believe, as Nuala O’Loan has suggested⁵, it would be beneficial for both the public and the Gardaí if a clear statement of what the public can reasonably and legally expect in their interactions with the Gardaí, and of the circumstances in which a Gardaí will be regarded as having done wrong, could be made. Such a document should be clearly codified and outline measurable goals, set clear minimum standards, and clarify the public’s rights when engaging with the police in both emergency and non-emergency situations. These principles should also be included in a wider customer service module which should be delivered as part of a Garda's basic training in Templemore.

Finally, we believe that the best resource the Gardaí have is the communities in which they work. As a result, we believe that the policy of assigning Gardaí to areas outside their own community should be reviewed.

⁴ *Garda Public Attitudes Survey Q3. P.3*

⁵ Nuala O’Loan DBE MRIA, *Strengthening Police Accountability in Ireland* (Farmleigh House, 20 June 2014)

Empowering Local Government

We also propose that the operations of the Community Gardaí should be tied directly into their communities through the empowerment of Local Government. Firstly, in line with recommendation 1.2 of the Garda Inspectorate *Crime Investigation*⁶ report, we believe a protocol should be agreed between An Garda Síochána and the local authorities to ensure that all major planning applications are reviewed by officers with specific expertise in environmental crime prevention, and that these reviews would be publically displayed as part of the planning file. Secondly, we propose Councils and local area committees should be statutorily empowered to call representatives of the Gardaí before them to address how they intend to tackle issue of significant local importance, such as low level drug dealing, misuse of scramblers and quad bikes, and other forms of antisocial behaviour. Naturally, it would be necessary to ensure that this power is not used in a vexatious manner, nor would it be appropriate for the Councils to be able to compel Gardaí to use their resources in a prescribed way. However, we believe there should also be a mechanism for the local Councils to hold the Gardaí to account by referring unsatisfactory responses to one of the independent police oversight bodies for review.

ICT and Data

The *Modernization and Renewal Programme* contains a number of projects aimed at improving data capture, storage, access, and exchange. Furthermore, the 2016-2021 Capital Plan provides €205 million in funding for Garda ICT over the lifetime of the plan. In recent years we have seen the introduction of a secure national digital radio system (NDRS), the deployment and support of Garda and Community CCTV systems, an automated number plate recognition (ANPR) system and the addition of new functions to the PULSE system⁷. However, in their most recent progress report the Policing Authority note that capacity in the areas of ICT continues to be a challenge. An ICT system that is comprehensive, fit for purpose and secure is vital, not just for tackling crime, but also as an oversight tool. For example, there is a lot of potential for

⁶ Garda Inspectorate *Crime Investigation*, 2014

⁷ Parliamentary Questions Nos. 34 -39, 13 April 2017

community Gardaí to operate text alert systems or WhatsApp groups with residents, but the ICT capacity to do so does not currently exist.

In line with recommendations 6.11 and 6.12 of the Garda Inspectorate *Crime Investigation* report, it is of the utmost importance that An Garda Síochána replace job books, diaries and other ledgers, with a major investigation management system and national standard decision-making logs⁸. Independent assessments should also be carried out on the data collection and retention in the PULSE system to assess its quality. Recent events have shown that the data management of the Gardaí in regard to the collection of crime statistics has been woefully inadequate⁹. We propose that an internal review system be put in place to identify statistical anomalies as an early warning system. Furthermore, the Department of Justice and Equality should give consideration to independent annual audits of incident recording and data standards to address the challenges the Policing Authority have faced in regard to poor data availability and quality. Furthermore, consideration should be given to establishing a statutory responsibility on the part of the Gardaí and the Department to make requested data available to the oversight bodies in a timely manner, and to strengthen the requirement to proactively provide information to the oversight bodies where it has information relevant to the performance of their functions.

Finally, to keep up-to-date with new development in technology consideration should be given to the establishment of a new unit, in line with the original intent of the UK National Policing Improvement Agency¹⁰, which could facilitate organisational change, identify recruitment needs, and provide expertise in ICT, information sharing, and other technological and scientific advancements which may be of benefit to the Gardaí.

⁸ Garda Inspectorate *Crime Investigation*, 2014

⁹ Cormac O'Keeffe *CSO investigate quality of Pulse crime records*, Irish Examiner, 13 January, 2018.

¹⁰ UK Home Office, *Building Communities, Beating Crime A better police service for the 21st century* 2004

Evidenced based policing

It is of the utmost importance that the current drive for reform is not a finite project. Rather, it should represent the beginnings of an on-going programme of renewal and development. An over attachment to orthodoxy and a tendency to view any criticism as an attack has become an unfortunate hallmark of the Gardaí, this must come to an end. It is vital that an evidence-based approach to policing is adopted with all policing programmes, internal structures, and policies undergoing regular review to assess their effectiveness and suitability. To this end we would echo the Inspectorate's call for an Garda Síochána to conduct an analysis of crime hotspots to identify priority areas with a view to re-launching dormant schemes or developing new ones.

It would also be prudent for the Commission to examine the proposals to develop a national Major Investigation Team, which latest reports state is under review within the Gardaí. This proposal would remove the responsibility for homicide investigation from the district superintendent, and instead these crimes would be dealt with by the new team, which would utilize the existing National Bureau of Criminal Investigation (NBCI), Technical Bureau, and other regional and divisional resources.

With regard to the internal administration of the Gardaí, we believe a transparent national resource allocation model based on policing need is the fairest approach and should be fully introduced as a matter of urgency. We also support calls for the establishment of a "bureaucracy taskforce" on a national level that brings together representatives from divisions and specialist units to prioritise key actions for reducing unnecessary bureaucracy and waste of resource.

Oversight

Perhaps more than anything else, the recent issues that have come to light demonstrate the need for a far stronger external oversight regime. At present, oversight of the Gardaí is divided between three organisations, the Garda Inspectorate, the Garda Síochána Ombudsman Commission, and the Policing Authority. While all three have a distinctive remit, their functions are often interconnected. For example, The Policing Authority may monitor the implementation

of Garda Inspectorate's recommendations, or request that the Garda Inspectorate carry out an inspection or inquiry¹¹. In their 2017 report the Policing Authority noted with concerns that this situation may be causing undue uncertainty among stakeholders about its role and functions.

While we believe consideration should be given to rationalizing this function into a single organization, what is most needed is clarity in terms of each aspect of the oversight regime's powers and responsibilities, and to whom they are accountable. At the very least there should be a complete review of the current cumbersome legislative scheme, with a view to providing a more integrated consolidated scheme.

However, regardless of whether or not they are combined into a single unit or remain as is, the powers of the oversight body/bodies must be enhanced. As previously stated, the Policing Authority notes that "a sizable number of recommendations marked complete by the Garda Síochána [...] were, on further examination, revealed not to be complete and sometimes not even well advanced"¹². Internal oversight of the reform programme has clearly been insufficient or lacking in the necessary dedication. As a result the oversight body/bodies should be statutorily empowered to ensure that the renewal programme takes place in a timely and effective manner. An Garda Síochána should be politically independent, but cannot be a law unto themselves. We believe a model of civilian oversight is the best way to ensure accountability, while maintaining the independence of the organisation.

Of course, for this to be effective any organization involved in oversight must be adequately resourced to fulfil the function, and in a position to impose sanctions when wrongdoing is found. To this end we would support GSOC's call for extended powers, and believe they should be given positive consideration by the Commission. In particular, we believe an oversight body should be fully independent of the Gardaí and the Department of Justice, and should have their own financial resources and

¹¹ Policing Authority, *Working Together Towards Better Policing for Ireland*

¹² Policing Authority, *Third Report to the Minister in response to the request under Section 117A (2) of the Garda Síochána Act 2005*, (July 2017)

autonomous Accounting Officer answerable to the Public Accounts Committee. Consideration should also be given to statutorily empower such agencies with the responsibility to investigate any current, former, or retired member of the Gardaí including the Commissioner. In order for this to be effective the agency must have full powers of search and seizure, and should not have to provide prior notice to the Commissioner before undertaking a search of a Garda stations¹³.

At present section 94 of *The Garda Síochána Act 2005*, as amended, allows for GSOC supervised investigations by the Gardaí of a member of the force. It is unacceptable that the Gardaí should be investigating themselves, and undermines the effectiveness and independence of the agency. As a result such investigations should be conducted independently and outside of the processes set out in the Garda Discipline Regulations¹⁴.

It is important that the remit of the oversight agency/agencies is not limited to criminal matters, but also acts as quality control of police engagement and investigations. Many of these more minor incidents, such as a failure to follow up on communications from members of the public, can be dealt with through informal resolutions. The current legislation requires that all parties agree to a matter being dealt with in this way. As a result, GSOC reports that members of the Gardaí often exercise their right to refuse to consent to informal resolution. We believe consideration should be given to granting the oversight agency the autonomy to decide when an informal or local resolution should be attempted in the first instance when dealing with more minor complaints.

With regard to resource allocation, we support a national allocation model based on need, but strongly feel this requires greater oversight to function effectively. In line with recent statements made by the Policing Authority¹⁵ we support their assertion

¹³ Garda Síochána Ombudsman Commission, *Proposal for Legislative Change Submission to the Department of Justice and Equality*, December 2017.

¹⁴ *ibid.*

¹⁵ Report in accordance with section 62(O) of the Garda Síochána Act 2005

that the very narrow role they have in relation to resourcing is a particular weakness of the oversight regime. As a result we believe the Policing Authority, or any subsequent oversight body, should have a high level role in the overseeing of the allocation the Gardaí's operating budget and should play a central role in approving all significant capital/project expenditure.

Recruitment and Culture

As the Policing Authority has noted¹⁶, the culture of the Garda Síochána has been the subject of critical comment for very many years and in many reports and reviews. For example, Mr Justice Morris referred to the “monolithic origin of personnel within An Garda Síochána” as contributing to the “the situation of obstruction involving as is colloquially said ‘a circling of the wagons’”¹⁷. Furthermore the Smithwick Tribunal suggested a culture that prioritized “the protection of the good name of the force over the protection of those who seek to tell the truth. Loyalty is prized above honesty”¹⁸. Unfortunately, it appears little has changed since these findings were made.

The days of the “blue wall of silence” must end. While we understand that the so called *Culture Audit* is currently underway, we do not believe that true cultural change will come from within. Instead efforts must be made to foster a new sense of identity by making the organization more open to dissent and less insular.

To this end, positive consideration should be given to extending the application of the Freedom of Information Act to the Garda Síochána so that much more of the organisation's work is subject to the provisions of that Act. As the Policing Authority has stated, this will assist in changing the culture of the organization to become more open and transparent.

¹⁶ Policing Authority, *Submission to the Garda Inspectorate on entry routes to the Garda Síochána*, 3rd April 2017.

¹⁷ Morris, *Report of the Tribunal Of Inquiry Set-up Pursuant to the Tribunal of Inquiry (Evidence) Acts 1921-2002 into Certain Gardaí in the Donegal Division Report on Investigation into the Death of Richard Barron and The Extortion calls to Michael and Charlotte Peoples*, 1st June 2005, para 9.22

¹⁸ Smithwick, *Report of the Tribunal of Inquiry into Suggestions that Members of An Garda Síochána or Other Employees of the State Colluded in the Fatal Shootings of RUC Chief Superintendent Harry Breen and RUC Superintendent Robert Buchanan On The 20th March 1989*, para 10.6.11

There is a clear need to address the levels of institutionalisation and revitalise the thinking within An Garda Síochána through the recruitment of civilians with relevant experience and expertise outside of policing, and through direct access programmes.

However, recent experience has shown institutional reluctance to recruit civilian staff. While approval of the number and grades of civilians is done by the Policing Authority, it is the Commissioner's responsibility to manage the recruitment process. The authority has noted a number of delays in the hiring of required staff to sanctioned posts. Indeed, in its 2017 report, the Authority note a failure to make meaningful progress with regard to civilianisation and the redeployment of Garda members back to front-line duties with only 14 Garda members re-deployed as of December 2017.

The Policing Authority has noted that its function in relation to appointments of both Garda and civilian personnel are among those which have the greatest capacity to impact on the culture within the Gardaí¹⁹. We would support their view that ranks from superintendent upwards should be opened to direct entry. In the same vein, consideration should be given to abolishing the upper age limit of 35 years for applicants to become trainee Gardaí, and the adoption of age restrictions more in line with the PSNI recruitment policy²⁰. Furthermore, we believe that the role of oversight bodies should play a more central role in the recruitment of both sanctioned staff and Gardaí with a view to ensuring that there are no more undue delays in the civilianisation process.

Finally, consideration should be given to establishing a transfer system that recognises qualifications and police work experience between An Garda and UK & PSNI forces, so that police officers at all ranks can apply or move to a new police force with ease.

¹⁹ Report in accordance with section 62(O) of the Garda Síochána Act 2005

²⁰ <https://www.joinpsni.co.uk/can-i-join>