

GARDA SÍOCHÁNA OMBUDSMAN COMMISSION

2022 ANNUAL REPORT – TRANSFORMATION, GROWTH, REFORM



Garda Ombudsman
INQUIRY INDEPENDENCE IMPARTIALITY

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1. FOREWORD

Policing oversight is hard. It is a detailed and demanding vocation and crucial to accountability in a democratic society. Holding police, possessed of considerable powers, to account deserves the highest respect, recognition and most importantly, support. It is a great privilege to work with such a group and I remain optimistic of a successful transformation, with the associated growth and reform to the Office of the Police Ombudsman.



I am delighted to introduce the Garda Síochána Ombudsman Commission's Annual Report for 2022, the theme for which is 'Transformation, Growth and Reform'.

Last year, I said that organisational transition was the Commission's primary strategic focus, in the context of the drafting and eventual publication and passage of the Policing, Security and Community Safety Bill. The Bill is intended to provide for a new governance and oversight framework for policing, as recommended by the Commission on the Future of Policing, and will repeal and replace the Garda Síochána Act, 2005. The new Act will restructure GSOC in the shape of the new Office of the Police Ombudsman and better equip it to handle an expansion of its remit. The overall aim is to support the speedier resolution of complaints and all other matters of concern and reinforce the independence of GSOC and, in time, the Office of the Police Ombudsman. This year has seen significant progress and the path ahead for GSOC and its expected transformation into an expanded, more independent, Office of the Police Ombudsman is now clearer.

The Commission and our colleagues across GSOC's executive staff have engaged fully in the process of making an enhanced and reformed police oversight

agency a reality. We worked with the Department of Justice on the Bill, in the course of which we gave reasoned observations on gaps in and many practical issues of concern that we identified in the draft legislation. The legislation was published in November 2022, and is at present before the Oireachtas.

The Bill represents a significant step forward in addressing a clearly-defined and long-signalled gap in Ireland's policing accountability infrastructure. That being said, it is our view that in a number of important ways the legislation falls short of the vision of independent civilian oversight laid out by Commission on the Future of Policing in 2018. The Bill maintains an undue and unnecessary degree of Ministerial involvement in the governance and operations of the new Police Ombudsman. The Bill also curtails the new agency's powers in crucial areas, including search powers and fails to require An Garda Síochána to cooperate fully and promptly with the agency's investigations. As the Bill continues its passage through the Oireachtas in 2023, we will continue to articulate our view that the shortcomings we have identified are a missed opportunity in the hope that the Oireachtas will take notice and act accordingly.

In parallel to our engagement on the draft legislation, GSOC is involved in the cross-agency and cross-departmental implementation programme, which aims to put all the practical governance, process and inter-agency systems in place to ensure that the new Office of the Police Ombudsman will be ready to fulfil its new statutory remit. This involves sustained engagement by GSOC administrative and operational staff with counterparts in the Department of Justice, An Garda Síochána and in the National Shared Services Office. This work is ongoing. A core aspect of this has been to prepare our institutional and governance structures for our relaunch as an agency with, for the first time, its own, independent, Oireachtas vote, a CEO who will be the Accounting Officer and an

Ombudsman and Deputy Ombudsman replacing the present three-person Commission.

Work on a new and multi-functional Case Management System – fundamental to the ability of the new Office of the Police Ombudsman to fulfil its mandate – is a priority. We welcome much-needed growth in our staff complement, while consistent in our view that it remains some way off the minimum necessary to meet our present needs and will not come close to meeting the requirements that the expanded statutory functions proposed in the new legislation will require.

GSOC has repeatedly and publicly flagged that if the new Office of the Police Ombudsman is to succeed, significant additional support in the shape of resources and expertise will be needed. In order to better identify the new Ombudsman's needs, we commissioned an external Organisational Review of GSOC. This will assist us in making a business case to the Department of Public Expenditure and Reform. It will also provide us with a mirror into which we can view existing strengths and weaknesses in our present operation. That review, now nearing completion, will demonstrate what a transformed and expanded Office of the Police Ombudsman will require in terms of staffing, resourcing and expertise. Our aim is to paint a clear picture of what will be necessary to ensure that our successors – the new Police Ombudsman, Deputy Police Ombudsman and Chief Executive Officer – will be capable of fulfilling their new remit.

Alongside all this important future-focused work, GSOC continues to carry out its functions, in compliance with its statutory remit and Statement of Strategy.

This report provides a wealth of information on the service that we provided in 2022. We began the year with a caseload of 852 active GSOC-led or supervised investigations, over 300 unsupervised

disciplinary cases, and several hundred other cases in various phases of investigation. In the course of the year we received a total of 1,826 new complaints and 41 referrals from An Garda Síochána. This represents a decrease in incoming complaints and referrals from the previous year. The volume of allegations and their complexity, however, remained high.

We made welcome progress in the closure of cases in 2022: the total number of cases closed increased 11% compared to the previous year. Our year ended with a total of 621 GSOC-led or supervised ongoing investigations. It is our expectation that in 2023 we will begin to feel the effect of the modest increase in GSOC investigative staff, as they gain expertise and knowledge through on-the-job training and formal learning and development initiatives.

2022 also saw some significant outcomes for GSOC investigations in the courts resulting from complaints of assault. At the end of 2022, a number of other matters remain before the courts on foot of GSOC investigations, including charges of theft and fraud, assault causing harm and rape. The purpose of GSOC is investigation. Bringing investigations of such gravity from complaint/referral to the court is a complex and difficult task and it is with pride that I commend the dedication of our caseworkers, investigators and legal teams and the support they receive from colleagues in GSOC's governance and administration.

This report includes a selection of case studies of investigations completed in 2022. They give a flavour of the wide range of issues that are brought to us by members of the public and exemplify the many ways in which such complaints and referrals are progressed, investigated and resolved. The report also provides an overview of outcomes in the sixteen public interest cases concluded by GSOC in 2022.

In 2022 we also continued to issue systemic recommendations to the Garda Commissioner. Our



L-R: Commissioner Hugh Hume, Chairperson Rory MacCabe, Commissioner Emily Logan

purpose in this is to highlight matters of policy and practice that we encounter in the course of our investigations. It is our firm belief that highlighting these issues when they arise and making recommendations with a view to avoiding the recurrence of similar incidents is a crucial element of policing oversight. Recommendations issued in 2022 are reproduced in this report and cover a broad range of themes, including safety and conditions in Garda custody, risk assessment for self-harm, storage of records and managed containment during vehicle pursuit. In 2023 it is GSOC's intention to publish these recommendations periodically and to share them on a cross-agency basis, in order to encourage collaboration, information sharing and consistency, both in thought and action.

GSOC was also pleased in 2022 to be included as a named agency in the implementation plan for the new Third National Strategy on Domestic, Sexual & Gender-Based Violence. The strategy makes particular reference to GSOC's statutory role as an independent agency handling complaints about Garda members, whether related to the adequacy of their response to Domestic Abuse/ Sexual Violence incidents, or to where they are alleged perpetrators.

It is my hope that this Annual Report will afford the reader an accurate view of the important work done by GSOC and a sense of the challenges that a transformed, expanded and reformed Office of the Police Ombudsman will face in the years to come.

I thank my fellow Commissioners for their support and collegiality over the course of what has been a busy year. I am particularly grateful to them for their patience with me and their invaluable advice and tolerance. I would also like to acknowledge the dedication and commitment of GSOC's staff.

Policing oversight is hard. It is a detailed and demanding vocation and crucial to accountability in a democratic society. Holding police, possessed of considerable powers, to account deserves the highest respect, recognition and most importantly, support. It is a great privilege to work with such a group and I remain optimistic of a successful transformation, with the associated growth and reform to the Office of the Police Ombudsman.

A final note of caution. Whether the new Office of the Police Ombudsman will succeed will depend on the combination of many different ingredients. The core of these, in the shape of a motivated, competent and dedicated staff is already present. More responsibilities will, however, require more resources. Crime in the digital age has become a fast-moving and increasingly complex vehicle. Failure to prepare for this will inevitably be preparation for failure. Keeping ahead of this is the aim, but keeping pace alone will take considerable effort. Recognising these immutable facts when it comes to resourcing will determine if the aims and objectives of the new legislative regime will be met.

**Rory MacCabe, SC,
Chairperson**

2

INTRODUCTION



Garda
Ombudsman

2. INTRODUCTION

This annual report has been prepared and submitted to the Minister for Justice in accordance with Section 80 of the Garda Síochána Act, 2005.

The Role and Functions of GSOC

The Garda Síochána Ombudsman Commission (GSOC) is an independent statutory agency set up in 2007 under the Garda Síochána Act 2005 (hereafter 'the Act'). Our function is to deal with matters involving possible misconduct by members of the Garda Síochána, in an efficient, effective and fair manner.

GSOC deals with complaints made by members of the public concerning the conduct of members of the Garda Síochána, whether allegations of a criminal or disciplinary nature. In addition, GSOC conducts independent investigations of matters referred to it by An Garda Síochána, the Minister for Justice, the Policing Authority, or matters which have been deemed by GSOC as meriting investigation in the public interest. These various aspects of GSOC's remit are explained in detail in this report, alongside a detailed accounting of delivery on GSOC's remit in 2022.

Our Strategic Outcomes and Objectives

GSOC's Statement of Strategy 2021-2023 articulates the Commission's strategic vision, mission and its envisaged high level outcomes for the period 2021- 2023. It also sets out the key actions that GSOC will take to achieve and account for its performance against these objectives over that period.

While based on GSOC's current statutory underpinnings, the Statement of Strategy is also oriented towards implementing the necessary arrangements for a smooth transition to the new Office of the Police Ombudsman, the provisions for which have been outlined in the Policing, Community and Security Safety Bill, published in November 2022. This report will detail many of the activities GSOC has undertaken in 2022 to prepare for transition to its successor agency in the coming period.

Our Strategic Outcomes and Objectives

INDEPENDENT COMPLAINTS HANDLING AND INVESTIGATION OF ALLEGED POLICE MISCONDUCT IN THE PUBLIC INTEREST	EXCELLENT CUSTOMER SERVICE	SMOOTH TRANSITION TO GSOC'S SUCCESSOR BODY
<ul style="list-style-type: none"> → Process complaints from members of the public against the Garda Síochána in an independent, fair and timely manner. → Investigate referrals from the Garda Commissioner, the Minister for Justice and the Policing Authority regarding possible misconduct by Garda members and undertake investigations in the public interest. → Deal with Protected Disclosures in accordance with statutory functions. 	<ul style="list-style-type: none"> → Inspire trust and confidence in the service we provide and in policing in general by providing a professional and competent complaints service to the public. → Provide a quality customer service experience and human rights compliant service to all of GSOC's customers. → Improve and develop relationships with our key stakeholders consistent with enhancing the level of service that GSOC can provide to its customers and promoting awareness of GSOC's role. 	<ul style="list-style-type: none"> → Plan and effectively manage the process of establishing and transferring GSOC's functions to its successor body. → Create the capacity to respond to the increased demands of new legislation and other challenges in our environment. → Influence the future development of policing and policing oversight and contribute to enhanced public trust and confidence in policing.

A HIGH-PERFORMING, WELL-RESPECTED ORGANISATION

- Invest in our people and make GSOC an employer of choice.
- Build a strong, inclusive and transparent culture in the organisation directed at achieving our common purpose and supporting our staff in a valued partnership across the organisation.
- Manage change proactively.
- Promote greater public awareness of GSOC's role and achievements.
- Review, refine and continue to develop and implement innovative solutions to assist in the delivery of efficient and effective services to the public.
- Develop our capability to comprehensively manage records and information to enhance organisational competency and knowledge in order to inform internal decision making and external stakeholders.
- Comply with governance and accountability requirements required by legislation and Governance Codes making quality and high performance central to how we work.

Our Vision, Mission and Values



Our Values are central to everything we do and guide us in our approach to how we do our work. They inform our decisions and how we treat our stakeholders and our colleagues. These core values and what they mean to us are shown below:





Garda
Ombudsman
INQUIRY INDEPENDENCE IMPARTIALITY

3

OUR TRANSITION TO THE OFFICE OF THE POLICE OMBUDSMAN: PLANNING, PREPARATION AND STAKEHOLDER ENGAGEMENT

3. OUR TRANSITION TO THE OFFICE OF THE POLICE OMBUDSMAN: PLANNING, PREPARATION AND STAKEHOLDER ENGAGEMENT

The Policing, Security and Community Safety Bill

The Policing Security and Community Safety Bill was published in November 2022, and in early 2023 began its passage through the Oireachtas.

The publication of the Bill came after a sustained period of engagement between GSOC and the Department of Justice, during which GSOC provided detailed observations on gaps, practical issues of concern and other matters grounded in our experience to date of policing oversight.

The Bill represents a significant step forward in addressing a clearly-defined and long-signalled gap in Ireland's policing accountability infrastructure. The key changes proposed in the Bill are summarised in the illustration overleaf.

GSOC has welcomed the Bill, but remains concerned that it continues to impose a degree of Ministerial involvement in the governance and operations of the new Office of the Police Ombudsman that is inconsistent with the institutional independence envisioned by the Commission on the Future of Policing or by the Council of Europe's "Venice Principles". It also fails to require An Garda Síochána to cooperate fully and promptly with the agency's investigations. As the Bill continues its passage through the Oireachtas in 2023, we will continue to articulate these concerns, some of which we hope can be addressed by the Oireachtas.

GSOC has also consistently emphasised the imperative of proper resourcing if the new Office of the Police Ombudsman is to be capable of fulfilling its expanded mandate. This has been the subject of particular focus by GSOC in 2022, and it the intention of GSOC in 2023 to clearly articulate a business case for what the transformed and expanded Office of the Police Ombudsman will require in terms of staffing, resourcing and expertise.

Preparation for the new remit of the Office of the Police Ombudsman

The changes proposed in the Policing Security and Community Safety Bill represent a significant transformation not only for GSOC, but for agencies, departments and other stakeholders across Ireland's policing, community safety and policing oversight infrastructure.

Throughout 2022, GSOC has been actively engaged with the Department of Justice's inter-agency and cross-departmental Implementation Programme for the Bill. This is a complex multi-strand programme, drawing in the Department, GSOC, An Garda Síochána, the Policing Authority and the Garda Inspectorate. In addition to being represented on the Programme's Board and Implementation Steering Group, GSOC has been a core participant in two projects of particular strategic importance:

- The Office of the Police Ombudsman Operating Model project, to prepare the institutional and governance structures for the Office of the Police Ombudsman, an agency with an independent Oireachtas vote; and
- The Office of the Police Ombudsman Process Reform project, to establish, in close cooperation with An Garda Síochána, the reformed systems, procedures, protocols and agreed lines of communication necessary for effective inter-agency cooperation in the delivery of the new legislation's statutory functions.

With a working date of early 2024 for likely commencement of the new legislation, the work of these groups gathered pace throughout 2022, and into 2023.

Over the course of 2022 GSOC also took the following steps in preparation for our transition to the Office of the Police Ombudsman, including:

- Entering into sustained engagement with the Department of Justice on the text of the legislation, to provide views and guidance, and to establish shared understanding of particular aspects of the Bill;
- Putting additional governance requirements in place to ready the agency for future financial independence as a future vote-holding body. This included the establishment of an Audit and Risk Committee;
- Engaging external consultants to undertake an organisational review, to inform a business case for adequate resourcing of the new Office for the Police Ombudsman, to ensure that it has what it needs to meet its expanded remit;
- Progressing plans to procure a new Case Management System – a fundamental piece of infrastructure for the Office of the Police Ombudsman;
- Regular ongoing meetings of GSOC's Transition Steering Group and sustained staff communication and engagement on the Bill and the Transition process.

The Policing, Security and Community Safety Bill represents a significant step forward in addressing a clearly-defined and long-signalled gap in Ireland's policing accountability infrastructure.

Reforming Police Oversight: Proposed Changes to GSOC

The **Policing Security and Community Safety (PSCS) Bill** was published in November 2022. It is expected to become law by mid-2023, and come into operation in early 2024.

The PSCS Bill proposes significant changes to how policing is administered, organised and overseen in Ireland. This includes significant changes to GSOC's structure and remit.

Some of the **key changes to GSOC** proposed in the Bill are:

Renaming
GSOC
as
**The Office
of the Police
Ombudsman**



Replacing the
**three-person
Commission**
with an
**Ombudsman/
Deputy
Ombudsman/CEO**
structure



Increasing
**financial
independence**
for the new office by making
it a vote-holding body,
funded directly from the
Oireachtas
with the CEO as accounting
officer



Some of the headline changes to GSOC's remit proposed in the Bill include:

- All complaints are to be referred to the Office of the Police Ombudsman in the first instance.
- With the exception of service-level complaints, all complaints are to be dealt with by the Office of the Police Ombudsman. A list of service-level complaint categories to be dealt with by An Garda Síochána will be agreed.
- A statutory review function is to be introduced.
- The interpretation of conduct causing 'serious harm' is to be expanded to include 'sexual offences and abuse of power for a sexual purpose'.
- The Office of the Police Ombudsman is to be given a remit to undertake research and analysis to identify patterns and trends arising from its complaints and investigations work.

Stakeholder Engagement

In addition to engaging with Departmental, Garda Síochána and agency colleagues on the Bill, GSOC also expanded its broader stakeholder engagement – both at home and abroad – over the course of 2022.

This has been an essential element in our preparation for transition and reform, allowing us to communicate our key concerns and strategic priorities for the future to policy makers, civil society, and the wider public.

It has also been an invaluable opportunity to share our expertise with colleagues in other jurisdictions, and to learn from them.

A more proactive and broad-ranging strategy of engagement with key stakeholders will be at the heart of our plans for the reformed Office of the Police Ombudsman, and that work began in 2022.



GSOC Commissioners before the Oireachtas Committee on Public Petitions, April 2022



Commissioner Emily Logan with Northern Ireland Police Ombudsman Marie Anderson



Commissioner Hugh Hume pictured with fellow Board Members at a meeting of European Partners Against Corruption (EPAC/EACN), Vilnius, May 2022. L-R: Traian Barlici (Romania), Ernst Schmid (Austria), Žydrunas Bartkus (Lithuania), Lucile Rolland (France), Hugh Hume (Ireland)



Commissioner Emily Logan addressing the Irish Council for Civil Liberties / Committee on the Administration of Justice 'Police Reform: North and South' conference, March 2022



Commissioner Hugh Hume addressing the Law Society conference on police custody, September 2022



GSOC staff celebrating Dublin Pride, June 2022



GSOC Chair Rory MacCabe meeting with Helen Hall and Bob Collins of the Policing Authority



Attending the Department of Justice Victims' Rights Forum, November 2022

4 REPORT UNDER THE PUBLIC SECTOR EQUALITY AND HUMAN RIGHTS DUTY

4. REPORT UNDER THE PUBLIC SECTOR EQUALITY AND HUMAN RIGHTS DUTY

We place Human Rights and Equality at the heart of our Vision for GSOC, as set out in our Statement of Strategy 2021 – 2023.

The Statement of Strategy sets out the key human rights and equality issues relevant to the delivery of our functions, in keeping with our obligations under Section 42 of the Irish Human Rights and Equality Commission Act, 2014.

Our core function is to deal with matters involving possible misconduct by members of An Garda Síochána in an efficient, effective and fair manner. Our complaints-handling, referral-handling and investigative work engages the rights of a range of stakeholders, including complainants, Gardaí, the broader public, and our own staff.

The nature of GSOC's work means that it must be underpinned by a strict adherence to fundamental rights, in particular the procedural rights of those under investigation, and the rights of complainants to seek redress for alleged misconduct, including those who have been the victim of serious crime, or who may experience various forms of vulnerability or disadvantage. We also place a strong emphasis on equity of access and equality of treatment for all.

We are highly cognizant of our own role in the State's broader obligations under Articles 2 and 3 of the European Convention on Human Rights, in particular in the context of our investigation of incidents involving death and serious harm referred to us under Section 102 of the Act.

In addition to this, human rights and equality issues outlined in our Statement of Strategy include a focus on:

- Open and transparent engagement with our stakeholders,
- Enhancing the accessibility of our functions and services, including through positive action

to engage with diverse groups,

- Safeguarding staff dignity and welfare,
- Building on the diversity of our workforce,
- Ensuring that staff are fully aware of the human rights and equality standards that underpin GSOC's work.

In 2022, we continued to build on our progress on addressing some of the human rights and equality issues outlined in our Statement of Strategy.

The Public Sector Human Rights and Equality Duty places an obligation on GSOC to ensure staff are fully aware of their obligations to protect and defend the human rights of everyone.

In 2022 we made substantial progress on human rights training and education for our staff through the finalisation of our Learning and Development Strategy. In 2022, seven staff members completed qualifications in Policing & Human Rights Law in Ireland, and two staff members enrolled in a Masters in Human Rights in Criminal Justice programme, in the University of Limerick. Six staff members also completed a qualification in Human Rights and Equality in the Public Service, delivered by One Learning, the Irish Civil Service Learning and Development Centre.

We have made some significant progress in improving the openness and transparency of our stakeholder engagement in 2022, including through active engagement with civil society and policy makers. Work is ongoing in the development of a renewed communications and engagement strategy. We have also continued to work in 2022 to place human rights and equality at the heart of our internal policies and procedures, with the rollout of a programme of work by our new Quality Management Unit.

In the context of GSOC's transition to a reformed complaints body, we recognise the importance of further enhancing the accessibility of our public communications, and of our services, both online and in-person. This remains a strategic priority for GSOC in transition.

We also recognise the importance of generating accessible, disaggregated human rights and equality data, both to identify gaps in rights protections, and to identify trends and patterns. Insufficient disaggregated data is a challenge across the civil and public service, and has been raised as an issue by multiple UN and Council of Europe human rights monitoring bodies in their periodic reviews of Ireland. Ensuring that GSOC's successor agency is well equipped to capture, interrogate and share disaggregated human rights and equality data is a core priority for us as we progress plans for a new Case Management System to meet the needs of our expanded functions and remit.

The demands of delivering GSOC's functions can be challenging for staff. These challenges were compounded both by the pandemic, and by our slow return to normal in 2022. GSOC placed a particular emphasis on staff welfare in its approach to navigating the obstacles of the pandemic and ensuring service delivery. As pandemic restrictions lifted in 2022, GSOC moved into a flexible blended working practice, which has improved our working culture and work-life balance. Building on this will remain a priority in the context of our transition to a reformed and expanded agency in the coming period.

GSOC is proud to have a vibrant and diverse workforce. GSOC conducts its recruitment through the Public Appointments Service, who operate an equal opportunities policy and whose work is subject to a long-term Equality, Diversity and Inclusion Strategy. As GSOC transitions to become a larger body with a broader remit under planned reforms, we are committed to preserving and enhancing the diversity of our workforce, and ensuring it is reflective of the diversity of the community to whom we provide a service.

5. 2022 AT A GLANCE

GSOC'S SERVICE DELIVERY IN NUMBERS

COMPLAINTS RECEIVED
1,826
(17% DECREASE)

PUBLIC INTEREST INVESTIGATIONS UNDERTAKEN
17
IN ABSENCE OF A COMPLAINT

ALLEGATIONS WITHIN COMPLAINTS
3,207

S102 REFERRALS
41
(31% DECREASE)

CHILD PROTECTION REFERRALS TO TUSLA
54
MANDATORY

FILES FORWARDED TO THE DPP
27

NON-MANDATORY
71

62 SANCTIONS IMPOSED BY THE GARDA COMMISSIONER FOLLOWING COMPLAINTS

COMPLAINTS CLOSED CONTAINING ALLEGATIONS
2,301
(11% INCREASE)

4,484

2,654 CALLS RECEIVED TO THE LO CALL NUMBER

QUERIES RECEIVED
3,422

STAFF AND BUDGET



156
STAFF



13.679M
BUDGET

MEETING OUTCOMES IN OUR STATEMENT OF STRATEGY

Independent complaints handling and investigation of alleged garda misconduct in the public interest

In 2022, GSOC continued to deliver on its remit: receiving and progressing complaints from the public, initiating investigations, and progressing cases to completion whilst navigating new blend working framework.

Excellent customer service

In 2022 GSOC continued to deliver an essential service to members of the public including:

- Receiving **1,826** complaints
- Processing of **116** data access requests
- Providing material for reply to **46** parliamentary questions
- Handling **40** Freedom of Information requests

A high-performing, well-respected organisation

In 2022, GSOC:

- Implemented new Blended Working Policy framework
- Established a new Audit and Risk Committee
- Welcomed over **50** new staff members
- facilitated **87** different training courses to GSOC staff via our Learning and Development Programme

Smooth transition to GSOC's successor body

In November 2022 the long-awaited Policing, Security and Community Safety Bill was published. During 2022, GSOC:

- Continued engagement with the Department of Justice on the legislation, providing expert guidance and expertise into policing oversight
- Actively engaged with the Department of Justice and An Garda Síochána to prepare for the passage, enactment and implementation of the new legislation
- Progressed plans to procure a new case management system
- Conducted regular meetings of the organisational Transition Steering Group
- Procured the conduct of a detailed organisational review to inform the structure and resourcing of the reformed Office of the Police Ombudsman

NOTABLE EVENTS

In January 2022, Judge Rory MacCabe was appointed as a member and the new Chairperson of GSOC by President Michael D. Higgins.

In April 2022, GSOC Commissioners appeared before the Oireachtas Public Accounts Committee and the Public Petitions Committee.

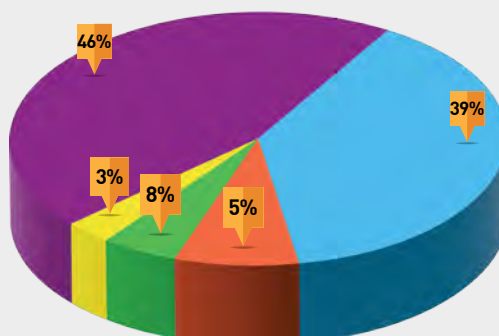
Commissioners Emily Logan and Hugh Hume engaged with academic, civil society and policing colleagues and stakeholders, presenting on GSOC's current work, and its transition to a reformed policing oversight body.

The Policing, Security and Community Safety Bill was published in November 2022. The Bill's proposed changes to Ireland's policing oversight structures will see significant changes to GSOC, providing its successor body with greater independence and an expanded remit.

In 2022, GSOC showed leadership internationally as an active member of

- **The Network of European Integrity and Whistleblowing Authorities (NEIWA)**
- **The Independent Police Complaints Authorities Network (IPCAN)**
- **European Partners Against Corruption (EPAC)**
- **Ombudsman Association (OA)**

INVESTIGATIONS OPENED BY TYPE



- Unsupervised disciplinary investigation by Garda Síochána (s.94(1)): 417 investigations (46%)
- Criminal investigation by GSOC (s.98): 349 investigations (39%)
- GSOC-led disciplinary investigation (s.95): 44 investigations (5%)
- Supervised disciplinary investigation by An Garda Síochána (s94(5)): 68 investigations (8%)
- Discontinued prior to initiation of investigation: 26 discontinuations (3%)

6

GOVERNANCE,
FINANCE AND
INTERNAL CONTROLS

6. GOVERNANCE, FINANCE AND INTERNAL CONTROLS

Governance and Structure

The Garda Síochána Ombudsman Commission was established under the Garda Síochána Act, 2005. The functions of the Commission are set out in Section 67 of this Act.

The Ombudsman Commission

The Ombudsman Commission is a three-person commission all members of which are 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 2022, the Ombudsman Commission comprised:

- Rory MacCabe, SC (Chairperson)
- Mr Hugh Hume; and
- Ms Emily Logan

Governance

The Ombudsman Commission is responsible for the control and direction of An Garda Síochána Ombudsman Commission and for ensuring good governance. It is accountable to the Minister for Justice.

Responsibilities and Objectives

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

A range of key decisions are reserved to the Commission, including in relation to:

- Approval of capital projects;
- Putting in place delegated authority levels, financial management policies and risk management policies;
- Approval of terms of major contracts;
- Approval of 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;
- Setting the organisations strategy; and
- Production of Annual Reports and accounts.

Meetings of the Ombudsman Commission

The Ombudsman Commission works closely with the Directors and senior management team on a daily basis. In addition to a weekly meeting with the Directors, the Commission holds its formal bi-monthly strategic meeting to discharge its statutory functions. Five such meetings took place in 2022.

- Mr George O’Doherty, Principal Officer, Corporate Services and Secretariat
- Mr Darren Wright, Principal Officer, Knowledge and Quality Management

Table A: Attendance at Bi-monthly Commissioners’ Meetings 2022

Formal meetings of the Ombudsman Commission in 2022		
Name	Position	No. of meetings attended
Mr Rory MacCabe, SC ¹	Chairperson	4
Mr Hugh Hume	Commissioner	5
Ms Emily Logan	Commissioner	5
Ms Aileen Healy	Director of Administration	5
Mr Peter Whelan ²	Director of Investigations and Operations	2

The Senior Management Team

The Senior Management team, reporting to the Commission, are responsible for the day-to-day management of the organisation.

The Senior Management Team (SMT) comprised:

- Ms Aileen Healy, Director of Administration
- Mr Peter Whelan, Director of Investigations and Operations, (Mr Whelan took up his appointment on 30 May 2022)
- Mr Garrett Croke, Deputy Director of Operations
- Mr Nick Harden, Deputy Director of Operations
- Mr Jon Leeman, Deputy Director of Operations
- Ms Claire O’Regan, Head of Legal Affairs

Performance delivery and oversight

GSOC and the Department of Justice have agreed an Oversight Agreement for 2021-22 in accordance with the Code of Practice for the Governance of State Bodies.

The Oversight Agreement sets out the broad governance and administrative accountability framework within which GSOC operates, and defines the key statutory and administrative roles, responsibilities and commitments which underpin the relationship between GSOC and the Department. The Agreement also sets out the arrangements for the effective governance, funding and general administration of GSOC in accordance with the Code. Any derogations or exceptions from the Code have been agreed with the Department and are laid out in the Oversight Agreement.

GSOC and the Department of Justice also agreed a complementary Performance Delivery Agreement for 2022, in accordance with the relevant provisions of the Code of Practice for the Governance of State Bodies. This agreement sets out, in the context of the resource inputs provided by the Department, the metrics and associated targets by which the performance of GSOC in 2022 was measured.

Finance

GSOC is funded through the provision of an annual grant from the Vote for the Department of Justice. The Secretary General of the Department is the Accounting Officer for the Vote and for funding provided to the Commission.

Section 77 of the Garda Síochána Act, 2005, requires the Garda Síochána Ombudsman

Commission to keep, in such form as may be approved by the Minister for Justice 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. The Chairperson is responsible for the preparation of GSOC's accounts.

Expenditure

The Ombudsman Commission ensured that GSOC fully complied with the Public Spending Code throughout 2022.

Table B: GSOC Expenditure 2022

Category	2022 Budget €	Expenditure Subhead	2022 Expenditure €
Pay	10,099,629	A01 - Pay & Allowances	9,465,609
Non-Pay	3,579,371	A02 - Travel & Subsistence	104,317
		A03 - Incidental Expenses	845,860
		A04 - Postal & Telecommunication Services	85,213
		A05 - Office Machinery & Other Office Supplies	1,143,324
		A06 - Office & Premises Expenses	1,804,428
		Total	13,679,000

Key management personnel

Total salaries paid to key management personnel by the Garda Síochána Ombudsman Commission amounted to €598,625.

Non-salary related fees

No non-salary related fees were paid in respect of members of the Garda Síochána Ombudsman Commission for 2022.

Employee benefits

The number of employees whose total employee benefits paid in 2022 fell within each of the following pay bands is shown in the following table (these figures include salary, overtime allowances and other payments made on behalf of the employee but exclude employer's PRSI):

Table C: Employee Benefits Breakdown

Range	Number of Employees	
	2022	2021
From To		
€60,000 - €69,999	18	21
€70,000 - €79,999	12	16
€80,000 - €89,999	9	3
€90,000 - €99,999	4	5
€100,000 - €109,999	4	2
€110,000 - €119,999	3	1
€120,000 - €129,999	1	2
€130,000 - €139,999	-	-
€140,000 - €149,999	-	-
€150,000 - €159,999	2	1

Consultancy, legal costs and settlements

Expenditure in 2022 included the cost of external advice to management and general legal advice received by the Garda Síochána Ombudsman Commission amounting to €40,894.

Expenditure in relation to legal costs, settlements, conciliation and arbitration proceedings relating to contracts with third parties was €99,328 in 2022.

The financial statements including the Statement of Internal Control in GSOC below have not yet been audited by the Comptroller and Auditor General and consequently the financial information provided in this report remains provisional.

Internal Control Environment

Audit and risk

The annual accounts of GSOC are subject to annual audit by the Comptroller and Auditor General.

The Department of Justice's Audit and Risk Committee remit included the Garda Síochána Ombudsman Commission throughout 2022. The Commission established its own Audit and Risk Committee in 2022 to oversee the management of risk and internal controls in the organisation and to advise the Commission in relation to matters of audit, governance and risk.

The Committee met for the first time in June 2022 and on two additional occasions during the year. The committee includes two independent members, one of whom chairs the committee, and a member of the Commission. One member of the committee has recent and relevant financial experience.

GSOC has a risk management process in place which includes:

- A Chief Risk Officer who has overall responsibility for overseeing the management of risk and keeping the Commission informed of high-level risks and their mitigation;
- A Risk Management Policy which sets out the processes in place for the identification, assessment, management and mitigation of risks in the organisation;
- A Risk Register which contains details of risks and their mitigation and which is kept up to date on an ongoing basis; and
- Risk is a formal agenda item for the bi-monthly Commissioner meetings, at which a report on risk management is provided for the Commission's consideration. Risk management is also a standing agenda item for Senior Management Team meetings.

Quality management

GSOC established a Quality Management and compliance function in 2021. During 2022 we progressed the development of a strategy and action plan for the function, which will give assurance to the Commission regarding quality systems as well as compliance with statutory, regulatory and other requirements.

2022 Statement of Internal Control in GSOC

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

Purpose of the System of Internal Control

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

Internal Control Environment

The following steps have been taken to ensure an appropriate control environment:

- Internal reporting relationships are clearly assigned;
- Management responsibilities are clearly assigned and communicated between the Director of Administration, Corporate Services and the Finance Team;
- Decisions on expenditure rest with line managers and the members of the Commission in line with approved expenditure thresholds;
- Shared service arrangements were availed of in relation to the provision of a number of financial management and related services to GSOC:
 - The Department of Justice provide an agency payment service for the Garda Síochána Ombudsman Commission.
 - Payroll Shared Service Centre, which is part of the National Shared Services Office, processed payroll and travel and subsistence claims.
 - The Department of Justice provided internal audit, fixed asset register maintenance, purchase ordering and tax-filing services.
- When required, additional services are procured from external providers to supplement these services;
- Robust financial procedures and controls are in place and an external accounting firm is engaged to prepare GSOC's financial statements.;
- GSOC has systems in place for the monitoring of risk and, in so far as possible having regard to the operating environment, dealing with the risks that have presented throughout 2022.

The Garda Síochána Ombudsman Commission met formally to discharge its governance responsibilities on five occasions in 2022.

Risk and Control Framework Risk Management

The Commission has established processes to identify and evaluate business and financial risks by putting a Risk Register and risk management policies in place to:

- Identify the nature and extent of financial and operational risks;
- Assess the potential of risks occurring;
- Evaluate and assess capacity to manage the risks that do occur;
- Examine risks in the context of strategic goals;
- Put actions in place to mitigate risks; and
- Regularly report on risks.

The risk management process in place includes:

- A Chief Risk Officer who has overall responsibility for overseeing the management of risk and keeping the Commission informed of high-level risks and their mitigations;
- A Risk Management Policy which sets out the processes in place for the identification, assessment, management and mitigation of risks in the organisation;
- A Risk Register which contains details of risks and their mitigation and which is kept up to date on an ongoing basis. This register identifies specific risks, details the controls and actions needed to mitigate those risks and assigns responsibility for the mitigation and operation of controls; and
- Risk is a formal agenda item for the monthly Commissioner meetings and is a standing agenda item for SMT meetings.

The Department of Justice's Audit and Risk Committee remit included the Garda Síochána Ombudsman Commission throughout 2022. The Commission established its own Audit and Risk Committee in 2022 to oversee the management of risk and internal controls in the organisation and to advise the Commission in relation to matters of audit, governance and risk. The Committee met for the first time in June 2022 and on two additional occasions during the year. The committee is comprised of three members, one member of the commission and two of which are external independent members, one of which chairs the committee. One member of the committee has recent and relevant financial experience.

Monitoring and Review

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

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

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 2022, there were no incidence of significant control failings.

Compliance with the Public Spending Code

The Garda Síochána Ombudsman Commission has procedures in place to ensure compliance with current procurement rules and guidelines as set out by the Office of Government Procurement. During 2022, the Garda Síochána Ombudsman Commission complied with those procedures. However, a legacy procurement of goods and services relating to software licenses, to the value of €14,638 in 2022, in relation to a specific urgent investigation that was sensitive in nature and required the use of a separate system.

Approval by the Commission

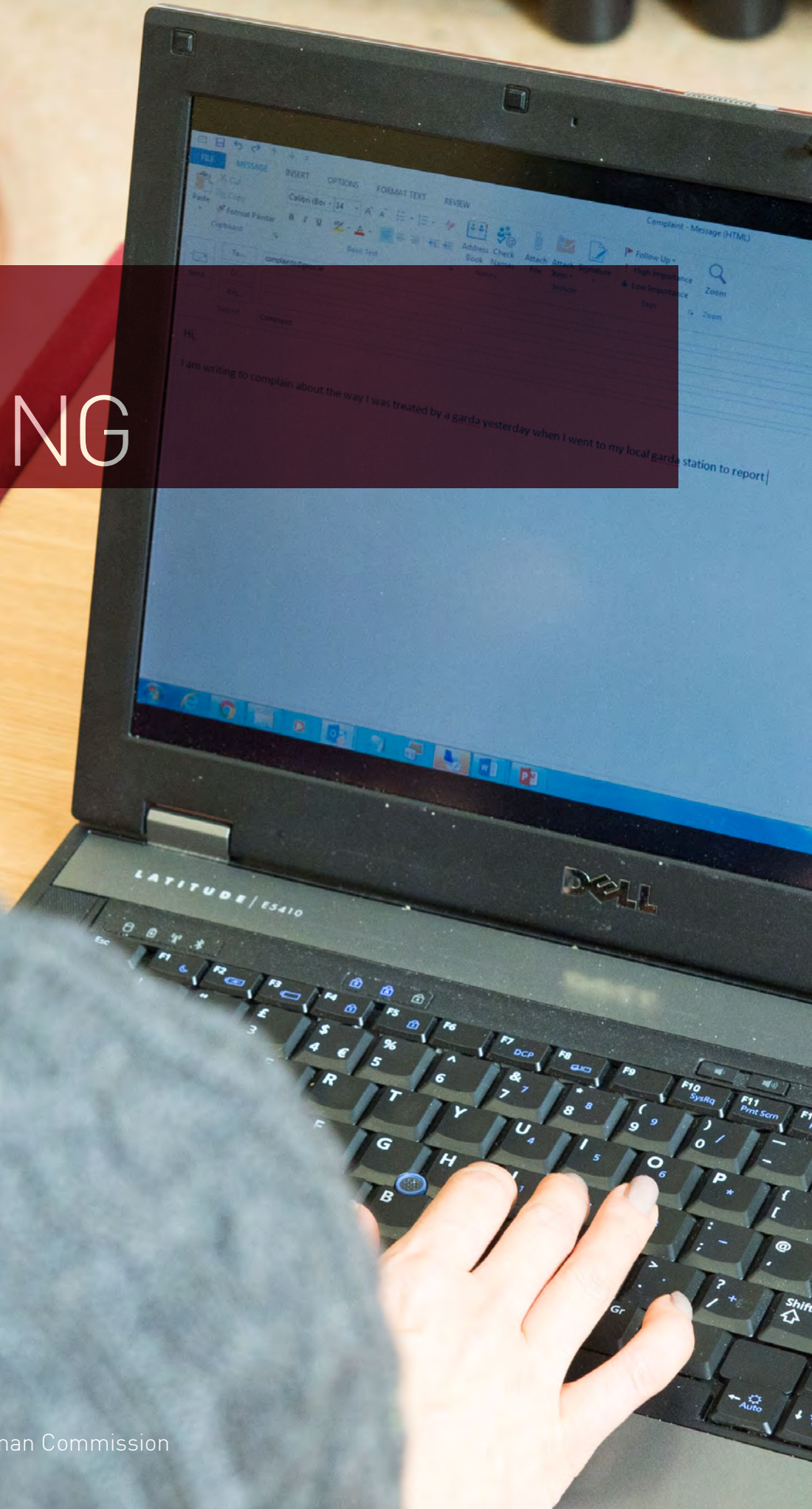
The Statement on System of Internal Controls has been reviewed by the Audit and Risk Committee in order to advise the Commission the control system in operation during the reporting period. A review of internal controls was undertaken by Internal Audit and considered by the Audit and Risk Committee in March 2023. This has provided assurance to the Commission regarding the adequacy of the system of internal control.

The Commission is reasonably assured that the systems of internal control instituted and implemented in the Garda Síochána Ombudsman Commission for the financial year ended 31st December 2022 were effective.



Signed
Rory MacCabe, S.C.
Chairperson

7 STAFFING



7. STAFFING

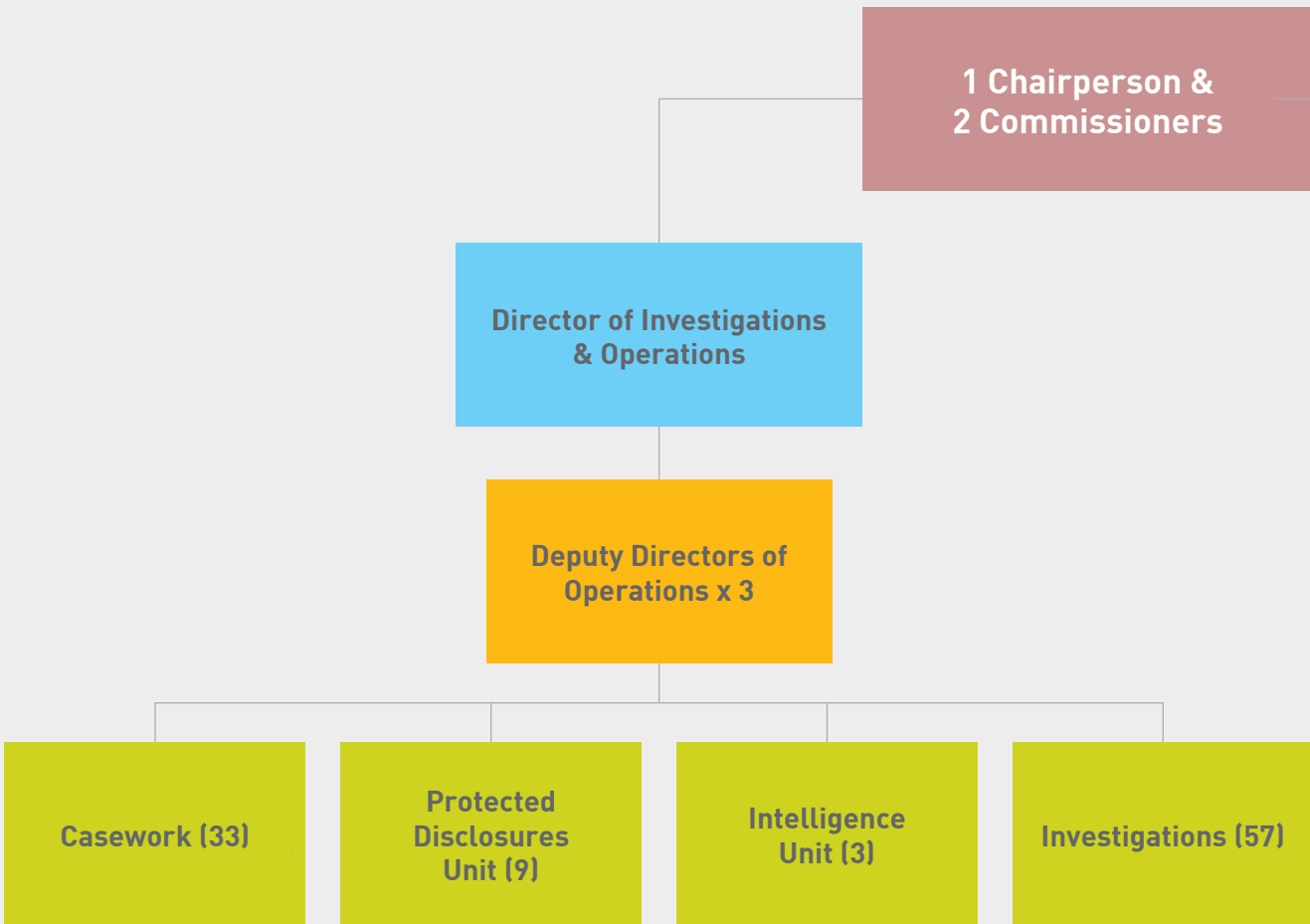
Staffing and Organisational Structure

In accordance with section 71 (3) of the Act, officers of the Garda Síochána Ombudsman Commission are Civil Servants in the Service of the State. Section 71 (4) of the Act provides that the Ombudsman Commission is the appropriate authority (within the meaning of the Civil Service Commissioners Act, 1956 and the Civil Service Regulation Acts, 1956 to 1996) in relation to its officers. The National Shared Services Office (NSSO) provides a suite of HR, performance management, payroll and pensions administration services on behalf of GSOC under a Service Level Agreement.

At 31 December 2022, GSOC had a total staff of 156. This is an increase of 33 staff since the year-ending 2021, due to additional funding received in the 2022 estimates. In total, 50 new staff joined GSOC in 2022, and recruitment processes were underway to fill a number of vacancies. Chart 1 shows the organisation structure and resources at 31 December 2022.

GSOC implemented its blended working policy for staff in 2022. GSOC is committed to embracing opportunities for remote and blended working, to build a more dynamic, agile and responsive Civil Service, while sustaining strong standards of performance and high levels of productivity. GSOC believes that blended working can increase flexibility, improve health and wellbeing, and enhance work-life balance.

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 under this policy in 2022.

Chart 1: GSOC organisational structure and staffing resources at 31 December 2022

Learning and Development

GSOC continued to provide training and development of its staff in 2022. While online courses continue to be an essential part of training delivery, the year saw a gradual return to in-person training. Staff availed of both internal and external training and learning opportunities, including those provided by the Civil Service One Learning Shared Service.

In 2022, the Unit facilitated 87 different training courses or programmes for GSOC staff, 34 of which were provided by the One Learning Shared Service. A total of 140 staff members attended one or more of these courses, attending 354 events.

These included:

- Investigative Interview Training
- Critical Incident Stress Management
- Mobile Forensic Courses

- Responding to Mental Health Related Issues & Abusive Behaviours in the Course of Work
- Dublin Rape Crisis Centre Training
- Deaf Awareness
- Disability Awareness
- Health and Safety Courses

In addition, GSOC continued its policy of supporting a number of GSOC staff who 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 ongoing 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.



Some of the courses undertaken by staff in GSOC under the Refund of Fees scheme include:

- Masters in Human Rights in Criminal Law
- HRM Strategy and Practice
- Audio and Video Forensics
- Certificate in Public Procurement

Following adoption of the Learning & Development Strategy for 2021-2023 in the final quarter of 2021, GSOC's Learning and Development Governance Group worked to develop a programme of relevant training, skills and development opportunities so that GSOC's objectives, as outlined in the Statement of Strategy 2021-2023 can be achieved. This included developing the requirements for accredited training opportunities and reviewing the induction programme for staff across the organisation.

This work will continue in 2023 with the development of an overarching learning, development and training plan based on comprehensive training needs analysis linked to GSOC's organisational priorities. This will ensure that GSOC staff have the competencies, knowledge and skills to carry out GSOC's statutory functions in accordance with best practice and to meet future organisational needs.

8 COMPLAINTS



8. COMPLAINTS

How GSOC Receives and Investigates Complaints

Sections 83-101 of the Act set out how complaints alleging Garda misconduct are made to GSOC. For a complaint to be admitted by GSOC you must be directly affected by what you believe is Garda misconduct, you must witness the alleged misconduct or you can make a complaint on behalf of someone if you have their consent. Complaints can be made to GSOC in a number of ways, whether by filling out a GSOC1 complaint form online, in writing, by post, via email or via correspondence from Garda stations.

Admissibility

All complaints received by GSOC are assessed against a list of criteria outlined in section 87 of the Act. This list sets out the criteria a complaint needs to meet to be admitted by GSOC for investigation. If a complaint does not meet the criteria it will not be admitted by GSOC and will be deemed inadmissible.

For a complaint to be investigated it must meet the following criteria:

- It must be made by (or, in certain circumstances, on behalf of) a person who is directly affected by, or who witnesses, the conduct that is the subject of the complaint;
- It must relate to behaviour by a member of the Garda Síochána which would, if proven, constitute a criminal offence or a breach of Garda discipline;
- It must be made within one year of the incident which is the subject of the complaint;
- It must not be frivolous or vexatious;
- It must not relate to the general direction and control of the Garda Síochána by the Garda Commissioner;

- It must not relate to the conduct of a member of An Garda Síochána while the member was off-duty, unless the conduct alleged would, if proven, be likely to bring discredit on An Garda Síochána.

Types of complaints

Disciplinary

Complaints received by GSOC involving alleged breaches of discipline are investigated under section 94 or 95 of the Act. Under the current legislation, breaches of discipline may be investigated in one of these ways:

- **Unsupervised investigations** are referred for investigation to An Garda Síochána and managed by Garda Senior Investigations Officer (GSI0) as set out in the Act. These investigations are required to be complete within a 16-week timescale. Unsupervised investigations are subject to review mechanisms if the complainant is unhappy with the result. A request can be made by you to review the investigation under section 94(10) of the Act.
- **Supervised investigations** are conducted by a member of Superintendent rank and supervised by a GSOC. These investigations are required to be complete in a timescale of 20 weeks.
- **GSOC-led disciplinary investigations**, are carried out by GSOC's own investigators. Such investigations often arise where disciplinary, or systemic policy matters are identified during the course of a criminal investigation, and which require separate follow-up. These are dealt with under section 95 of the Act.

The case studies in the following sections include examples of some disciplinary investigations.

Criminal

All complaints that contain allegations of a criminal nature against Gardaí are investigated by GSOC investigators. Such investigations take place under section 98 of the Act. When conducting criminal investigations, GSOC investigators have full policing powers, equivalent to all the powers, immunities and privileges conferred and all the duties imposed on members of An Garda Síochána.

The case studies in the following sections include examples of some criminal investigations.

Our Local Intervention Initiative

Begun on a pilot basis in 2018, and now a core part of how we handle complaints, the Local Intervention initiative aims at resolving more minor service-level complaints at a local level, without the need for a formal investigation. Such complaints tend to relate to allegations of discourtesy or failures that would represent lower level examples of neglect of duty. Under this process, nominated Garda inspectors contact complainants who have indicated that they wish to engage in the initiative, and seek to address the issue through dialogue. The focus of the process is on addressing the problem, rather than apportioning blame.

Should the intervention not be successful, the complaint returns to GSOC, and is assessed for admissibility.

The initiative was launched to reduce the time taken for complaints to be addressed, by identifying cases where the launch of an investigation under section 94 of the Act would not be in the best interest of the complainant, and would be an unnecessary drain on GSOC and Garda resources.

Local Intervention has seen good engagement by An Garda Síochána, and has had a positive

impact for Gardaí, GSOC and complainants alike, providing a more efficient means of addressing service-level complaints. For a breakdown of the outcomes and impact of our local intervention initiative in 2022, and some case studies, see section 12.

Key Facts and Figures for Complaints in 2022

Volume of queries

In the first instance, queries and complaints are handled by GSOC's Casework Unit.

In 2022, caseworkers dealt with **3,422** queries. Initially each contact is opened on our system as a 'query', until we have sufficient information to upgrade it to a complaint and assess if for admissibility.

GSOC received **2,654** calls to the lo-call number throughout 2022. This was a 19% decrease on the number of calls received in 2021 (3,286). Some **96 per cent** of the calls received were answered with 60 seconds.

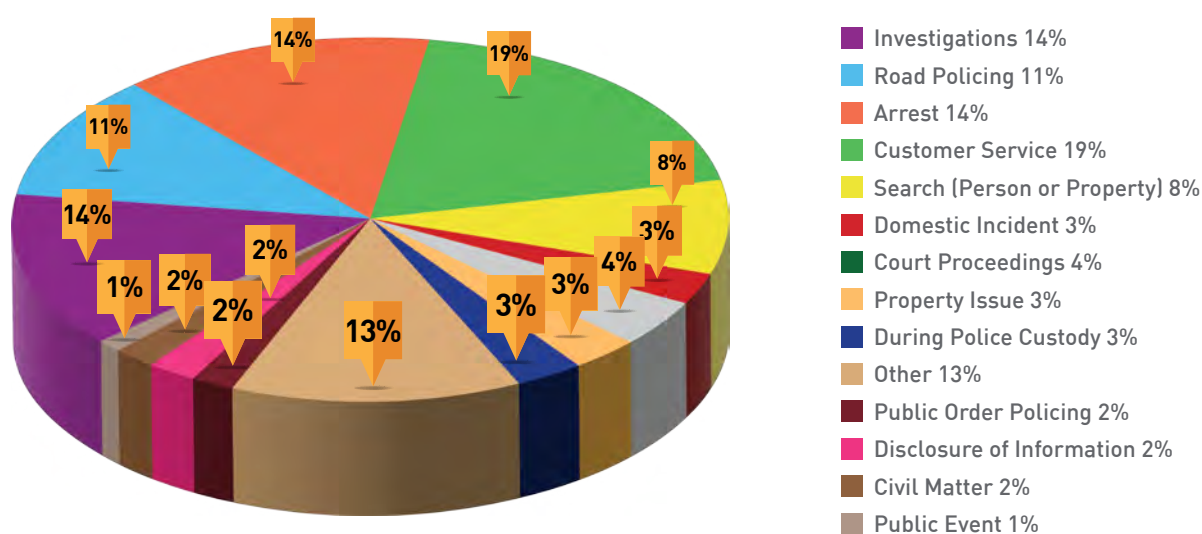
GSOC reopened the public office facility to members of the public in 2022, this function was temporarily closed in 2020 and a number of months in the beginning of 2021 due to COVID-19 restrictions. In 2022, Caseworkers met with **37** people in our public office. This compares to 11 interactions in the public office in 2021.

Volume of complaints

A total of **1,826** complaints were opened in 2022, a 17% decrease on the 2021 figure (2,189). A complaint may contain more than one allegation, and the 1,826 complaints received in 2022 contained **3,207** separate allegations.

The most common circumstances which gave rise to complaints in 2022 were 'customer service' at 19% and the conduct of Gardaí during arrests and when carrying out investigations both at 14% each.

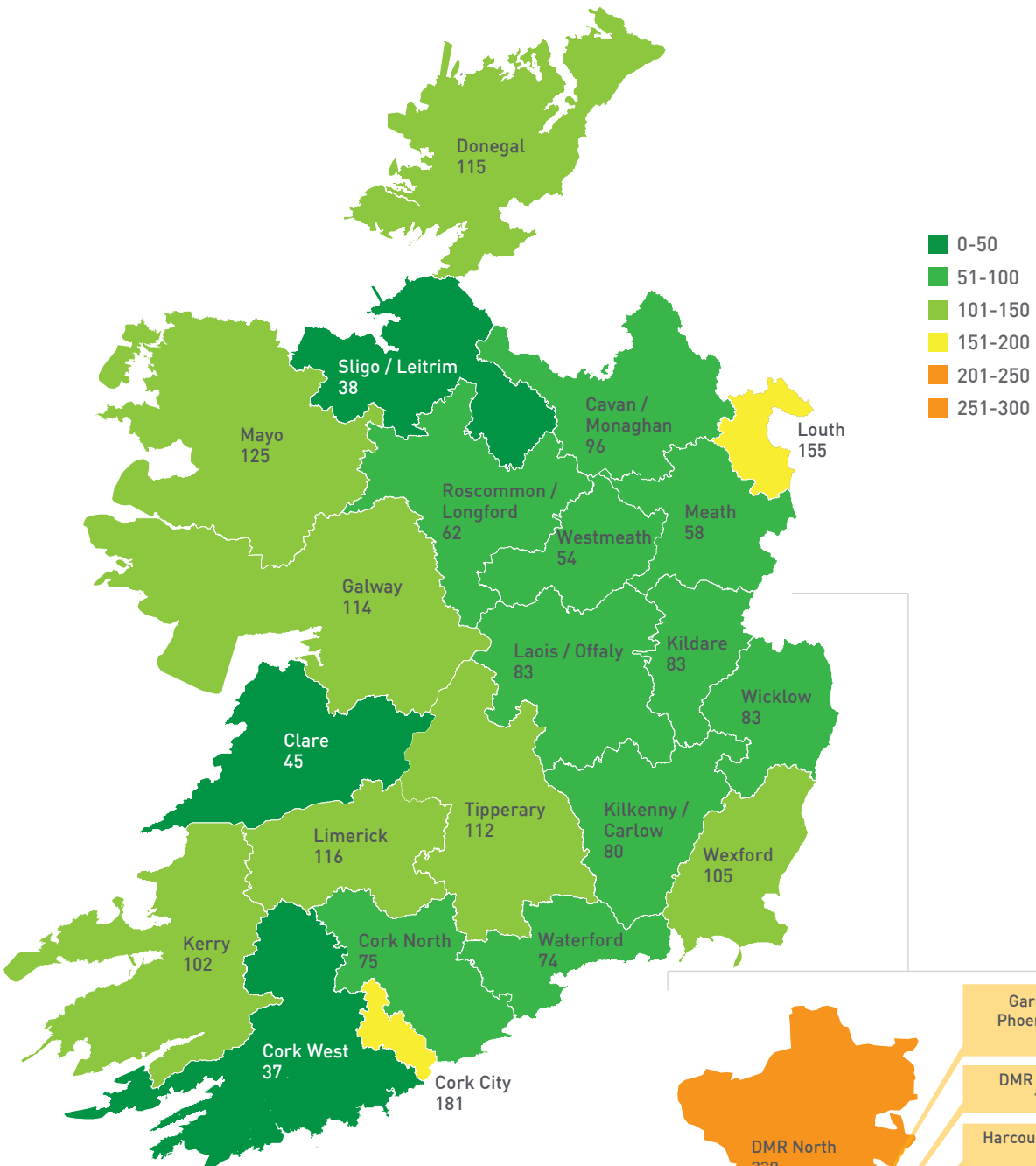
Chart 2: Circumstances of Complaints Received (Total Complaints: 1,826)



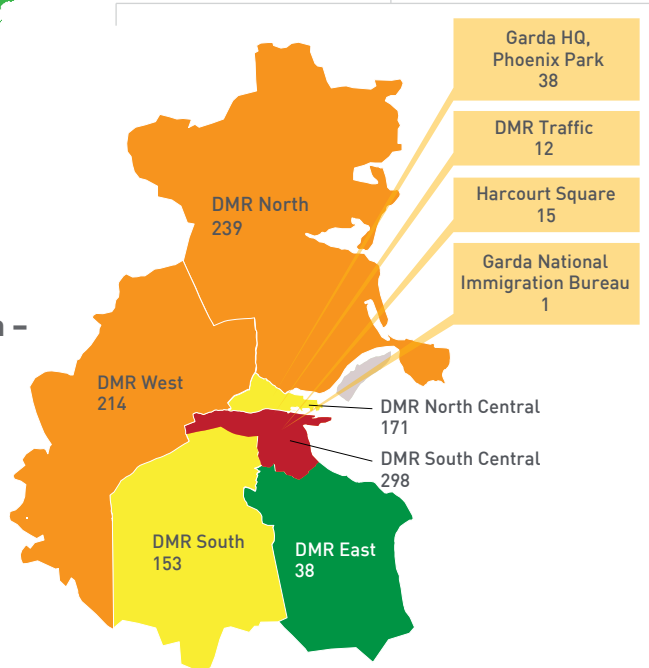
Geographical distribution of complaints and allegations

The maps overleaf show the geographical distribution of allegations in complaints made against Gardaí in 2022. They show all the allegations, those that have been determined to be admissible, those that have been determined to be inadmissible, and those on which admissibility decisions had not yet been made by 31st December 2022. Excluded are 35 allegations for which Garda divisions had not yet been established by the end of the year.

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



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



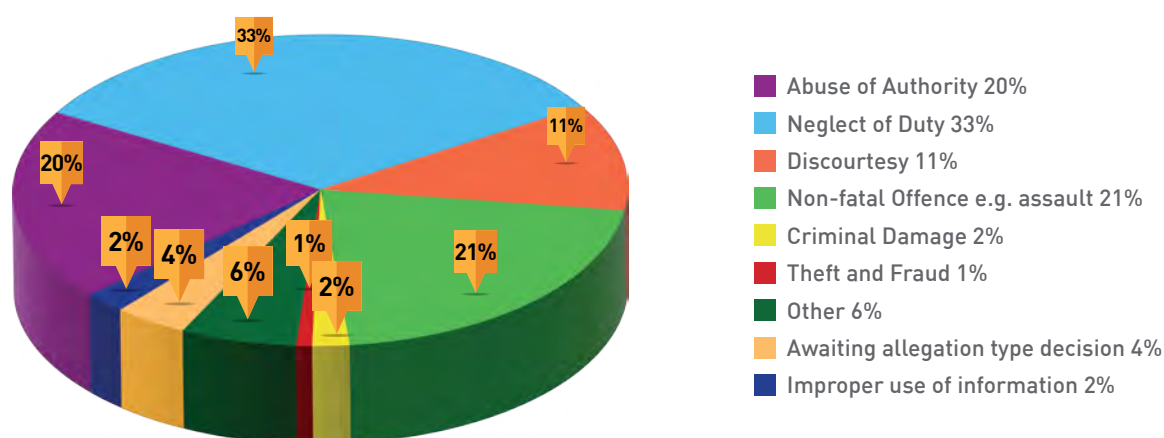
The greatest number of allegations recorded against Gardaí were in the Dublin Metropolitan Region (DMR). This would be expected given the concentration of the population and policing activity in the capital. Within the DMR, the highest number came from DMR South Central, with 298 allegations, and DMR North, with 239 allegations. In 2021, DMR West and DMR South Central had the highest of allegations.

Outside the DMR, Cork City (181) and Louth (155) respectively were the divisions with the highest number of allegations against Gardaí in 2022. In 2021, the same two divisions had the highest number of allegations outside the DMR.

What people complain about

The chart below gives a breakdown of allegation types for 2022.

Chart 3: Allegation Types in Admissible Complaints (Total Allegations: 2,234)



Common matters about which people complain to GSOC include:

- 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.

Admissibility decisions

In 2022, a total of 1,826 complaints were received, of which 904 (49.5 per cent) were deemed admissible (containing at least one admissible allegation). A total of 918 (50.2 per cent) were deemed inadmissible.

Chart 4: Complaint Admissibility (Total Complaints: 1,826)

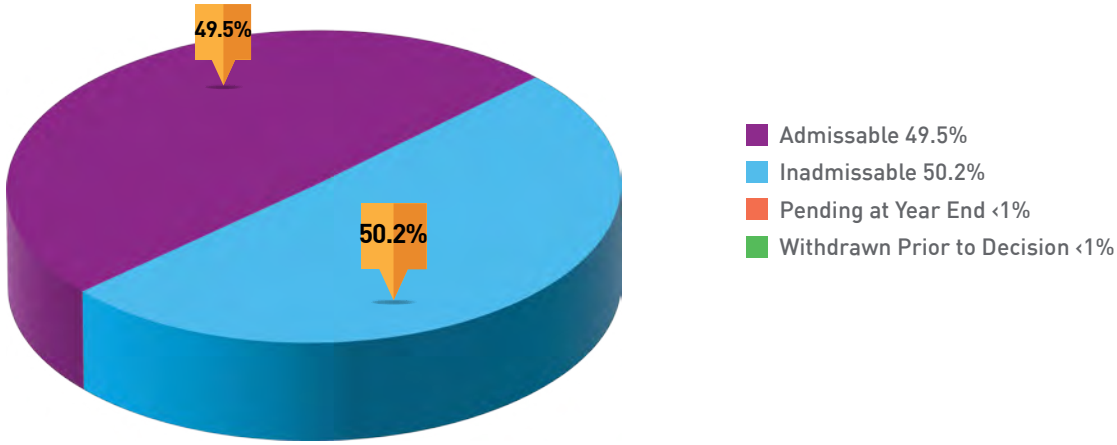
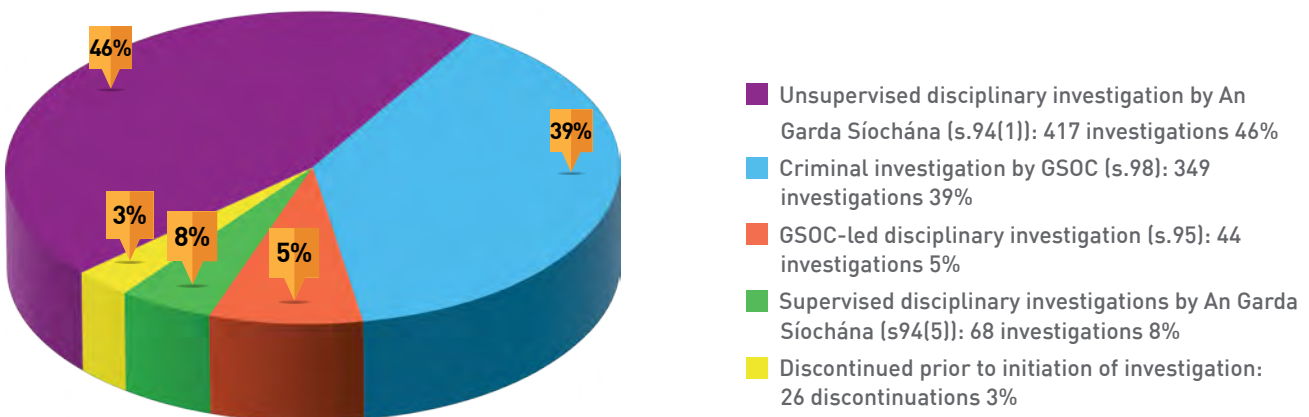


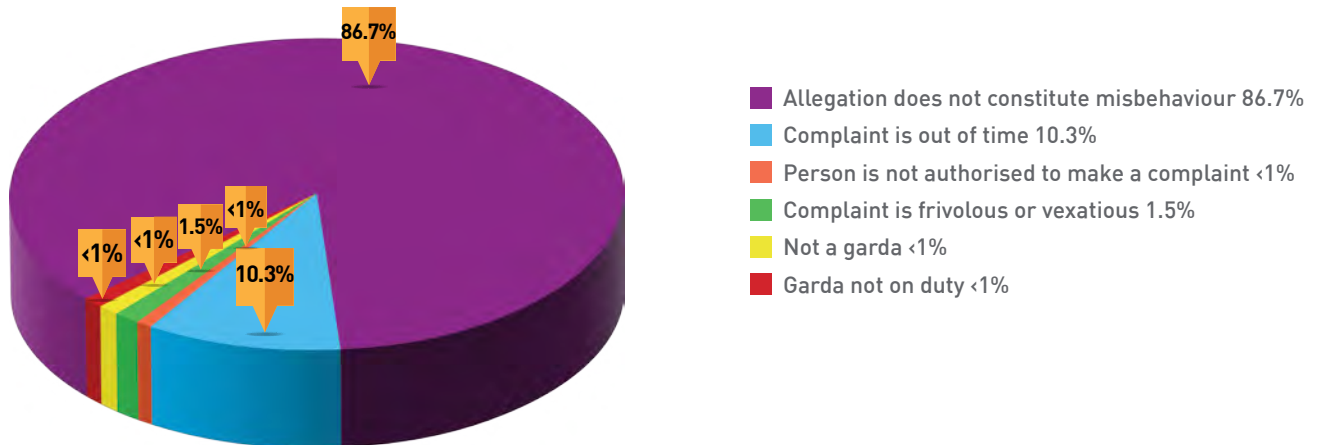
Chart 5: Investigations Opened by Type (Total Complaints Admitted for Investigation: 904)



Inadmissibility decisions

The 918 complaints deemed to be inadmissible in 2022, which contained 969 allegations, were deemed so for reasons outlined in the chart below.

Chart 6: Reasons for Inadmissibility of Allegations in Inadmissible Complaints (Inadmissible Allegations 969)



The most common reason for an inadmissibility decision – applying to **841** or 86.7 per cent of admissible 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) fell outside the 12-month time limit set out in legislation. In 2022, **100** allegations or 10.3% 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.

9 INVESTIGATIONS ON FOOT OF COMPLAINTS: OUTCOMES IN 2022

9. INVESTIGATIONS ON FOOT OF COMPLAINTS: OUTCOMES IN 2022

Overview of 2022 Investigation Outcomes

In 2022, 2,301 complaints containing 4,484 allegations were closed.

Of these, 1,376 complaints containing 3,511 allegations were closed following admission and investigation. The remainder were either

determined to be inadmissible, or closed due to lack of engagement by the complainant.

While the 1,376 complaints all contained one or more admissible allegations, 46 of the allegations contained in them were inadmissible, so were not investigated. In total, 3,465 allegations were investigated and the outcomes are described in Table D.

Table D: Outcomes of complaints closed in 2022

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	2,464
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 An Garda Síochána (s.94 ³) or by GSOC (s.95)	426
Allegation withdrawn	The person who made the complaint indicated that they would not pursue it	All types	237
Non-cooperation by the complainant	The complainant failed to engage with the investigation	All types	76

3. Either supervised or unsupervised investigations.

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 E). The identification of the specific breach and any sanction to be applied is a matter for the Garda Commissioner under the Discipline Regulations	Disciplinary investigation by the Garda Síochána (s.94) or by GSOC (s.95)	62
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)	173
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)	7
Referred to the DPP - no prosecution directed	If there is evidence that an offence may have been committed following criminal investigation, the case is referred to the DPP, who decides whether or not to prosecute. See for example case studies 18, 19 and 20 below.	Criminal investigation by GSOC (s.98)	14
Referred to the DPP – prosecution directed	As stated above, the DPP may also form a decision based on the evidence to direct a prosecution and a trial will commence (See further details in Section 13)	Criminal investigation by GSOC (s.98)	6
Total Outcomes			3,465

Reviews of Disciplinary Investigations

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

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

GSOC received **69** requests for review in 2022 (in relation to investigations completed in 2022 or other years), of which **57** were completed by the year end.

Sanctions Imposed

Should an investigation by An Garda Síochána under section 94 (either supervised or unsupervised) or GSOC-led disciplinary investigations under section 95 find evidence of a potential breach of the Discipline Regulations by a Garda, it is for Garda management to decide whether or not there has been a breach, and the sanctions applied are entirely a matter for the Garda Commissioner. The sanctions applied in 2022, following decisions of a breach of discipline, are set out in Table E.

Table E: Sanctions applied by the Garda Commissioner in 2022, following disciplinary investigations

Advice	29
Fine imposed	4
Warning	7
Caution	14
Reprimand	4
Reduction in pay not exceeding 2 weeks' pay	3
Reduction in pay not exceeding 4 weeks' pay	1
TOTAL SANCTIONS	62

In addition to the above outcomes, which were findings in relation to the behaviour of individual gardaí, some disciplinary 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 Chapter 14 for details.

Time Taken to Close Investigations

In 2022, the median time taken to conclude each category of investigations increased compared to figures to close investigation's in 2021. Chart 7 shows the median time it took to close cases by type by the end of 2022.

Criminal investigations

At the end of 2022, the median time to close criminal investigations was **366** days, an increase of 55 days on the 2021 figure of 311.

Unsupervised and supervised disciplinary investigations

Unsupervised disciplinary investigations are undertaken by An Garda Síochána Investigating Officers (GSIOs). The protocols between the An Garda Síochána and GSOC provide that unsupervised disciplinary investigations must be completed and an investigation report must be provided with 16 weeks / 114 days. The median duration of such investigations at the end of 2022 was **250** days, an increase of 51 days compared to 2021.

Supervised disciplinary investigations are undertaken by Garda Síochána Investigating Officers supervised by GSOC investigations officers. The protocols between the Garda

Síochána and GSOC provide that supervised disciplinary investigations must be completed and an investigation report must be provided with 20 weeks / 140 days. The median duration for such investigations in 2022 was **336** days, an increase of 48 days on 2021.

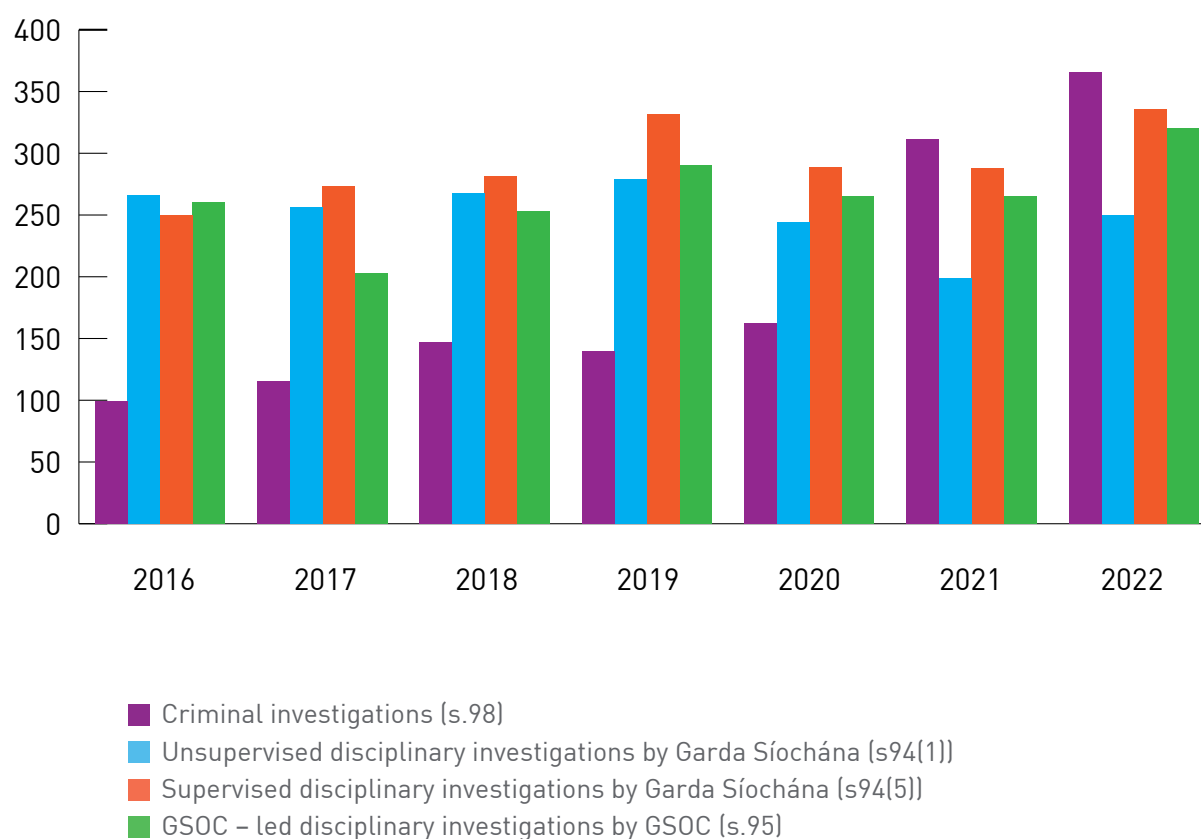
GSOC-led disciplinary investigations

Non-criminal investigations by GSOC may, under section 95 of the Act, be undertaken by the GSOC's own investigators. The median duration of such investigations are **320** days which is an increase of 55 days on the 2021 figure of 265.

Table F: Median Closure Time

	2016	2017	2018	2019	2020	2021	2022
Criminal investigation (s.98)	99	115	147	140	162	311	366
Unsupervised disciplinary investigations by Garda Síochána (s94(1))	266	256	268	279	244	199	250
Supervised disciplinary investigations by Garda Síochána (s94(5))	250	273	281	332	289	288	336
GSOC-led disciplinary investigations by GSOC (s.95)	260	203	253	290	265	265	320

Chart 7: Median Time Taken to Close Investigations (in days)



Investigations on Foot of Complaints: 2022 Case Studies

Investigations on foot of complaints: examples where sanctions resulted

CASE STUDY 1

A Garda member was found in breach of discipline for his actions when dealing with a group of young men who were contravening COVID-19 restrictions.

A man made a complaint to GSOC after he and his friends were approached by a number of Gardaí when COVID-19 restrictions were in place. The complainant alleged one Garda member singled him out of the group, was confrontational towards him and threatened arrest by waving handcuffs in his face. The complainant subsequently received a fixed penalty notice from the Garda member concerned, however, his friends did not. The complainant tried to contact the Garda on a number of occasions, who allegedly failed to return any of his calls.

An unsupervised Garda disciplinary investigation was commenced under s94(1) of the Act. The investigation established that the Garda member was confrontational and discourteous towards the group. The Garda member was found in breach of discipline for abuse of authority and discourtesy, and sanctioned by way of advice.

CASE STUDY 2

A woman reported to An Garda Síochána that her ex-partner had breached a protection order on numerous occasions, and furnished her phone to the investigating Garda member for the purpose of analysis. She complained to GSOC that the investigating Garda member failed to investigate the alleged breaches.

A GSOC investigator was appointed to undertake a GSOC-led disciplinary investigation under section 95 of the Act.

GSOC assessed the complainant as being particularly vulnerable owing to her circumstances, and owing to her expression of considerable fear and anxiety at the prospect of travelling to participate in an interview. She also had a disability that affected her mobility. In light of these circumstances GSOC investigators arranged to collect her and convey her to GSOC headquarters, in the company of her social care worker, so an interview could be conducted.

GSOC also interviewed the investigating Garda member who was the subject of the complaint.

GSOC's investigation established that the complainant had reported numerous breaches of the protection order to various Garda stations around the Dublin Metropolitan Region. The investigation established that the investigating Garda member in question had not had the phone analysed, and had not stored it appropriately.

At the conclusion of the investigation, GSOC recommended that proceedings be brought by Garda Management for breach of the Garda Discipline Regulations (neglect of duty). The Garda member was sanctioned by way of a caution.

CASE STUDY 3

A man complained to GSOC alleging a Garda member had accessed and disclosed personal details involving him to a third party. The complainant alleged that the disclosure of information resulted in his getting verbally abused in public.

The complaint was admitted and an unsupervised Garda disciplinary investigation was initiated under s94(1) of the Act. The investigation established that the Garda member had accessed the complainant's PULSE record without sufficient cause, resulting in an organisational data breach and a notification to the Data Protection Commissioner. The investigation did not establish that the Garda member disclosed the information to a third party.

On completion of the unsupervised investigation, the member was found in breach of Garda Discipline Regulations (discreditable conduct) for inappropriately accessing the complainant's PULSE record, and sanctioned by way of a warning.

CASE STUDY 4

A member of the public received a summons for a public order offence. They made a complaint to GSOC alleging that until the receipt of the summons, they were unaware that they had been the subject of a Garda investigation. It was alleged that the Garda member investigating the public order offence failed to put the accusation to the complainant, not affording them the opportunity to give their version of events.

An unsupervised Garda Disciplinary investigation was commenced under section 94(1) of the Act.

The investigation established that the Garda member concerned did not prepare an investigation file in advance of the prosecution of the complainant. It was also established that, while the Garda made a number of unsuccessful attempts to contact the complainant, he ultimately did not put the allegation to the complainant prior to commencing the prosecution, something that should have been an integral aspect of the investigation.

The Garda member was found in breach of Garda Discipline Regulations for failure to prepare an investigation file and for failing to give the complainant an opportunity to give their account of events. He was sanctioned by way of advice.

CASE STUDY 5

GSOC received a complaint from a member of the public alleging failure on the part of a Garda member to investigate.

The complainant alleged that after making two separate reports of criminal property damage, Gardaí did not take a statement, and failed to investigate the incidents or arrest a suspect.

An unsupervised Garda disciplinary investigation was commenced under section 94(1) of the Act.

The investigation established that the Garda member failed to obtain a statement from the complainant. It was established that some investigative steps were progressed by the member, including the retrieval of CCTV evidence, which did not clearly identify the suspect.

The Garda member was found to be in breach of Garda Discipline Regulations for failing to adequately investigate a complaint. The member was sanctioned by way of a caution.

CASE STUDY 6

A member of the public made a complaint to GSOC, alleging that a uniformed Garda member assaulted him in the street, pushing him to the ground and causing him injury.

GSOC commenced a criminal investigation pursuant to section 98 of the Act.

GSOC investigators took statements from the complainant and witnesses. CCTV footage of the incident was retrieved and analysed. GSOC also interviewed the accused Garda member under caution. The accused Garda member confirmed his identity and accounted for his actions, which he indicated were in self-defence, and in the context of discharging his duty under the Public Order Act.

GSOC investigators found that while force had been used by the Garda member, the CCTV footage did not bear out the detail provided to GSOC by the complainant and witness. GSOC concluded that the Garda's actions did not meet the threshold of an offence of assault, but that it may have amounted to the use of excessive force, in breach of the Garda Síochána Discipline Regulations.

GSOC therefore commenced a GSOC-led disciplinary investigation pursuant to section 95 of the Act. At the conclusion of this investigation, GSOC recommended that proceedings be brought by Garda Management for abuse of authority owing to use of unnecessary violence. Garda Management conducted a review of the matter, and agreed with GSOC's recommendation. The Garda member was found in breach of Garda Síochána Discipline Regulations for abuse of authority, and was issued with a temporary reduction in pay.

Investigations on foot of complaints: examples where cases were closed owing to lack of evidence, lack of engagement, withdrawal of complaint, or a finding that no misconduct arose

CASE STUDY 7

A member of the public alleged that armed Garda members assaulted his sister and brother during the search and seizure of a vehicle and their subsequent arrest.

GSOC commenced a criminal investigation into the matter under section 98 of the Act.

An account was taken from the complainant, who witnessed the incident. The complainant alleged that the actions of the Gardaí were unwarranted and overzealous, and had caused emotional and mental distress. CCTV footage was also obtained and reviewed.

GSOC interviewed the Garda members concerned. Garda accounts indicated that the members were responding to a call of dangerous driving, had questioned the driver with regard to alcohol consumption, and informed her that her vehicle would be seized as it was not displaying a current tax disc. Garda accounts indicated that at this point she became verbally abusive and aggressive towards the members, and they informed her that she was being placed under arrest. She immediately resisted alongside her brother (not the complainant), who allegedly bit a Garda member on his finger. Garda members advised GSOC that the two individuals failed to comply with orders to desist, and that a Garda member used his baton and pepper spray to effect the arrest.

GSOC's investigation concluded that the level of force used when effecting the arrest was appropriate and proportionate. The investigation found no evidence of any crime having been committed, nor of breaches of the Garda Discipline Regulations. GSOC discontinued the case, and it was closed.

CASE STUDY 8

Garda members attended the home of the complainant to execute a search warrant as part of a criminal investigation.

During the course of the search, Garda members seized a number of items, including documentation of a personal nature belonging to the complainant. At the conclusion of the search, the Garda seizing the documents informed the complainant of the items that were being seized, and did so within earshot of a family member of the complainant's. The complainant alleged that this constituted an unlawful disclosure of information which caused a harmful effect.

GSOC opened a criminal investigation under section 98 of the Act.

GSOC found that the seizure of the documents was relevant and necessary for the Garda investigation. With regard to the Garda member informing the complainant of the items that were being seized, GSOC found no evidence that the Garda member had intended to disclose the complainant's personal information to others present, and that the exchange had been limited to confirming the ownership of the documents.

GSOC found there was insufficient evidence of an offence having been committed by the Garda member, and identified no issues relating to Garda discipline that required further examination.

CASE STUDY 9

A member of the public made a complaint to GSOC after the search of their home by members of An Garda Síochána.

The complainant alleged that nine Garda members entered the home to execute a search warrant. However, the complainant pointed out to the Garda members that it was the wrong address; the search warrant identified a different residence. The Garda members then left.

An unsupervised Garda Disciplinary investigation was commenced under section 94(1) of the Act.

The appointed Garda Síochána Investigating Officer, a Superintendent, met with the complainant and explained that Garda members identified the home in error, and that this had been the result of an honest mistake.

The complainant was satisfied with the explanation and an undertaking by An Garda Síochána that the members concerned would be informed of the error, and that measures would be put in place to ensure that it would not occur again. The complainant withdrew the complaint, and the matter was closed.

CASE STUDY 10

A member of the public made a complaint to GSOC regarding Garda use of force against him during an arrest. This was alleged to have included throwing him to the ground, pepper spraying him, and dragging him while handcuffed, causing back, chest and hand pain.

GSOC commenced a criminal investigation under section 98 of the Act.

The investigation established that Garda members attended a bar in the early hours of the morning where the complainant was alleged to have been engaging in aggressive behaviour with staff, who ejected him from the premises. Garda members attended the scene, arrested him and charged him with intoxication in a public place and violent and threatening or abusive behaviour to provoke a breach of the peace.

The Garda members declined to submit accounts to GSOC investigators. However, their notebooks were provided. These documented the arrest, and accounted for the use of force, including the use of pepper spray and handcuffs, with reference to the level of resistance displayed by the complainant.

While bar staff confirmed that the complainant was involved in an incident in the bar, they did not witness the arrest. No further witnesses to the arrest were identified, and there was no CCTV footage available from the scene.

Owing to lack of further evidence, the investigation was concluded and the matter discontinued pursuant to section 93 of the Act.

CASE STUDY 11

A member of the public made a complaint to GSOC alleging Garda members punched and verbally abused him while arresting him for a public order offence. It was further alleged that Gardaí failed to give him notice of his rights, and failed to return property to him on release from custody.

GSOC initiated a criminal investigation under section 98 of the Act.

The Garda members involved in the arrest gave accounts to GSOC investigators of the arrest, and denied the accusations made by the complainant. There was no CCTV evidence of the arrest, nor of the complainant being released from custody. There was no medical evidence of injury.

The investigation established that the Garda station's custody record displayed the complainant's signature, confirming that he was given notice of his rights. The custody record also noted that the complainant's property was returned to him, though this record was not signed by the complainant.

The GSOC investigation found that there was insufficient evidence to uphold the complainant's allegations. The matter was concluded and the case closed.

CASE STUDY 12

A complainant alleged that he was rammed by a Garda vehicle while they were attempting to pull him over. He further alleged that a Garda member used their baton both to break the car windshield, and to physically assault him while arresting him.

GSOC commenced a criminal investigation under section 98 of the Act.

The Garda members involved in the incident provided notebook entries and detailed accounts of their actions, including their use of force in effecting the arrest of the complainant, who they alleged was driving erratically, appeared under the influence of drugs, and was actively resistant once stopped.

The impact between the vehicles had been investigated and a detailed road traffic accident report had been completed. The report, along with a map and photographs taken by the Garda accident investigator, were provided to GSOC. GSOC investigators also reviewed the location of the incident.

There was no CCTV footage of the incident, nor any independent witnesses. CCTV of the Garda station to which the complainant was conveyed was obtained and reviewed, showing no evidence of misconduct.

The investigation found that the two Garda members involved in the traffic stop appeared to have acted in a lawful and proportionate manner when dealing with the complainant. The investigation found no evidence to corroborate the complainant's allegations, and that further investigation was not reasonably practical. The case was discontinued further to section 93 of the Act.

CASE STUDY 13

A member of the public alleged that following a disagreement with a taxi driver, the driver drove to a Garda station to seek assistance. The complainant alleges that the Garda arrested him, using excessive force. The complainant was given an adult caution in relation to public order offences.

GSOC commenced a criminal investigation under Section 98 of the Act.

The members gave a full account of their actions to GSOC, indicating that the complainant was aggressive and appeared intoxicated to the extent that he was a danger to himself and others.

GSOC reviewed footage that had been recorded by the complainant at the time of the incident on his mobile phone. The footage gave a well-rounded image of events leading to the arrest, and revealed no misconduct on the part of Garda members. CCTV from inside the Garda station was reviewed, and showed that no assault had taken place.

Evidence indicated that Garda members acted appropriately and proportionately, and the case was closed.

10 INVESTIGATIONS ON REFERRAL UNDER S102 (DEATH OR SERIOUS HARM)

10. INVESTIGATIONS ON REFERRAL UNDER S102 (DEATH OR SERIOUS HARM)

When is a Referral made to GSOC by An Garda Síochána?

Section 102 of the Act provides for independent investigation of 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. The provision forms an important element of the State's framework for the guarantee of compliance with its obligations under Article 2 and 3 of the European Convention on Human Rights.

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.

How GSOC Investigates matters under Section 102

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

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

If there has been a fatality, there must be particular consideration given to the State's obligation 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 An Garda Síochána, perform their functions "in a manner compatible with the State's obligations under the convention provisions".

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

- Independence
- Adequacy
- Promptness
- Public scrutiny
- Victim involvement.

These principles are at the heart of GSOC's approach to investigating fatalities.

Referrals Received in 2022

GSOC received **41** referrals under this section in 2022, compared with 59 in 2021, and 43 in 2020.

Seventeen (**17**) of the referrals received in 2022 related to fatalities. A breakdown of the circumstances is below.

Chart 8: Circumstances of Referrals [Total Referrals Received: 41]

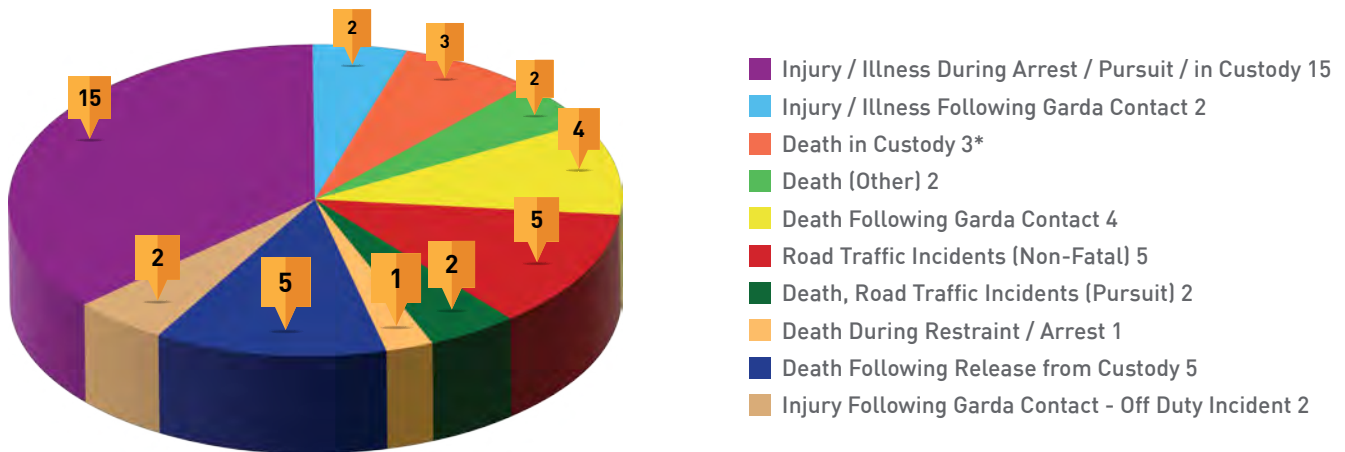
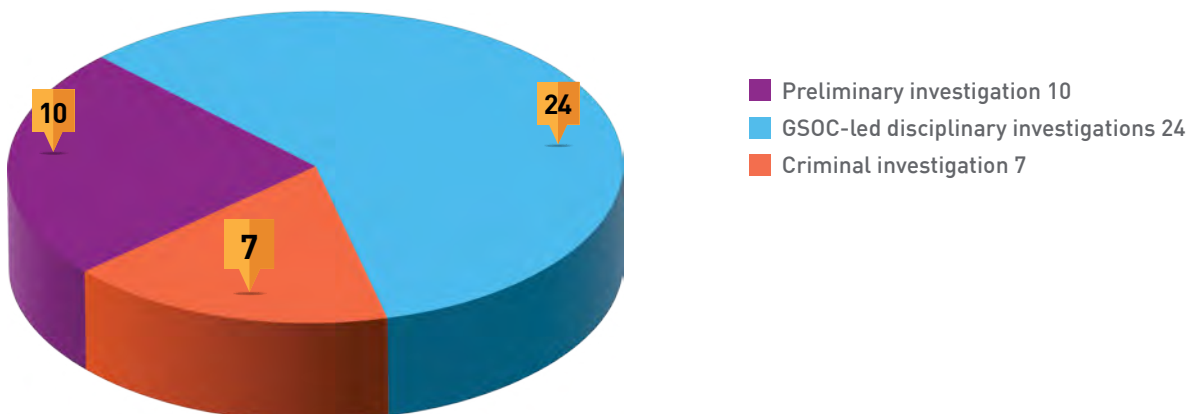


Chart 9: Investigation Types in Referrals (Total Referrals Received: 41)



Investigations Following Referrals Completed in 2022

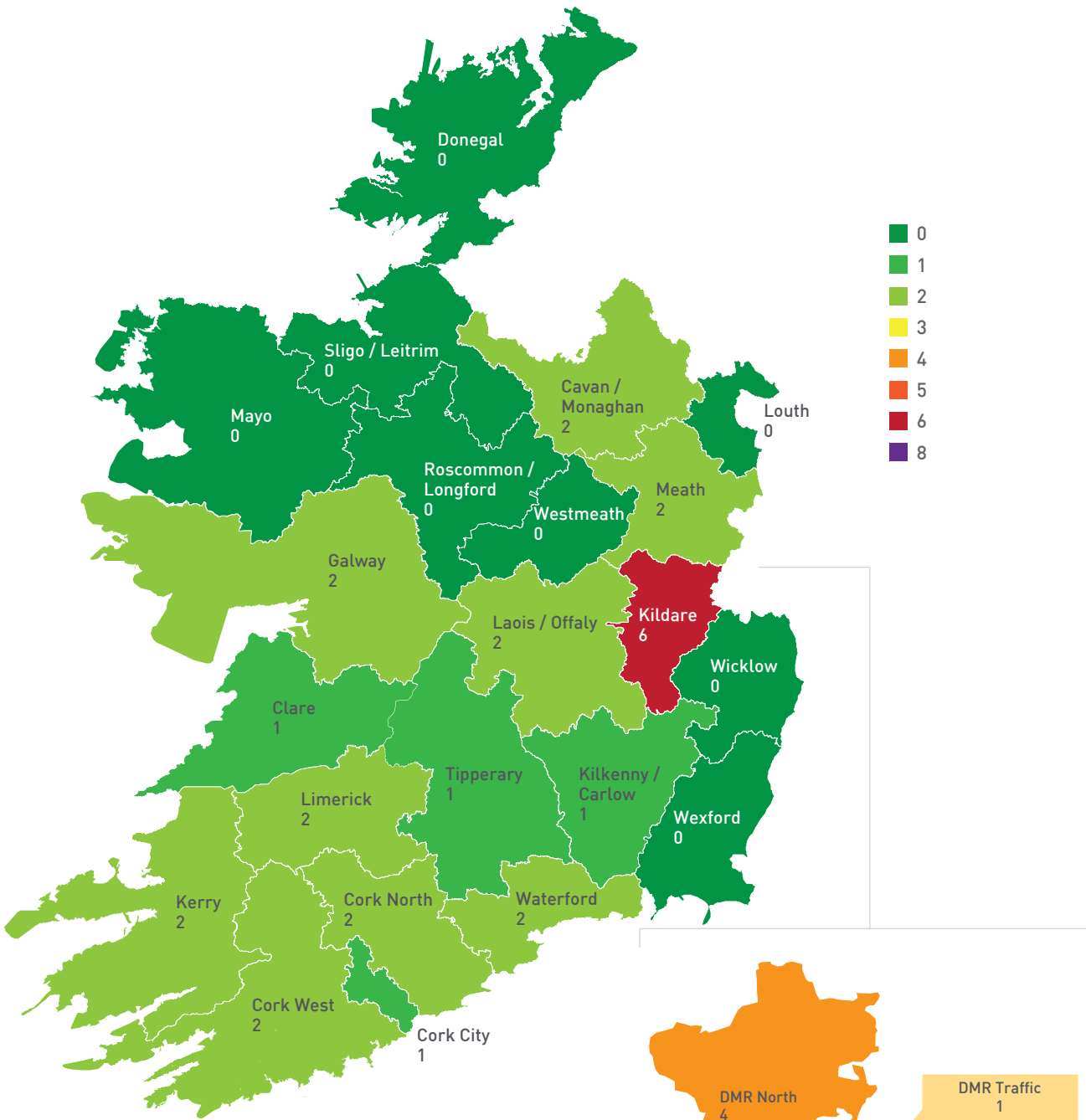
A total of 48 investigations arising from referrals were closed in 2022.

Table G: Types of investigation and their outcomes (investigations closed in 2022)

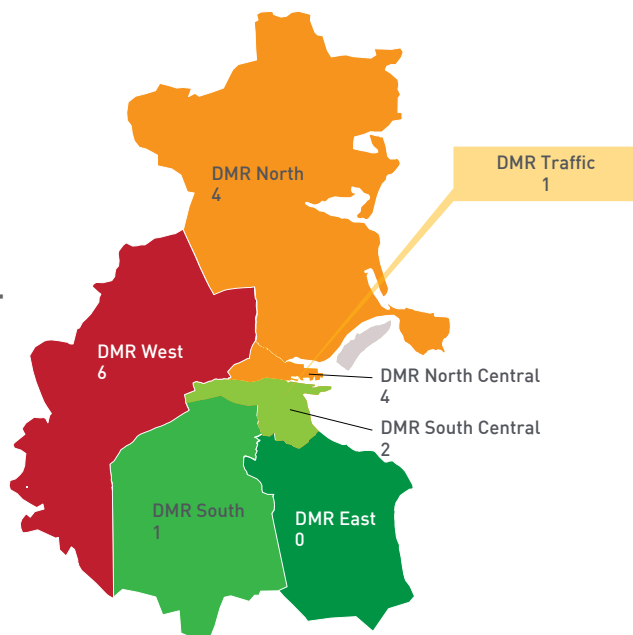
Type of investigation and outcome	Cases
Case closed after initial examination showed no evidence of misbehaviour or criminality by a Garda	3
Non-criminal investigation undertaken and concluded, finding no evidence of misbehaviour by a Garda – no further action taken	28
Non-criminal investigation undertaken and concluded, finding no evidence of misbehaviour by a Garda – systemic recommendation(s) ⁴ issued (for more information go to Chapter 14)	4
Non-criminal investigation undertaken and concluded – Garda discipline regulations no longer apply to member	0
Non-criminal investigation undertaken and concluded – sanction applied by the Garda Commissioner	1
Non-criminal investigation undertaken and concluded – no sanction applied by the Garda Commissioner	4
Criminal investigations undertaken and concluded, finding insufficient evidence of criminal misconduct by a Garda – no further action taken	4
Criminal investigation undertaken and concluded- referred to the DPP – prosecution directed	1
Criminal investigation undertaken and concluded- referred to the DPP – no prosecution directed	1
Case discontinued and public interest investigation initiated	1
Case discontinued	1
TOTAL	48

4. Systemic Recommendations are recommendations that GSOC makes to the Garda Commissioner to recommend changes in systems of processes.

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



Map 4: Referrals by Garda Division – Dublin Metropolitan Region



Investigation Following Referral: 2022 Case Studies

CASE STUDY 14

A Garda superintendent made a referral to GSOC under section 102 of the Act after a vehicle being pursued by an unmarked Garda car collided with a member of the public. The member of the public sustained life-threatening injuries from which they later recovered.

The vehicle came to the attention of Garda members prior to the collision, and they attempted to stop it. When the vehicle failed to stop, the unmarked Garda car pursued the vehicle, activating blue lights. The vehicle under pursuit dangerously entered a roundabout on the wrong side, colliding with the member of the public.

A GSOC-led disciplinary investigation was initiated under section 95 of the Act. GSOC's investigation established that the Garda member driving the unmarked car held a CBD1 driving qualification. This qualification places significant restrictions on a Garda driver, and in particular does not permit vehicle pursuit or the use of blue lights. In addition, the investigation established that the member did not seek, nor was he given, authorisation from a Garda Controller to commence or continue the pursuit. Such authorisation is required by the relevant Garda procedures.

GSOC prepared a report, recommending that disciplinary proceedings should be instituted against the Garda member for discreditable conduct. The report was furnished to Garda Management, who convened a Board of Enquiry. On foot of the Board of Enquiry, Garda Management took no further action against the member.

CASE STUDY 15

GSOC received a referral from a Garda Superintendent under section 102 of the Act reporting a fatal road traffic collision. A motorist came to the attention of a Garda patrol car attached to the roads policing section. The patrol car followed the motorist at a safe distance.

Neither sirens or lights were activated by the Garda member. The Garda came upon the suspect vehicle a short while later; it had collided with the central barrier on a motorway. No other vehicles were involved in the collision. The driver of the suspect vehicle was deceased.

GSOC conducted an examination pursuant to section 91 of the Act, and subsequently completed a GSOC-led investigation under section 95 of the Act. CCTV evidence was obtained from the locality, along with the statements of a number of witnesses, and emergency services personnel. The Garda member concerned cooperated fully with GSOC's investigation. GSOC liaised with a number of departments within An Garda Síochána, and secured material from them to assist the investigation.

GSOC found that there was no evidence of any breach of the Garda discipline regulations by the member.

The inquest into the death returned a verdict of death caused by injuries consistent with a road traffic collision. Throughout the investigation, GSOC had maintained contact with the deceased's next of kin, and kept her abreast of developments. During the inquest proceedings she expressed her appreciation for GSOC's work, and for its engagement with her.

11. INVESTIGATIONS IN THE PUBLIC INTEREST

The Garda Síochána Act, 2005 provides for GSOC to undertake investigations in the public interest. Such investigations can commence a number of ways.

GSOC-initiated public interest investigations (Section 102(4))

On occasion, suspected misconduct by a Garda or Gardaí comes to the attention of GSOC outside of the usual complaints or referrals processes. Such matters can come to the attention of GSOC, for example, via media reports, or via details contained in an otherwise inadmissible complaint. On such occasions, GSOC has the power to commence an investigation in the public interest where it appears that the conduct of a member of the Garda Síochána of the Garda Síochána may have committed an offence, or that their behaviour may justify disciplinary proceedings.

Minister-initiated public interest investigations (Section 102(5))

The Minister for Justice can refer any matter to GSOC concerning the conduct of a member of the Garda Síochána, and GSOC will investigate it. This includes referrals made to GSOC under the Independent Review Mechanism (IRM) established by the Minister in 2014. A total of 21 referrals were received by the Minister between 2015 and 2016 and the remaining two investigations were closed in 2022.

Public interest investigations on request of Policing Authority or Minister (Section 102 (7))

Both the Policing Authority and the Minister may refer a matter to GSOC to consider whether it should investigate it in the public interest.

Public interest investigations closed and commenced in 2022

Seventeen **(17)** public interest investigations were opened in 2022 while **20** were closed. The closed investigations included some commenced in previous years.

There were no requests made to GSOC to investigate a matter in the public interest under Section 102(5). There were no public interest investigations opened following a referral from the Minister for Justice under Section 102(7).

GSOC public interest investigations opened in 2022 included allegations of assault, discharging a firearm, unlawful disclosure of information, and failure to investigate allegations of sexual assault on a minor.

Overview of circumstances and outcomes of public interest cases closed in 2022

Public Interest Case 1

A public interest investigation was opened by GSOC relating to the alleged provision by a Garda member of false information during the trial of a man suspected of child defilement. The false information related to an inaccurate recording of arrest dates in the Garda member's notebook. The Garda member was unable to provide any rationale for this inaccuracy, and the Court quashed the charges made against the man. GSOC opened a criminal investigation and a file was prepared for the Director of Public Prosecution (DPP), who directed no prosecution of the Garda member. GSOC identified possible breaches of discipline and a GSOC-led disciplinary investigation under Section 95 of the Act was opened. A report was prepared for the Garda Commissioner outlining breaches of the Garda Discipline Regulations. Garda Management convened a board of inquiry and the relevant Garda member was found in breach of discipline on two counts of discreditable conduct. The member was sanctioned with a reduction in pay.

Public Interest Case 2

A complaint was received by GSOC following allegations of elder abuse by a member of An Garda Síochána. GSOC opened a criminal investigation into the allegations. The alleged victim gave an account to GSOC indicating that the allegations were unfounded. There was no evidence to support the allegations and the investigation was closed.

Public Interest Case 3

A complaint was received on behalf of a young person, a minor, who alleged that during their arrest, a Garda member assaulted them with a baton. A criminal investigation was opened by GSOC. GSOC was unable to identify any independent witnesses to the assault, and the complainant declined to cooperate with the investigation. The investigation was discontinued.

Public Interest Case 4

GSOC received a complaint after a man witnessed an alleged assault on a family member by a Garda member. The family member died a number of weeks later. A GSOC public interest criminal investigation was initiated to establish if the assault and subsequent death were linked. During the investigation, GSOC obtained Garda accounts, CCTV footage and medical records. The investigation established that there was to link between the alleged assault and the death. The investigation was closed.

Public Interest Case 5

GSOC initiated an investigation in the public interest on foot of information received from An Garda Síochána detailing the loss of a sum of nearly €13,000 from a Garda station. The money had been seized after the search of a home. A criminal investigation was opened by GSOC. Garda accounts were taken and CCTV footage was reviewed. The evidence bag, containing the full sum of money, was subsequently discovered in the station armoury. The criminal investigation was closed, however GSOC identified possible breaches of discipline and a GSOC-led disciplinary investigation under Section 95 of the Act was opened. A report was prepared for the Garda Commissioner outlining a number of breaches. Garda Management found the Garda member in breach of discipline for neglect of duty for failing to properly store and record property, as outlined in the Property and Exhibits Management System policy. The member was sanctioned by way of a caution.

Public Interest Case 6

GSOC initiated an investigation in the public interest on foot of media reports that a Garda recruit was arrested after driving while intoxicated. After identifying possible breaches of discipline GSOC opened a disciplinary investigation under Section 95 of the Act. The investigation established that the off-duty Garda recruit had been stopped by a Garda patrol car for driving under the influence. The patrol car dropped the Garda recruit home instead of driving him back to the Garda station to be processed. GSOC identified seven members in possible breach of discipline for neglect of duty, bringing discredit upon An Garda Síochána, carrying an unauthorised person in official vehicles and failure to enforce drink driving laws. A report was prepared for the Garda Commissioner outlining the breaches. Garda Management found four Garda members in breach of Garda discipline regulations for neglect of duty. Two were issued a reduction in pay, and two were cautioned.

Public Interest Case 7

GSOC initiated an investigation in the public interest on foot of information received from An Garda Síochána. The information suggested that an off-duty Garda member was involved in a road traffic collision and did not remain at the scene, instead driving home. When Garda members called to his residence, he would not answer the door. It was suspected that he was under the influence of alcohol. GSOC opened a criminal investigation. A file was prepared and forwarded to the Director of Public Prosecutions. The DPP directed a prosecution for failure to remain at the scene of a road traffic accident. At trial, evidence was given indicating that the Garda member took responsibility for the accident the next day, and that a sum for material damage was subsequently paid out by his insurance company. The presiding Judge found that the Garda member had not left the scene to avoid reporting the accident or taking responsibility, but rather to avoid being breathalysed. She found him not guilty of the charges before the Court, but remarked that his handling of the incident was not becoming of a member of An Garda Síochána.

Public Interest Case 8

A public interest investigation was opened following allegations that a bank card was fraudulently used by An Garda Síochána while the complainant was detained in a Garda station. GSOC opened a criminal investigation. Accounts were taken from the staff working in the shop where the fraudulent transactions allegedly took place. Neither these accounts nor CCTV footage identified a perpetrator. The investigation established no evidence to support the allegations, and it was closed.

Public Interest Case 9

GSOC initiated a public interest investigation into the circumstances of an alleged assault on a young person. The person stated he was punched in the face twice by a Garda member when travelling to court from detention. GSOC opened a criminal investigation and arranged specialist interviewers to obtain his account. However, the complainant chose not to engage with the investigation, and it was closed.

Public Interest Case 10

A public interest investigation was opened by GSOC following allegations that a Garda member was harassing a member of the public. The complainant alleged that their personal information had been accessed. GSOC opened a criminal investigation. Inquiries included a review of Garda PULSE records to establish if personal information had been inappropriately accessed. The investigation found no evidence of harassment, or of inappropriate access of personal details, and the investigation was closed.

Public Interest Case 11

GSOC initiated a public interest investigation following receipt of an anonymous complaint detailing alleged incidents of domestic abuse by a Garda member. The complaint also alleged that the Garda member took a bribe from a member of the public, in the form of the provision of home improvement services, in exchange for not pursuing them for drink driving charges. GSOC opened a criminal investigation. GSOC obtained accounts from the various parties in the case, including the Garda's spouse, and the member of the public implicated in the bribery allegation. Neither individual corroborated any of the allegations made to GSOC. There was also no PULSE record of any drink driving matter related to the individuals concerned. The GSOC investigation concluded that there was insufficient evidence to corroborate the complaint, and that it lacked credibility. The investigation was closed.

Public Interest Case 12

GSOC initiated an investigation in the public interest on foot of information received from TUSLA. The information alleged that while a young person was travelling in a stolen car with two other people, both minors, his vehicle was rammed by a Garda vehicle, causing a collision with a tree. After exiting the vehicle, the young person was allegedly assaulted by Garda members. GSOC opened a criminal investigation. GSOC obtained Garda accounts, which indicated that the stolen vehicle, containing three young people, had failed to stop at a Garda check point. Garda members pursued the vehicle signalling them to pull over and the vehicle continued to drive dangerously. Garda accounts claimed that it was the Garda car that had been rammed. They also denied the allegations of assault. There were no witnesses to the incident, nor CCTV footage to corroborate the allegations. The three occupants of the car did not wish to engage with GSOC, and did not provide medical evidence. In light of the direct contradictions in the accounts given, the lack of independent corroborative evidence, and the lack of engagement by the three alleged victims, the investigation was closed.

Public Interest Case 13

GSOC initiated an investigation in the public interest on foot of information received from An Garda Síochána. The information alleged that a member of the public bribed two Garda members in order to obtain CCTV footage and personal information, leading to the carrying out of an assault. GSOC opened a criminal investigation. GSOC investigators took cautioned statements from the person suspected of offering the bribe, and from the accused Garda members. The person suspected of offering the bribe claimed that a Garda member showed him a picture of the person he was looking for, and later shredded the image. The Garda members both denied sharing any information, though one admitted searching the PULSE system. GSOC examination of the PULSE system confirmed that a search had been made but that no image had been printed. No other evidence was uncovered to corroborate or discount the contradictory accounts of Garda members and the member of the public. There was insufficient evidence to indicate the commission of an offence, and the investigation was closed.

Public Interest Case 14

GSOC initiated an investigation in the public interest on foot of information received from An Garda Síochána. The information alleged a Garda member from the Drug Unit offered a member of the public heroin in the back of the Garda vehicle. GSOC initiated a criminal investigation, however the complainant withdrew their complaint and declined to give a statement. The investigation was therefore closed.

Public Interest Case 15

GSOC initiated an investigation in the public interest on foot of information received from An Garda Síochána. The information contained anonymous correspondence making serious allegations against a senior ranking Garda member. Allegations related to the misuse of influence and to the misappropriation of a large sum of money. GSOC initiated a criminal investigation. Garda members identified in the allegations were interviewed and provided statements. The accused Garda member provided a statement and denied each allegation. Examinations of PULSE were also carried out. The GSOC investigation determined that there was insufficient evidence of either criminal wrongdoing or disciplinary breaches, and the investigation was closed.

Public Interest Case 16

GSOC initiated an investigation in the public interest on foot of information received in anonymous correspondence alleging that a Garda member had assaulted a member of their family. The GSOC investigation established that there was no independent witness evidence, CCTV footage or medical evidence to support the allegations. GSOC also obtained a statement from the alleged victim of the assault, who informed investigators in categorical terms that no such assault had taken place, and that the allegation was false. GSOC found that there was no evidence whatsoever to substantiate the anonymous allegations, and the matter was discontinued.

Public Interest Case 17

GSOC initiated an investigation in the public interest on foot of information received from the Coroner's Office. The information suggested a person was in contact with members of An Garda Síochána a short period prior to their death. GSOC did not receive a referral under section 102 of the Act from An Garda Síochána in this instance. GSOC opened a disciplinary investigation under Section 95 of the Act related to the non-referral of the death. The investigation established that Gardaí had taken the person into custody on foot of a domestic incident in which the person appeared to have been experiencing a mental health emergency. In custody, the person was examined by a doctor, who found that the person was not at risk of self-harm. Gardaí later released the person into the care of their family. The person died by suicide a number of hours later. The relevant Garda member informed GSOC that he did not make a referral, as in his view there was no direct link between the person's death and their interaction with An Garda Síochána. GSOC found no evidence of a breach of discipline, and the investigation was closed.

Public Interest Case 18

GSOC initiated an investigation in the public interest on foot of information received from the Minister for Justice. The information alleged that a Garda member at a checkpoint engaged in inappropriate and aggressive behaviour towards a member of the public. Consideration was given by GSOC to initiating a criminal investigation under Section 98 of the Act, however the alleged summary offences had fallen outside the statutory time limit. Consideration was also given by GSOC to the initiation of a disciplinary investigation, however it was established that An Garda Síochána had already conducted a disciplinary investigation, finding the member in breach of Garda Disciplinary Regulations. In light of these facts, GSOC was precluded by statute from taking any further action, and the investigation was closed.

Public Interest Case 19

GSOC initiated an investigation in the public interest on foot of information received from the Minister for Justice under the Independent Review Mechanism (IRM). The information suggested that Garda members failed to act when contacted by a concerned family about the welfare of a relative who was experiencing mental health issues, and who later died. GSOC opened a disciplinary investigation under section 95 of the Act.

The investigation established that a family contacted An Garda Síochána following the voluntary discharge of a relative from hospital in the company of another person. The family was eager to find their relative's whereabouts and sought assistance from both their local and district Garda stations. Garda members allegedly told the family that they had identified the person with whom the relative had left hospital, and that they would search the address. The relative was subsequently found deceased at this address.

GSOC examination of PULSE confirmed that no search had been carried out by any Garda member to identify the address. Phone records confirm a call from the family was received by the station, but was not acted upon. Accounts were taken from Garda members on duty and none could account for the omission. While GSOC's investigation identified a number systemic issues that may have contributed to the failures, it did not find evidence of misconduct by a particular Garda member. The investigation was closed.

Public Interest Case 20

GSOC initiated an investigation in the public interest on foot of information received from the Minister of Justice under the Independent Review Mechanism (IRM). The member of the public alleged he was given false assurances from Garda members he could enter the witness protection programme in exchange for his witness account in a murder investigation.

GSOC opened a disciplinary investigation under section 95 of the Act. GSOC took an account from the complainant, who stated that he gave evidence to Garda members on foot of assurances, and aside from one follow-up interaction, never heard from them again. Information obtained from An Garda Síochána revealed that consideration had been given to include the complainant in the programme, but he did not meet the criteria.

The GSOC investigation established there was insufficient evidence to indicate any breaches of discipline, and the investigation was closed.

A photograph showing two women in conversation. The woman on the right, with brown hair and wearing a white textured sweater, is gesturing with her hands as if speaking. The woman on the left, with long dark hair and wearing a red sweater, is seen from the back, writing in a white notebook with a pen. A dark red horizontal bar with white text is overlaid on the middle of the image.

12 LOCAL INTERVENTION

12. LOCAL INTERVENTION

GSOC's Local Intervention (LI) process ran for its fourth year in 2022. This process seeks to resolve some complaints to GSOC locally and without the need for a formal investigation.

The Local Intervention initiative proved very successful in 2022. Over the course of the year, GSOC referred a total of 228 cases for local intervention, a slight increase on 2021's figure of 220. A total of 148 cases were resolved, including some carried over from the previous calendar year. At year-end, 65 local intervention cases remained on-hand.

Table H: Outcomes under the Local Intervention Process 2022

Local Intervention	No. of Cases 2022	Number of Cases 2021
Referred by GSOC for Local Intervention	228	220
Resolved/closed following LI process	148**	178*
Closed without intervention, typically where complainant did not engage or withdrew their complaint	5*	9*
Referred back to GSOC for admissibility decision	54**	70*
Still with Garda inspectors at year end	65	40

*Figure includes cases that had been referred to in previous calendar year

**Figure includes cases that had been referred to in previous two calendar years

Impact

As the above table shows, a significant proportion of cases that were forwarded to the nominated Garda inspectors are resolved or closed following local intervention. From a complainants' perspective, the LI approach allows their complaints to be addressed and resolved quickly – usually in a matter of days or weeks, rather than on a timescale of months, had their complaints been admitted for formal unsupervised investigation.

As the focus of Local Intervention is resolution, rather than formal investigation of disciplinary breaches, it also can lend itself to a more satisfactory outcome. At the end of a formal investigation, whether or not the Garda who is the subject of the complaint of is found in breach of discipline, complainants are unlikely to have had their specific complaint 'resolved'. Local Intervention has 'resolution' as its primary aim.

HOW LOCAL INTERVENTION WORKS

All cases received by GSOC are recorded initially on the case management system (CMS) as 'queries', and are not upgraded to complaints until there is sufficient information available for an admissibility determination. The Local Intervention process engages at the 'query' stage, before an admissibility decision is made.

- When a complaint is received, GSOC decides whether or not the matter is suitable for Local Intervention. Only service-level issues are considered for local intervention

Examples include:

- Poor quality or standard of service
 - Inefficient or no service
 - Incivility/impoliteness/rudeness
 - Lack of communications or response
- If GSOC is of the view that the complaint is suitable for LI, GSOC contacts the person making the complaint, explains the LI process and asks if the person will consent to having the matter dealt with in this way.
 - If the complainant consents, GSOC refers the matter to a nominated Garda Inspector who manages the process on behalf of the Garda Síochána. If the person does not consent, GSOC will proceed to assess the complaint for admissibility, per the standard process.
 - The nominated Garda Inspector contacts the complainant by phone to identify what actions or outcomes he/she is seeking to achieve. Typically, the Inspector then has a discussion with the Garda member concerned to explore what may have led to the issue. The process is not about apportioning blame, it is about addressing the issue raised and learning from what has happened in order to prevent a reoccurrence. The inspector contacts the complainant again to advise on the action taken to address the matter. If the complainant is satisfied with the response, the inspector notifies GSOC and GSOC confirms with the complainant that he or she is satisfied. GSOC then closes the file. If the attempts to resolve the matter through LI are unsuccessful, the complaint is referred back to GSOC which decides if the complaint should be admitted for investigation.

Local Intervention: 2022 Case Studies

CASE STUDY 16

The complainant alleged that they had not had any follow up from Gardaí regarding an investigation relating to their child. The complainant stated that the investigating Garda told them that the Gardaí were awaiting certain documents before they could proceed further. The complainant alleged that despite numerous attempts to contact the investigating Garda, they had not received any response. The complainant agreed to try Local Intervention. The Inspector liaised with the complainant and the relevant Garda members. After this, the complainant was satisfied that the investigation was progressing, and the matter was resolved to the complainant's satisfaction.

CASE STUDY 17

The complainant stated that they were treated discourteously by an unidentified Garda member while at a checkpoint. The complainant agreed to try Local Intervention. Once the Garda concerned was identified by the Local Intervention Inspector, the Inspector spoke with the Garda, explained the impact their interaction had on the complainant, and the Garda apologised for the upset he caused her. The complainant accepted the Garda's apology and the matter was resolved to the complainant's satisfaction.



Number 20 of 2005

GARDA SÍOCHÁN

13 GSOC'S LEGAL UNIT: ENGAGING WITH THE COURTS

13. GSOC'S LEGAL UNIT: ENGAGING WITH THE COURTS

Legal Activity Following Criminal Investigation

As outlined in previous sections, GSOC conducts criminal investigations on foot of both complaints and referrals, as well as in the context of public investigations.

On completion of a criminal investigation, if GSOC is of opinion that the conduct under investigation may constitute an offence, a file is prepared and sent to the Office of Public Prosecution (DPP).

Where there has been a death in Garda custody or where a person has died following interaction with Gardaí, and GSOC has carried out a criminal investigation, GSOC may send a file to the DPP in order to comply with its obligations under Article 2 of the European Convention on Human Rights. GSOC may also send a file to the DPP when the Ombudsman Commission determines that it is in the public interest to do so.

Section 110 of the Act also creates the offence of providing false or misleading information to the Ombudsman Commission in relation to a complaint or investigation whether by a Garda or a member of the public.

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

DPP directions to prosecute 2022

In 2022, GSOC sent a total of 27 files to the DPP. GSOC received 26 directions from the DPP in 2022. Of these:

- The DPP directed the prosecution of **10** charges arising from investigations submitted to the DPP in 2022 (8) and 2021 (2).
- The DPP directed **16** no prosecution charges from investigations submitted in to the DPP in 2022(12) and 2021(4).

In addition to the above, a further seven directions were pending from the DPP in relation to files sent in 2022.

The below is a breakdown of the offences in the investigations where prosecutions were directed.

- Two counts of Assault causing harm contrary to Section 3 Non-Fatal Offences Against the Person Act, 1997 in respect of one Garda member
- Two counts of Assault contrary to Section 2 of the Non-Fatal Offences Against the Person Act, 1997 (summary charge only) in respect of one Garda member
- Two counts of Assault contrary to Section 2 of the Non-Fatal Offences Against the Person Act, 1997 (summary charge only) in respect of one Garda member
- One count contrary to Section 112 of the Road Traffic Act, 1961 as amended (summary disposal) in respect of one Garda member
- One count of theft contrary to Section 4 Criminal Justice (Theft and Fraud Offences) Act, 2001(summary disposal) in respect of one Garda member
- One count of Assault contrary to Section 2 of the Non-Fatal Offences Against the Person Act, 1997 (summary charge only) in respect of one Garda member
- One count of assault causing harm contrary to Section 3 Non-Fatal Offences Against the Person Act, 1997 in respect of one Garda member
- One count of Assault causing harm contrary to Section 3 Non-Fatal Offences Against the Person Act, 1997 (summary disposal) in respect of one Garda member
- One count of Assault causing harm contrary to Section 3 Non-Fatal Offences Against the Person Act, 1997 (summary disposal) in respect of one Garda member
- One count under Section 12 of Criminal Law Act, 1976 (summary disposal) in respect of one Garda member

Criminal cases decided in court 2022

The number of criminal cases concluded in 2022 consisted of seven cases. Of these, five cases were dismissed, one case was struck out and in one case the District Court Judge held that the facts of the case were proven without proceeding to a conviction, and applied section 1(1)(ii) of the Probation Act 1907.

In the five cases dismissed by the District Court Judges, the Garda members subject of investigation were charged with the following offences:

- two separate charges of assault contrary to Section 2 of the Non-Fatal Offences Against the Person Act, 1997;
- two separate charges for provision of false or misleading information contrary to Section 110 Garda Síochána Act, 2005;
- a charge contrary to Section 106 (a) (b) and (d) of the Road Traffic Act, 1961.

Two sentencing hearings took place in the District Court in 2022, both arising from summary offences. The Garda members subject of the complaint both entered a plea of guilty to two separate charges of assault contrary to Section 2 of the Non-Fatal Offences Against the Person Act, 1997.

- In the first District Court case, a restorative justice report was prepared and presented at the sentencing hearing. It was noted that the relevant member has paid a sum of €10,000 in compensation to the Injured Party and offered apologies. The member also was considered

and described as a low risk reoffender. In light of this, the case was struck out. See case study 19 below.

- In the second District Court case, following a four-day trial, the Judge held that the facts of the case were proven and applied Section 1(1)(ii) of Probation Act, 1907. The Judge further ordered €2,000 compensation to be paid to the Injured Party, and the relevant Garda to be bound to the peace for two years. See case study 18 below.

Cases pending before courts at end of 2022

Garda members are facing charges currently pending before the courts in **18** separate investigations. Pending offences include:

- Assault contrary to Section 2 of the Non-Fatal Offences Against the Person Act, 1997;
- Assault causing harm contrary to Section 3 of the Non-Fatal Offences Against the Person Act, 1997;
- Section 4 Criminal Law (Rape) (Amendment) Act 1990;
- Section 4 Criminal Justice (Theft and Fraud Offences) Act, 2001;
- Section 12 Criminal Law Act 1976;
- Section 112 of the Road Traffic Act 1961.

Three (3) cases currently pending before the courts involve charges brought against members of the public (complainants) for four separate charges of knowingly providing false and misleading information to GSOC contrary to Section 110 of the Garda Síochána Act, 2005, as amended.

CASE STUDY 18

SECTION 2 NON-FATAL OFFENCES AGAINST THE PERSON ACT, 1997

A woman reported to her local Garda station complaining that her son, a minor, sustained injuries following an assault by an on-duty Garda member. Following a hospital medical assessment, the existence of an injury was confirmed. The Garda station made a referral to GSOC under Section 102 of the Act, and GSOC initiated a criminal investigation under Section 98 of the Act.

GSOC completed an investigative file, which included medical, forensic and witness evidence. GSOC referred the file to the Director of Public Prosecution (DPP). The DPP directed a prosecution for assault contrary to Section 2 of the Non-Fatal Offences against the Person Act, 1997.

During a four-day trial in the District Court, the relevant Garda member entered a guilty plea. The Judge held that the facts of the case were proven and applied Section 1(1)(ii) of Probation Act, 1907. The Judge ordered €2,000 in compensation to be paid to the injured party, and that the Garda member to be bound to the peace for two years.

Non-Party Disclosure

The GSOC Legal Unit also coordinates the non-party disclosure of evidence in criminal proceedings, when requested to do so. This is carried out according to a protocol agreed with the DPP in 2019, available here: <https://www.gardaombudsman.ie/about-gsoc/non-party>.

In 2022, GSOC saw a slight decrease on requests for non-party disclosure, with 128 such files being prepared and issued to the DPP over the course of the year. This compares to 134 files in 2021. GSOC also received 47 non-party disclosure privilege review requests from the DPP.

CASE STUDY 19

SECTION 2 OF THE NON-FATAL OFFENCES AGAINST THE PERSON ACT, 1997

A young person made a statement in a Garda station alleging that he was assaulted by a Garda. He alleged that while walking with friends, a vehicle pulled up beside them. A man got out of the car and assaulted the complainant, knocking him to the ground and punching him twice in the face, before driving away.

Gardaí referred the assault to GSOC under s85 of the Garda Síochána Act, 2005. GSOC commenced a criminal investigation under Section 98 of the Act. A car registration taken during the assault identified an off-duty Garda member as the perpetrator of the assault. Independent witness accounts corroborated the allegations made by the complainant and medical evidence was consistent with his account. A file was referred to the Director of Public Prosecution (DPP). The DPP directed a prosecution for assault, contrary to Section 2 of the Non-Fatal Offences against Person Act, 1997. A trial was scheduled for the District Court.

At the trial in the District Court the Garda member pleaded guilty on full facts. A restorative justice report was prepared and presented at the sentencing hearing. Restorative justice occurs when both the victim of a crime and the offender agree to communicate in relation to what occurred. This is a voluntary process and both parties must agree to it. The communication gives the victim the opportunity to relay to the offender the impact that the crime had on them and provides an opportunity for the offender to acknowledge the wrong they committed and take responsibility for their actions. A report is prepared by an independent person as to the outcome of the communication. This report is then put before the Court.

In the present case, it was noted that the relevant member had paid a sum of €10,000 in compensation to the Injured Party and offered apologies. The member also was considered at low risk of re-offending. The District Court Judge struck out at the matter thus leaving the Garda member without a recorded conviction.

CASE STUDY 20

SECTION 3 NON-FATAL OFFENCES AGAINST THE PERSON ACT, 1997

A Garda member arrested a member of the public for public order offences, and searched him in the Garda station prior to detention. The member in charge in the Garda station witnessed the arresting Garda use an inappropriate level of force against what they felt was a cooperative detainee. The member in charge reported the matter to their line manager.

The Superintendent referred the matter to GSOC under Section 102 of the Act. GSOC commenced a criminal investigation under section 98 of the Act. The investigation established through medical records that the detainee had sustained a collapsed lung and rib fractures in the incident. GSOC also arranged for the arrest of the Garda member, and for their interview under caution.

A file was referred to the Director of Public Prosecution (DPP), who directed prosecution for two counts of assault contrary to Section 3 of the Non-Fatal Offences Against the Person Act, 1997. At trial, the Jury could not reach agreement. A retrial has been ordered and is awaited.

14 INFORMING GARDA POLICY AND PRACTICE

14. INFORMING GARDA POLICY AND PRACTICE

Third National Strategy on Domestic, Sexual & Gender-Based Violence

The Third National Strategy on Domestic, Sexual & Gender-Based Violence was launched in June 2022 alongside an Implementation Plan.

GSOC was pleased to be included as a named agency in the Implementation Plan, with particular reference to our statutory role as an independent agency handling complaints about Garda members, whether related to the adequacy of their response to Domestic Abuse/ Sexual Violence incidents, or to where they are alleged perpetrators. The Implementation Plan also captures GSOC's role in making recommendations in relation to Garda Síochána policy/practice relating to domestic, sexual and gender-based violence, with a view to improving service levels for victims and improving the effectiveness of Garda investigations. The Plan further sets out an expectation that An Garda Síochána will give effect to improvements in policy, practice and training to respond to GSOC's findings and recommendations.

GSOC has actively engaged with the work of the High Level Oversight Board for monitoring the Implementation of the Strategy since its launch, providing relevant updates, and will continue to do so throughout the life of the Strategy.

Systemic Recommendations to An Garda Síochána

During the course of GSOC investigations, we sometimes encounter practices we believe it appropriate to bring to the attention of Garda management.

GSOC believes that highlighting these issues when they arise, and making recommendations to avoid the recurrence of similar incidents, is an important element of oversight. Provision for this was introduced by amendment to the Act in 2015. Recommendations focus on systemic matters of practice and management, rather than on the behaviour of individuals.

The systemic issues highlighted to An Garda Síochána in 2022 are provided in Table I below.

Table I: Systemic Recommendations made to An Garda Síochána by GSOC in 2022

General subject matter	Specific subject matter	Recommendation
Improved monitoring of detainees in Garda custody	Improvements to training and facilities in Garda custody	<p>A Garda Superintendent made a referral to GSOC following the death of a man who had been in their custody.</p> <p>Gardaí had attended a call for assistance following the caller's allegations that her husband had returned home drunk and abusive and was in breach of a Protection Order.</p> <p>The Garda took details of the account provided by the caller in his notebook. It was noted that the husband was alleged to have been drunk and abusive. It was also alleged that the husband had threatened to take his own life, a threat the caller claimed he often made. The Garda recorded that the caller was not concerned for the welfare of her husband.</p> <p>The Garda arrested the man for breaching the Protection Order and he was taken to the local Garda station. He was intoxicated at the time of arrest and placed in a cell. Regular checks were conducted by Gardaí. The man was found unresponsive in his cell later that evening. An ambulance was called and he was brought to the local hospital. The man never regained consciousness, and later died.</p> <p>GSOC conducted an independent investigation of the incident, and found that there had been no breach of Garda Discipline Regulations.</p> <p>In the course of its investigation, GSOC noted that there were no CCTV cameras at the Garda Station, and that it was not equipped with a defibrillator. GSOC further noted that Gardaí did not appear to make note of the medical alert bracelet worn by the detainee.</p> <p>The recommendations issued by GSOC were that An Garda Síochána should:</p> <ul style="list-style-type: none"> → Improve the monitoring of the health, safety and wellbeing of persons in custody → Develop a mandatory training and development programme for those with member in charge and gaoler roles that incorporates all aspects of custody, and includes law and policy, human rights, risk management, vulnerability, diversity, mental health awareness, first aid, use of force in custody, and de-escalation techniques. <p>The recommendations issued by GSOC were that An Garda Síochána should:</p> <ul style="list-style-type: none"> → Develop a strategy for the installation of defibrillators in Garda Stations including appropriate training to all Garda members based in the identified locations → Ensure all Garda members are made aware of the significance of medical alert bracelets.

Risk assessment for self-harm by using PULSE data

Consulting PULSE data relating to detainees' mental health

In 2018, GSOC received a referral under section 102(1) of the Garda Síochána Act from a Superintendent, concerning the death of a person following their release from custody.

The person was found deceased at their home, after family members alerted Gardaí that they could not contact the person. Once the scene was examined, it was determined that there was no trauma or suspicious circumstances relating to the death. Prescription medication was found near the deceased, and the post-mortem established that drugs in the person's system had contributed to their death.

It transpired that the person had crashed their vehicle the evening before. Gardaí and paramedics had attended the scene following the crash, and arrested the person on suspicion of driving a mechanically propelled vehicle whilst unfit to do so.

A paramedic who attended the scene stated that the person was upset, saying they were going to lose their licence, their job and their family.

The person was taken to the Garda station, where a doctor was called to obtain an evidential blood sample. Whilst in custody, the person informed Gardaí that they were on anti-depressants and attending mental health services.

No PULSE check was conducted on the person. When it was consulted, the PULSE system revealed old and recent entries regarding the person's mental health and concerns over their safety.

The doctor who attended the Garda Station revealed that they were not informed of the mental health information on PULSE, nor had they been told that the person had recently been in a road traffic incident.

Following the investigation, a report was sent to the Garda Síochána in accordance with Section 97 of the Act, and no disciplinary proceedings were recommended.

The key issues identified included:

There appears to be no explicit requirement to conduct a PULSE check on a prisoner upon their arrival into custody. Consulting a PULSE check as standard would be beneficial for the purposes of making an informed risk assessment as per the Garda Decision Making Model.

While the doctor attended for the purpose of obtaining an evidential blood sample, they were not informed more broadly of the circumstances of the person's arrest, nor of any relevant information regarding the person stored on PULSE. There did not appear to be any requirement to provide such information to an attending doctor. A process to ensure that such information is provided to an attending doctor may assist in identifying potential risks.

More generally, there is currently no requirement for An Garda Síochána to conduct a risk assessment in advance of releasing a detainee from custody.

The Commission recommends that An Garda Síochána:

- Review its procedure, and introduce an explicit requirement that PULSE checks are conducted on all prisoners upon their arrival into custody at a Garda Station, so that an informed risk assessment can be carried out and any relevant information taken into consideration in order to safeguard the welfare of a person in custody
- Consider introducing a requirement that an attending medical practitioner is informed of all relevant information on PULSE concerning the detainee's health, no matter the reason for the medical practitioner's attendance
- Introduce the practice of risk assessments prior to the release of persons from custody and adopt the Garda Inspectorate's Recommendation 40.

Absence of formal training to accompany the introduction of new policies

Managed containment and stopping of subject vehicles

Three referrals were made to GSOC within a 12-month period relating to a HQ Directive that dealt with managed containment and the stopping of subject vehicles. In each case, the conduct of Garda members involved was considered to have contravened the requirements of the HQ Directive.

Vehicle containment and the stopping of subject vehicles is a dynamic, high risk aspect of policing that requires high levels of practical driving skills, judgement and experience along with strong decision-making ability from those engaged in such incidents.

The key issue identified upon the examination of these incidents was the absence of formal training to accompany the introduction of the new policy and its associated HQ Directive.

Members involved in these incidents recounted having been made aware of the new policy via email or via the Garda portal, and were instructed to simply familiarise themselves with its contents and their responsibilities within it.

Some specific matters concerning the incidents referred to are:

- While the decision to commence a managed containment initially rests with the Garda driver concerned, there are no set parameters relating to the 'judgement, experience, skills and knowledge' they are expected to apply
- There is no defined threshold for the known or suspected offences that the occupants of subject vehicles may have been involved in, which may or may not justify the commencement of a managed containment
- There is no agreed terminology or form of words for use over the Tetra radio network during a managed containment
- There was no accepted method for recording the dynamic risk assessment that members are expected to undertake, despite submissions by members that they were undertaking such assessments as the incidents unfolded
- There was no recorded use of the aide-memoire from the HQ Directive
- The members were asked during the managed containment if they were familiar with the HQ Directive. It was not clear what the implication of a negative answer might have been, or why
- The variation in directive control across dispatchers in the three incidents is marked and reflects the absence of standardised training and variance in experience. These disparate examples may be useful to draw upon in the development of any training program in future
- None of these incidents had reached the stage of appointing a containment coordinator so that aspect of the procedure cannot be commented upon.

The Commission recommends that:

- An Garda Síochána develop and implement a training programme for those with the driver competencies that are authorised to conduct vehicle pursuits, as well as for Communications Centre staff, regarding the practical application of the HQ Directive
- Training should focus on the use of the Garda Decision Making Model to continually balance human welfare and the threat posed by the vehicle/occupants sought
- The training should equip those conducting/authorising/managing vehicle pursuits to make decisions within the GDMM framework that are lawful, justified, and necessary in the circumstances, proportionate to the perceived risk, and the least intrusive option available
- Each training event should incorporate those conducting /authorising/ managing vehicle pursuits in order that each specified role and all relevant tactics are properly understood. The training should include case studies from real life scenarios to identify key learning points.

<p>Incorporating risk assessments into Garda recruitment policy and procedure</p>	<p>Investigations concerning Gardaí who are on probation</p>	<p>GSOC investigated a complaint that An Garda Síochána failed to properly investigate an allegations of sexual assault made against a Garda who was on probation.</p> <p>GSOC found that the investigation conducted by An Garda Síochána was satisfactory and within acceptable parameters. It was found that an investigation had been conducted and that a file was forwarded to the DPP with all relevant evidence, resulting in a no prosecution decision from the DPP.</p> <p>The GSOC investigation recommended that no disciplinary proceedings be brought against any Garda member.</p> <p>The key issues identified included:</p> <ul style="list-style-type: none"> → The original Garda investigation file concerning the complaint made against the Garda member could not be located → The incident reported by the complainant to An Garda Síochána had not been recorded on the Garda PULSE IT system → The failure to notify Garda Human Resources Management concerning the Garda investigation, as required by Garda policy. <p>The recommendations issued by GSOC were that An Garda Síochána should review:</p> <ul style="list-style-type: none"> → The storage and retention of Garda investigation files after an investigation has been completed → Garda policy and procedure risk assessment of members or staff who are investigated for crimes where the alleged behaviour could pose a threat to the public, colleagues or the integrity of An Garda Síochána → Garda policy and procedure regarding the effectiveness of its internal processes for notifying its Human Resource Management that a member of An Garda Síochána has been accused of sexual violence.
<p>Offences committed outside Garda jurisdiction</p>	<p>Investigation of an assault that occurred in the UK but the people involved were Irish</p>	<p>In 2019, a member of the public made a report of sexual assault to Gardaí. The assault had taken place in the UK, although the people involved were residing in Ireland. The complainant subsequently complained to GSOC that they believed the Garda investigation was inefficient. They stated that they lived in fear of the suspect, and that the delays on the part of Gardaí had made the situation worse. They also stated they had received conflicting information from Gardaí and the UK police force.</p> <p>The investigating Garda initially received advice that Gardaí could investigate the sexual assault allegation. The investigating Garda contacted the Garda Interpol liaison and received advice that they could send a file to the DPP in Ireland, quoting legislation which turned out not to be applicable to the offence. They subsequently received a response from the Garda Crime Legal team, confirming that Gardaí could not lead the investigation, as the country where the incident occurred had not ratified the Istanbul Convention, and therefore the Criminal Justice (Extraterritorial Jurisdiction) Act 2019 did not apply.</p> <p>The UK police force subsequently accepted jurisdiction, after a delay. The effect on the complainant was that they received conflicting information from the UK police force and An Garda Síochána, leading to a loss of confidence in the criminal justice system.</p> <p>The key issues identified included:</p> <ul style="list-style-type: none"> → A lack of awareness amongst Gardaí of Garda policies regarding offences committed outside their jurisdiction → A lack of understanding about the countries in which Gardaí do not have the authority to investigate offences <p>The recommendations issued by GSOC were that An Garda Síochána should:</p> <ul style="list-style-type: none"> → Inform its members of the countries in which they do / do not have the authority to investigate offences → Remind its members of the processes to be followed regarding offences committed outside their jurisdiction.

Safety conditions in Garda custody

Death of a person in hospital a number of days after being released from custody

GSOC received a Section 102 referral following the death of a man in hospital a number of days after being released from custody.

The deceased suffered from alcohol dependency and had a serious fall following consumption of a significant amount of alcohol. Paramedics identified that the person had suffered a head wound. The patient became aggressive and refused to go to hospital and was subsequently arrested. Various unsuccessful attempts to discharge the person ensued before the person was returned to their cell. Later that evening, they could not be roused. Paramedics were called and diagnosed the person with skull fractures and extensive internal bleeding. The person died from their injuries a number of days later. The pathologist's report revealed that the person's brain injury had been caused by the fall and that earlier medical intervention may not have resulted in a different outcome.

The key issues identified included:

- The lack of formal training relating to the duties of the Garda in charge, their dealing with intoxicated people, and the handling of prisoners with a medical injury
- A lack of adherence to the Treatment of Persons in Custody regulations
- Failure to properly monitor or rouse the prisoner who was both intoxicated and suffering from a head injury - accordance with the relevant regulations.

The recommendations issued by GSOC were that An Garda Síochána should:

- Seek medical opinion before pre-comatose, comatose, or intoxicated people are detained in a Garda Station
- Improve monitoring of the health, safety and wellbeing of people in custody
- Improve arrangements for the provision of medical services to people in custody by documenting custody records in more detail
- Consider embedding healthcare professionals in custody facilities
- Ensure better recording and supervision of in-cell observations
- Include the installation of in-cell technology for custody suites in the custody estate plan
- Routinely review CCTV footage to check that detainees in custody are treated with dignity and respect and in accordance with regulations and policy
- Ensure that CCTV signage is prominently displayed in all areas where CCTV systems are installed
- Appoint sergeants as members in charge in all custody facilities on a permanent basis
- Develop a mandatory training and development programme that incorporates all aspects of custody including law and policy, human rights, risk management, vulnerability, diversity and mental health awareness, first aid, use of force in custody and de-escalation techniques.

Correct storage of records

Historic case records stored properly incorrectly

In 2018, a member of the public visited a Garda Station and requested information in relation to allegations of historic sexual abuse perpetrated by a family member against them. The alleged abuse had originally been reported in 2000.

The member of the public alleged that the Garda did not carry out proper enquiries, had a very 'casual attitude' towards the seriousness of the allegations, failed to provide any victim support, and did not subsequently contact them as agreed.

A GSOC-led disciplinary investigation was conducted. It established that the Garda member carried out adequate enquiries in respect of the request for information relating to the historical abuse, and that the victim was kept informed throughout the enquiries. GSOC found that no offence or disciplinary breaches were committed by the Garda member.

However, a separate issue emerged during the investigation. In the course of its inquiries, GSOC was informed by An Garda Síochána that all investigation files relating to the original complaint received in 2000 had been removed for safe-keeping to a container located in a local Garda station. GSOC was further informed that the files contained in the storage container had been damaged by water and that they had been subsequently destroyed.

The key issues identified included:

- The destruction or loss of any Garda investigation files is an issue of major concern. The correct retention and careful storage of investigation reports and materials after an investigation has been completed is a vital process that requires particular attention
- Enquiries conducted by GSOC found that the incident reported by the complainant to the Garda Síochána in 2000 was not recorded on the Garda PULSE system.

The recommendations issued by GSOC were that An Garda Síochána should review:

- The storage and retention of Garda investigation files following the finalisation of an investigation. Consideration should be given to establishing a standardised system for the filing of investigation files in addition to digitising them
- The issues surrounding the missing Garda files were brought to the attention of the Garda Commissioner
- The existing Garda file management systems are reviewed to establish ways to mitigate the risk of similar losses of investigation files reoccurring in the future
- The importance of safekeeping of all files is emphasised to all Gardaí, in particular when allegations of historic sexual abuse relate to a child.

Higher risk of self-harm amongst certain cohorts

Link between child abuse allegations and self-harm of accused

In 2021, GSOC received four referrals made by different Garda Superintendents in accordance with Section 102 of the Act, following instances where Gardaí had interacted with members of the public due to suspicions over inappropriate contact with children or in relation to investigations into the sexual abuse of children. In each of the referrals, the member of the public who had been accused had died by suicide after Gardaí searched their homes or spoke with them regarding these matters. An emerging body of research indicates that child sex abuse offenders are at high risk of suicide when their offences come to light. Those accused of accessing indecent images of children are noted as being at particular risk.

The key issue identified was:

As part of the GSOC investigations, relevant Garda documentation was obtained and reviewed, and accounts obtained from the relevant Garda members. In each case, Gardaí stated that the member of the public said or did nothing that would have caused concern that they may harm themselves.

In one instance, the Garda member informed the suspect of the services of “One in Four”, who provide support not just for victims of sexual abuse but also perpetrators. In those instances where the person left a “last letter” before taking their own life, none made allegations against Gardaí.

The recommendations issued by GSOC were that An Garda Síochána should:

- Include risk assessments for the execution of search warrants in these cases that include a section on the potential for self-harm and include an appropriate mechanism for recording details of potential risk and details of support services
- Provide training to all members regarding identifying potential vulnerabilities that includes:
 - Recording of such utterances in the custody record
 - Alerting the Member in Charge
 - Recording the information and actions taken on the PULSE system.

Optimising conditions in custody for detainees with substance abuse issues

Eliminating the risk of detainees ingesting hand sanitizer

In 2022, GSOC received two referrals from Garda Superintendents that related to the ingesting of hand sanitiser by members of the public.

In the first referral, a member of the public had been arrested under section 4 of the Criminal Justice (Public Order) Act 1994 (as amended) for being a danger to themselves. Following release from custody, the person remained in the public office area for a time. CCTV from the Garda Station shows the person ingesting hand sanitiser from a dispenser in the public office, before leaving the premises. They went on to ingest more hand sanitiser in another location. The person concerned had known substance abuse issues. They were subsequently found unconscious in a public space, and taken to hospital where they later died. There was no evidence that the sanitiser was the cause of death.

In the second referral, a member of the public was arrested for a number of serious offences. When taken to the Garda Station it was noted that the person had an IV medical line still in their arm, and was intoxicated. A doctor was called to the station to assess the person. During that assessment, the doctor formed the view that the person had ingested hand sanitiser in the medical examination room at the Garda Station. There was no Garda present in the medical examination room at the time for reasons of doctor-patient confidentiality. The incident was recorded in the custody record, and Gardaí maintained observations on the person. The person was later found to be unresponsive and taken to hospital. The person later regained consciousness and was discharged.

The key issue identified was:

The presence of hand sanitiser containers in Garda Station poses a potential risk to members of the public. In the first incident, the member of the public was unsupervised at the time and was able to ingest the sanitiser without observation. In the second, no Garda was present but the person was in the care of a doctor.

The recommendations issued by GSOC were that:

- The potential risk posed by the presence of hand sanitiser, particularly in public office areas which are often frequented by members of the public with substance abuse issues, is highlighted to all Garda members
- It further recommends that the potential risk posed by the presence of hand sanitiser in public areas of Garda Stations, and custody areas, is considered when conducting risk assessments, so that any possible mitigative action can be considered.

15. PROTECTED DISCLOSURES

Under the Protected Disclosures Act, 2014, workers of the Garda Síochána, including Garda members, may confidentially disclose allegations of wrongdoing within the Garda Síochána to GSOC.

Protected disclosures are handled in GSOC by a dedicated Protected Disclosures Unit.

Protected Disclosure Caseload in 2022

The below table details the caseload of protected disclosures dealt with by the Unit in 2022.

Table J: GSOC Protected Disclosures Caseload in 2022

Cases on-hand at 31 December 2021	69
Protected Disclosures received during 2022	18
Protected Disclosure matters closed during 2022	34
Balance of cases on-hand on 31 December 2022	53

Under section 22 of the Protected Disclosures Act, 2014 each public body is required to publish an annual report outlining the number of protected disclosures received in the preceding year and action taken. Further detail on GSOC's protected disclosures work can be found in this report, which is available on the GSOC website.

Engagement on Protected Disclosures at Home and Internationally

GSOC continued in 2022 to engage with the Department of Public Expenditure and Reform regarding the transposition of EU 'Whistleblowers' Directive 2019/1937 which came into effect on 17 December 2021. Transposition of the Directive was facilitated by the passage of the Protected Disclosures (Amendment) Act 2022, which will bring about procedural changes to bring Ireland in line with the Directive.

In 2022, GSOC continued attendance and participation in the Government Interdepartmental Protected Disclosures Network, in addition to liaising with other Government departments and An Garda Síochána on disclosure matters and associated processes.

GSOC has also continued its work as the Irish representative of the Network of European Integrity and Whistleblowing Authorities (NEIWA), working on shared knowledge and expertise in disclosure matters and the implementation of the Directive. GSOC attended meetings virtually and in person for the first time since 2019, declarations from which can be found on our website.

GSOC has also continued its engagement with the Project against Economic Crime in Kosovo (PECK III), a joint co-operation initiative of the European Union (EU) and Council of Europe. As part of this, GSOC has been providing practice and procedural review to the Kosovo police in the handling of protected disclosures. The overall objective of PECK III is to enhance anti-corruption and anti-money laundering practices in Kosovo, in line with applicable European and international standards.

16. INFORMATION REQUESTS

GSOC's Data Protection and Freedom of Information (FOI) Unit deals with the majority of requests for information received by GSOC every year. Within the Unit, there is a dedicated number of staff who deal with requests made under the Data Protection Act, 2018 and the Freedom of Information Act, 2014.

This team is responsible for ensuring these requests are responded to within the required time limits, promoting awareness of data protection, FOI and privacy matters within GSOC, providing data protection advice to staff and ensuring that GSOC adheres to its statutory obligations under the legislation.

Forty **(40)** FOI requests were received in 2022. This represents a 43% percent decrease from seventy (70) requests received the previous year. Most requests were for personal information held in GSOC case files. As records contained within an investigation or complaint files (that is, related to an examination or investigation under Part 4 of the Garda Síochána Act, 2005) are not covered by the FOI Act, these requests were refused.

The remaining FOI requests related to complaint statistics and contractual statistics.

GSOC received three requests for internal reviews into decisions relating to the refusal to provide access to records contained in investigation or complaint files. In 2022, there were no requests referred to the Office of the Information Commissioner (OIC).

Further detail about the FOI requests received in 2022 is available on the FOI Disclosure Log on the GSOC website.

The number of data access requests received in 2022 was **116**, the highest number received by GSOC. The majority of these requests were from complainants who were seeking access to their personal data held on GSOC complaint and investigation files. This involved the review and processing of over 365 separate files. There was one request for the erasure

of personal data held by GSOC under Article 17 of the General Data Protection Regulation (GDPR).

In 2022, the Data Protection Unit dealt with twenty (20) requests for advice on data protection matters from staff across GSOC business units. Most of the issues raised concerned disclosure of information to third parties and advice sought when obtaining CCTV footage for disciplinary investigations.

Requests for information received from the Department of Justice and representatives from members of the Oireachtas are dealt with by GSOC's Secretariat Unit. The unit responded to seven **(7)** information requests from the Department of Justice, forty-six **(46)** submissions in response to parliamentary questions and three **(3)** representations from members of the House of the Oireachtas. These requests related to updates on investigations currently underway in GSOC and information surrounding GSOC's social media engagement.

Requests for information from journalists, outside of the FOI process, are dealt with by GSOC's Communications Unit which provides a 24-hour a-day on-call service. The Unit responded to **94** queries received from the media in 2022.

Table K: Information Requests Processed in 2022

Subject	Number
Requests under the Freedom of Information Act, 2014	40
Requests under the Data Protection Act, 2018	116
Information Requests from the Dept of Justice	7
Submissions in response to Parliamentary Questions	46
Representations from members of the Oireachtas	3
Media Enquiries	94

17. GSOC AND CHILD PROTECTION

GSOC has obligations in relation to child protection under both the Children First Act, 2015, and the Children First National Guidance for the Protection and Welfare of Children. During the course of their work taking complaints from members of the public, or conducting investigations, staff may become aware of situations in which children may have been harmed or may be at risk of being harmed.

Under the Children First Act, certain GSOC staff, namely Designated Officers (investigators and Child Protection Team members) are mandated persons.

As a mandated person, the Designated Officer must make a referral to Tusla if he or she knows, believes or reasonably suspects that a child has been harmed, is being harmed or is at risk of being harmed, or if a child discloses harm.

The obligation to refer also arises if a child discloses a belief that they are at risk of harm.

GSOC Designated Officers made **54** mandatory referrals to Tusla in 2022.

In addition, GSOC made **71** non-mandatory referrals in 2022. These related to matters which came to the attention of GSOC staff in the course of their work, but not in the course of a criminal investigation.

Non-mandated persons are required to notify GSOC's Designated Liaison Persons of issues that may relate to child protection and/or welfare while fulfilling their official duties through raising alerts on the organisation's case management system. A total of **524** such Child Protection alerts were made on the case management system in 2022. The alerts are reviewed by the Designated Liaison Persons who record decisions to make referrals to Tusla, and decision not to refer.

Key Figures

524 NEW CHILD PROTECTION ALERTS

MANDATORY REFERRALS **54**

NON-MANDATORY REFERRALS

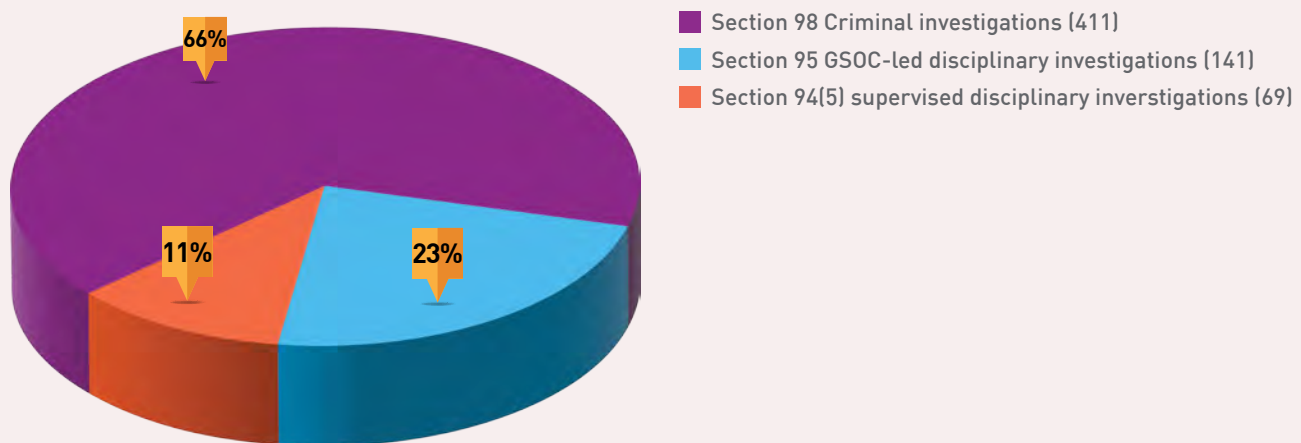
71

574

DECISIONS NOT TO REFER

APPENDIX 1: GSOC INVESTIGATIONS ON-HAND AT YEAR-END 2022

At year-end 2022, the GSOC Investigations Unit had a total of 621 investigations ongoing. This compares to a total of 852 at year-end 2021.



In addition to these investigations, 290 unsupervised disciplinary investigations by An Garda Síochána, arising from complaints to GSOC, were ongoing. A further 12 such cases, while complete, were under review by GSOC, at the request of the complainant, at year-end.

Approximately 154 further cases were in various other 'phases' of the case management process. This would include cases recently received and at initial assessment stage; cases that have been completed and are awaiting of the completion of final reports under sections 97 or 101 of the Act; and cases that are in the process of being discontinued.

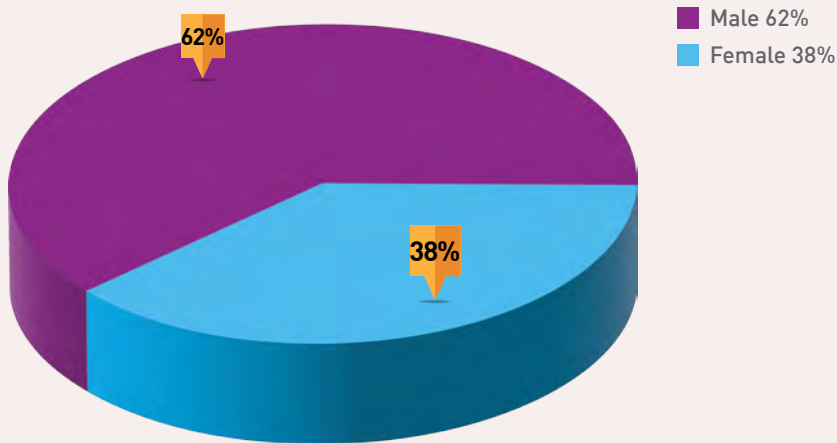
APPENDIX 2: PROFILE OF COMPLAINANTS IN 2022

On submission of a complaint to GSOC, complainants are invited to complete an anonymous survey in order to provide GSOC demographic data on those who seek our services.

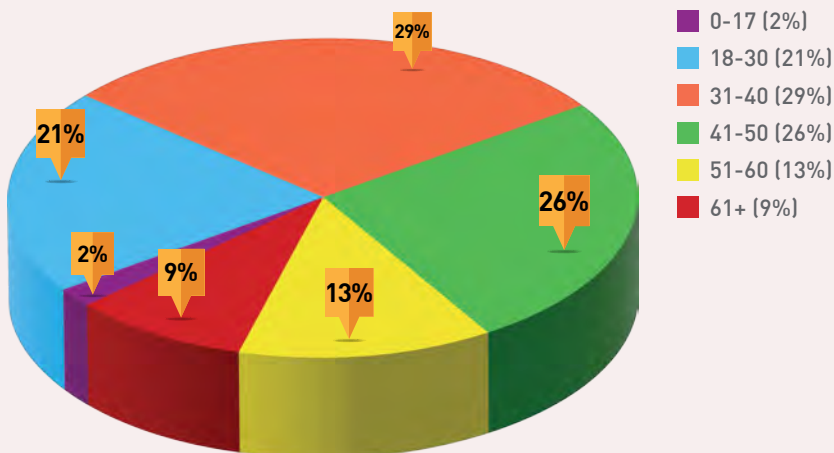
In 2022, 390 complaints responded to the survey. This represents a response rate of approximately 30%.

The charts below outline the profile of complaints who answered the survey, across a number of demographic categories.

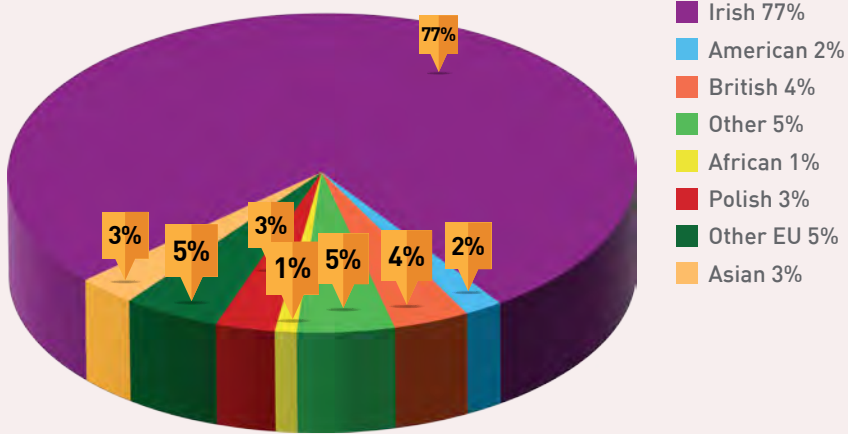
(i) Gender



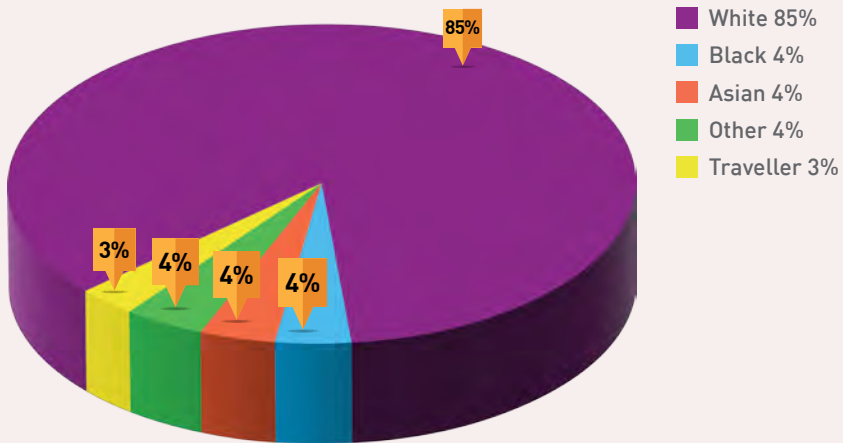
(ii) Age



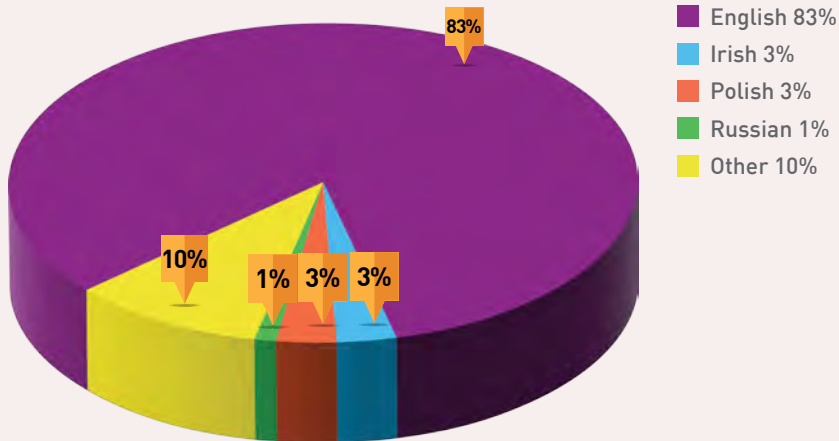
(iii) Origin or nationality



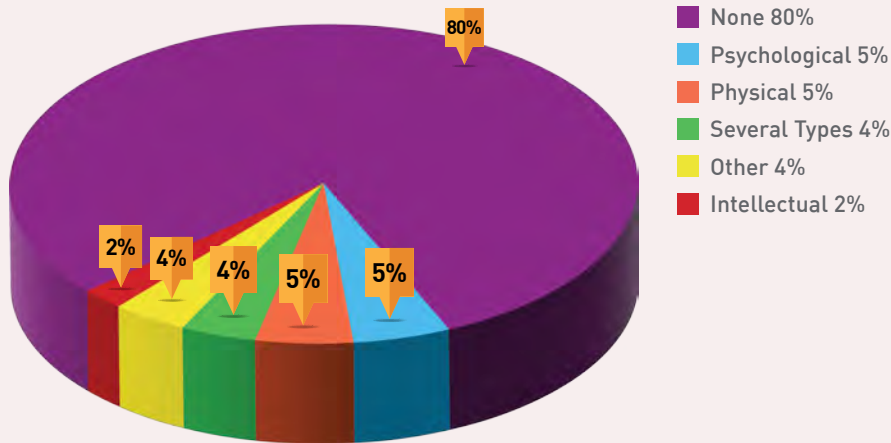
(iv) Ethnicity



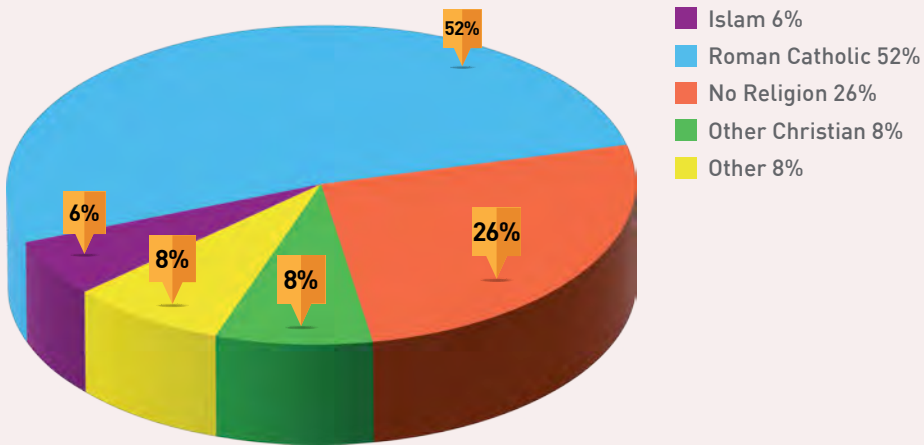
(v) Language



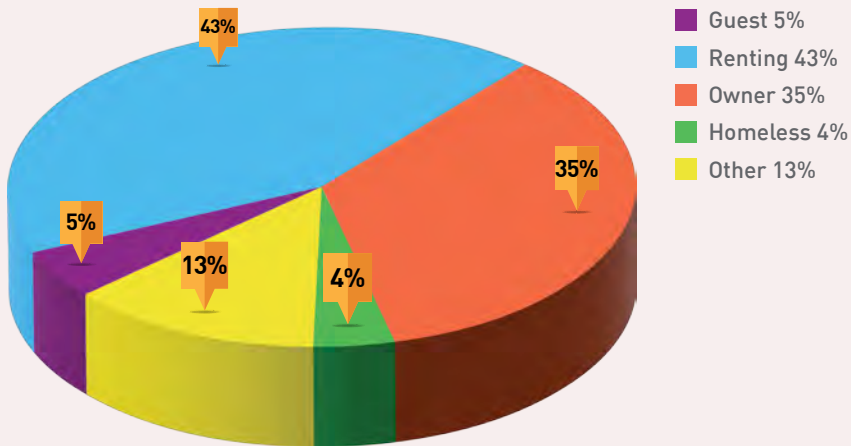
(vi) Disability



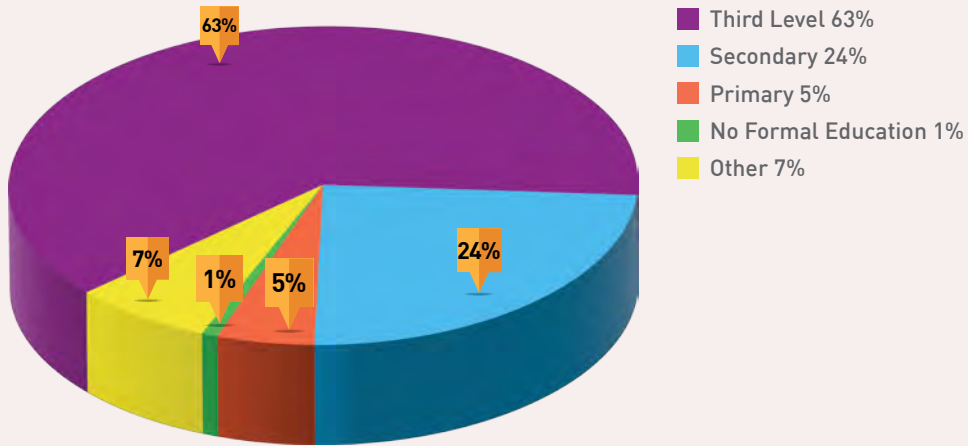
(vii) Religion



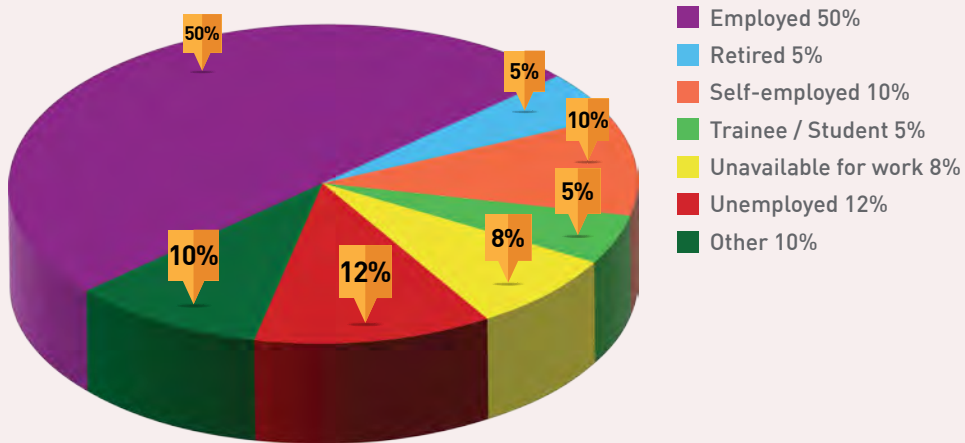
(viii) Housing status



(ix) Educational attainment



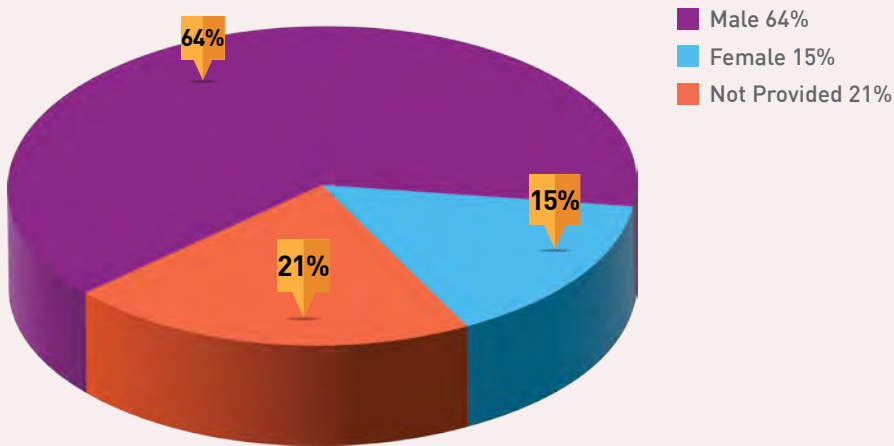
(x) Employment status



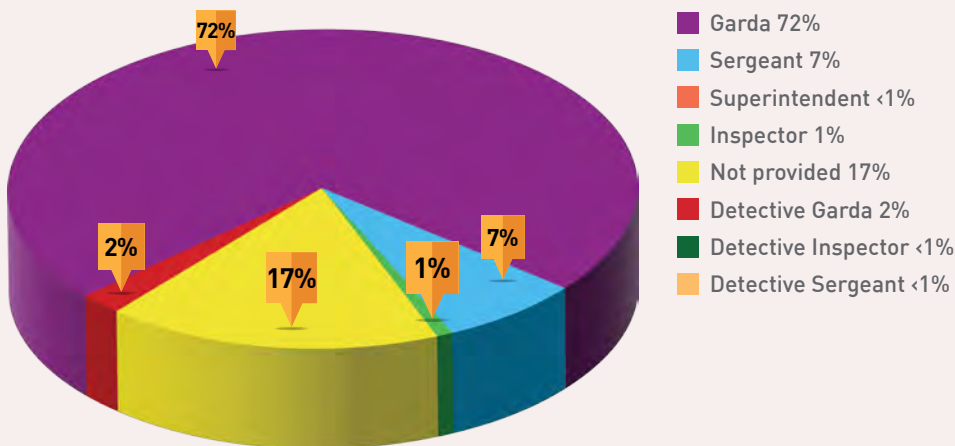
APPENDIX 3: GENDER AND RANK OF GARDAÍ SUBJECT TO COMPLAINTS IN 2022

The following charts show the breakdown of gender and rank of Gardaí subject of complaints in 2022, where this information is known. Both pie charts account for 2,234 admitted allegations in 2022.

(i) Gender of members of the Garda Síochána in allegations admitted in 2022



(ii) Rank of members in allegations admitted in 2022



GLOSSARY OF TERMS AND ABBREVIATIONS

Term	Meaning
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
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, if a person said that a Garda pushed them and used bad language, this is one complaint with two separate allegations.
Article 2	Article 2 of the European Convention on Human Rights (ECHR) states that everyone’s right to life will be protected by law.
Bound to the Peace	A peace bond is a court order to keep the peace and be on good behaviour for a period of time. This essentially means that the person must not be charged with a criminal offence. Peace bonds often have other conditions too, such as not having any weapons or staying away from a person or place.
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.
Council of Europe’s “Venice Principles”	The ‘Principles on the Protection and Promotion of the Ombudsman Institution’, adopted by the Council of Europe’s Venice Commission in March 2019. The Venice Commission is the Council of Europe’s Commission for Democracy through Law providing legal advice to its Member States. The 25 Venice Principles represent the first independent set of international standards for Ombudsman institutions.
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.

Disciplinary Proceedings	These are proceedings that may be instituted by the Garda Síochána following a disciplinary investigation. Recommending the institution of such proceedings is the limit of GSOC jurisdiction. Any sanction arising is a matter for the Garda Commissioner.
DMR	Dublin Metropolitan Region
DO	Designated Officer
DPP	Director of Public Prosecutions
ECHR	European Convention on Human Rights
FRTC	Fatal Road Traffic Collision
GSIO	Garda Síochána Investigating Officer
GSOC	Garda Síochána Ombudsman Commission
IO	Investigations Officer
Local Intervention	The local intervention process is aimed at resolving certain service-level types of complaints against members of the Garda Síochána at a local level without the need for the matter to enter a formal complaints process. The process entails nominated Garda inspectors contacting the person making the complaint, establishing what the issues are, and attempting to resolve matters to the complainant's satisfaction.
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).
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.
Policing, Security and Community Safety Bill 2023	The Policing, Security and Community Safety Bill 2023 was published in November 2022. The text of the Bill can be found here: https://data.oireachtas.ie/ie/oireachtas/bill/2023/3/eng/initiated/b0323d.pdf
Restorative justice	Restorative justice occurs when both the victim of a crime and the offender agree to communicate in relation to what occurred. This is a voluntary process and both parties must agree to it. The communication gives the victim the opportunity to relay to the offender the impact that the crime had on them and provides an opportunity for the offender to acknowledge the wrong they committed and take responsibility for their actions. A report is prepared by an independent person as to the outcome of the communication. This report is then put before the Court.
Summary disposal	Summary disposal is when the case can be heard in either the District or Circuit Court but the DPP instructs that the matter should be heard in the District Court. The Judge then hears a summary of the facts and if the Judge agrees with the DPP the matter will remain in the District Court.



**Garda
Ombudsman**
INQUIRY INDEPENDENCE IMPARTIALITY

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