



GARDA
INSPECTORATE

PROMOTING EXCELLENCE & ACCOUNTABILITY

**Report of the Garda
Síochána Inspectorate**

Countering the Threat of Internal Corruption

A review of counter-corruption structures,
strategies and processes in the Garda Síochána

September 2020

The objective of the Garda Síochána Inspectorate is:

'To ensure that the resources available to the Garda Síochána are used so as to achieve and maintain the highest levels of efficiency and effectiveness in its operation and administration, as measured by reference to the best standards of comparable police services.'

(s. 117 of the Garda Síochána Act 2005)

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Foreword

This inspection examined the effectiveness of the Garda Síochána at preventing, detecting and mitigating against internal corruption. This report marks a significant milestone for the Garda Inspectorate as it is the outcome of the first self-initiated inspection.

Due to the unique nature of policing, corruption will always pose a threat to the integrity of the Garda Síochána. This threat comes from those within the garda workforce, as well as from groups and individuals outside the organisation, such as organised crime groups seeking to corrupt susceptible individuals. It is clear that the majority of the garda workforce are decent and honest, but as various tribunals of inquiry and other investigations have found, a small minority abuse their privileged position by engaging in dishonest, inappropriate or unethical behaviour. Corruption is deeply damaging and when revealed it impacts negatively on public confidence in the Garda Síochána.

This inspection found that across the criminal justice sector there is no common understanding of the threat posed by corruption, and that cooperation between the criminal justice agencies is often uncoordinated, with no formal process in place to share information. To address this lack of coordination, the Department of Justice should develop an overarching counter-corruption strategy and the relevant organisations must adopt a multi-agency approach. In addition, the Garda Síochána must develop intelligence and information-sharing protocols around corruption with the Garda Síochána Ombudsman Commission and other relevant agencies.

While this inspection identified several areas of good practice, and the intention to establish an Anti-Corruption Unit is a positive development, the Garda Síochána must also do more than simply react to instances of corruption as they occur. Instead, it must take a proactive and holistic

approach to identifying and tackling corruption. This includes the assignment of sufficient resources to the Anti-Corruption Unit to create dedicated intelligence and investigation teams.

There are a number of important tools which would assist the Garda Síochána in assessing the risk of corruption. Of particular importance is the development of a strategic assessment of corruption threats, with the absence of such an assessment being a significant organisational risk. The lack of important prevention and detection policies, such as in relation to professional boundaries, in-service vetting and substance misuse testing, is also a gap that needs to be addressed.

It was concerning to find that many members of the garda workforce continue to have significant reservations about speaking up and reporting wrongdoing. The intention of the Garda Síochána to create confidential lines and systems for anonymous reporting is welcome, and while these are not yet in place, they should help to encourage people to report unethical and corrupt behaviour.

This report contains a number of recommendations designed to deliver a more effective approach to countering the threat of corruption. I am convinced that the implementation of these recommendations will ensure that the Garda Síochána and the wider criminal justice sector are better prepared to prevent and detect corruption.

I would like to thank the members of the garda workforce as well as representatives from other organisations and agencies for their invaluable contributions towards this inspection.

Mark Toland

Mark Toland

Chief Inspector
Garda Inspectorate

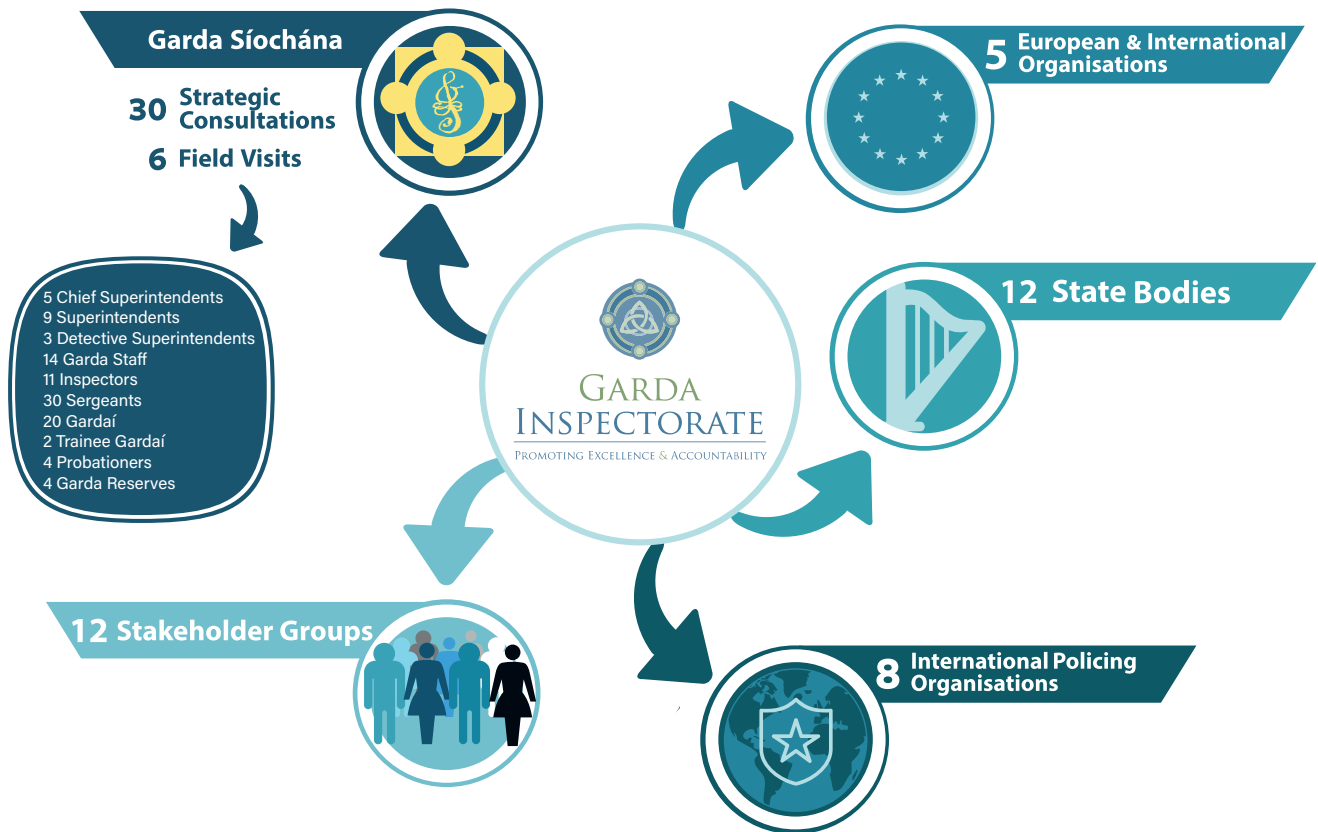
Executive Summary

While the Garda Síochána has a long and distinguished history of integrity and service to the community, from time to time, just as in any modern police service, scandals regarding individual and systemic failures, including instances of corruption, have punctuated this history. Corruption has a detrimental effect on the integrity and morale

of the police workforce and undermines human rights and public confidence in policing.

In June 2019 the Inspectorate commenced its first ever self-initiated inspection Countering the Threat of Internal Corruption in the Garda Síochána.

Figure A - Garda Síochána and stakeholder engagements for the inspection



The purpose of the inspection was not to identify specific incidents of corruption within the Garda Síochána but rather to examine the effectiveness of the Garda Síochána at preventing, detecting and mitigating against the threat of internal corruption. The inspection also assessed the structures, strategies and processes in the

Garda Síochána, benchmarking them against a range of commonly accepted counter-corruption functions which are considered necessary for any modern police service to operate effectively.

The inspection was divided into five pillars as follows:

- > **Strategy and Governance:** Examines how the Criminal Justice Sector develops understanding of the threats posed by internal corruption and the effectiveness of the Garda Síochána's counter-corruption governance structures.
- > **Professional integrity:** Examines how professional integrity, corporate responsibility and professional boundaries can strengthen the garda workforce against the pernicious effects of corruption.
- > **Organisational Resilience:** Examines the Garda Síochána's defences against corruption. It also examines what practices are in place to protect against the misuse of police discretion for corrupt purposes.
- > **Intelligence and Investigation:** Examines the identification and investigation of corruption. It also examines a number of important counter-corruption strategies, including identifying the Abuse of Power for Sexual Gain, reporting wrongdoing and the monitoring of ethical declarations by the garda workforce.
- > **Communication and Engagement:** Examines the support processes that need to be in place for the garda workforce. It also considers how organisational learning can build greater resilience in the Garda Síochána.

... strategic governance of counter corruption within the Garda Síochána is underdeveloped ...

How Does the Garda Síochána Identify and Respond to the Threat of Corruption Within the Organisation?

In order for any police service to effectively respond to the threats posed by corruption it must have a clear strategic understanding of emerging risks and their effect on the workforce and the wider environment. There also needs to be a structured process for prioritising the organisation's response to these threats and assessing the effectiveness of its actions.

- > This inspection found that across the criminal justice sector there is no common understanding of the threat posed by corruption, and that cooperation between the criminal justice agencies is often uncoordinated, with no formal process in place to share information. The Inspectorate recommends greater cross sectoral cooperation and the development of a multi-agency counter-corruption strategy.
- > The inspection found that strategic governance of counter corruption within the Garda Síochána is underdeveloped, with no strategic analysis of corruption threats and counter-corruption leadership responsibilities spread across a number of functional areas. This has the effect of limiting the ability of the organisation to respond holistically and effectively to corruption threats.
- > To address the gaps in strategic governance, the Inspectorate recommends the appointment of a senior police leader with overall responsibility for counter corruption, the development of a strategic assessment of corruption threats, and the setting out of a counter-corruption control strategy that establishes priorities for action.

What Steps Does the Garda Síochána Need to Take to Enhance Professional Integrity Across the Garda Workforce?

This strand of the inspection which focused on Enhancing Professional Integrity in the Garda Síochána examined both personal integrity and corporate responsibility in the organisation. In particular, the Inspectorate explored the Principles of Democratic Policing which underpin the development and maintenance of professional boundaries in the police workforce and the corporate governance practices necessary to fulfil the fiduciary duties of garda leadership and the garda workforce, more generally.

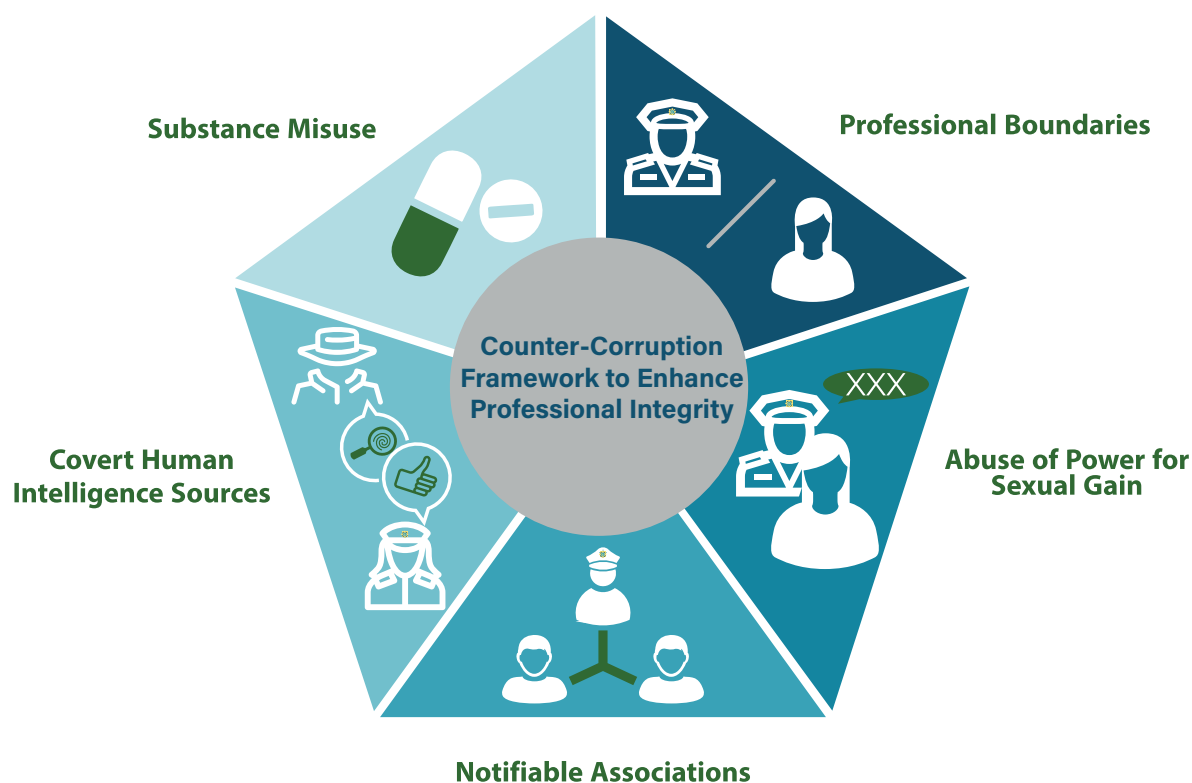
Managing Relationships and Associations

International experience has demonstrated that clear professional standards help to clarify the boundary between relationships that are acceptable and those that are not

within policing organisations. Developing a culture that supports the workforce to build appropriate relationships and that sets clear professional boundaries is essential.

- > While certain standards of conduct are set out in the Garda Code of Ethics, including a set of general principles in relation to the standards of behaviour expected of the garda workforce, these principles need to be reinforced by clear policies and detailed guidelines on maintaining appropriate relationships in all aspects of the workforce's professional lives.
- > There are also significant gaps in the guidance related to several key priority areas including: maintaining professional boundaries, abuse of power for sexual gain, relationships and associations which should be notified to supervisors (e.g. with journalists, private investigators or former colleagues), special relationships such as with covert human intelligence sources, and substance misuse.

Figure B - Counter-corruption framework to enhance professional integrity



Abuse of Power for Sexual Gain

Abuse of Power for Sexual Gain (APSG) can be extremely harmful to the persons affected and represents a significant breach of trust with profound implications for the victims, the organisation itself and the wider criminal justice sector. Abuse of power by police officers for sexual or emotional purposes is a major emerging issue in policing across the common law world and beyond, and required specific comment in the report.

- > There is no shared understanding of the concept between the Garda Síochána, oversight bodies and groups representing and supporting vulnerable victims. In particular, there was no clear understanding of common behavioural characteristics or indicators nor was there any awareness-raising of the issue among leaders, supervisors or the wider workforce.

Abuse of Power for Sexual Gain can be extremely harmful to the persons affected and represents a significant breach of trust with profound implications for the victims ...

- > The risk to the Garda Síochána was poorly grasped and cases were dealt with in isolation. This is an issue which has profound human rights implications for victims, the organisation and the criminal justice sector.
- > The Garda Síochána can draw valuable lessons from cases identified by oversight bodies and voluntary and support groups and enhance the safety of vulnerable individuals at risk of such abuse.

- > To address this, it is recommended that the Garda Síochána should develop and implement a policy and detailed guidelines and raise awareness of the issue within and outside the organisation, including understanding of common behavioural characteristics of those engaged in this type of abuse.

Corporate Responsibility

As well as the obvious duty to exercise their policing powers fairly and impartially the police workforce have a clear fiduciary duty to safeguard public resources. This duty is most obvious in the case of garda leaders, managers and supervisors in terms of promoting good corporate governance practices within the organisation.

- > While the Garda Code of Ethics sets out a clear duty on the garda workforce to declare and manage conflicts of interest, there is no formal process to facilitate the exercise of this duty. In addition, there are limited guidelines on identifying potential conflicts and limited awareness among the garda workforce of common situations which can lead to such conflicts.
- > Two specific areas, relating to business and other interests and post-employment activities, are not as well regulated in the Garda Síochána as in comparable police services. These areas are also subject to different rules depending on a person's position within the organisation.
- > The Inspectorate recommends that the Garda Síochána develop and implement policies and guidelines in relation to the management of conflicts of interest and in particular the two special cases of conflict of interest concerning outside business and other interests and post-employment activities by garda members.

> The Garda Síochána needs to go beyond developing and circulating policies and HQ Directives to embed integrity-building measures across the organisation. The garda policy on gifts, hospitality and sponsorship in particular highlights the importance of such an approach. While such a policy was introduced in 2018, the policy is poorly

understood and key provisions, such as the publication of a register, had failed to be implemented at the time of the inspection. This was in contrast to the situation in other police services where the recording and publicising of gifts and hospitality received by or offered to members of the police workforce were completely transparent.

Figure C - Comparison of police services with similar environments and functions to the Garda Síochána that are required to publish gifts, hospitality and sponsorship online



Source: Examination of police service websites

> The Inspectorate has also recommended that members of the garda workforce undertake periodic integrity health checks with their supervisors, particularly at important career points such as on promotion or selection for specialist or designated roles.

The Garda Síochána needs to go beyond developing and circulating policies and HQ Directives to embed integrity-building measures across the organisation.

What Systems and Processes in the Garda Síochána Need to be Strengthened to Build Resilience Against Corruption?

A wide range of garda systems and processes which contribute to building resilience to corruption in the organisation, including procurement, vetting, audit and risk management, were examined during the course of the inspection. While many of these systems contribute greatly to counter-corruption in the Garda Síochána some weaknesses were identified in several of the systems or processes. These have been highlighted in the inspection report.

Garda Vetting

Ineffective vetting of recruits will expose the public and criminal justice agencies and institutions to increased risks associated with national security, public safety, cyber-attack and fraud.

- > Some of the weaknesses identified by the Inspectorate included; the absence of a comprehensive, principles-based vetting code of practice; limited in-service re-vetting; criminal record checks limited to garda prosecutions and convictions on the PULSE system; and limited international vetting checks.
- > The Inspectorate recommends that the Garda Síochána undertake the following: develop a comprehensive

vetting approach which can facilitate vetting tailored to role and access to police systems by initiating in-service re-vetting; comprehensive criminal record checks including foreign convictions; and financial, social media and prior employment checks.

Property Management

Property and evidence management is a critical function in any police service. It is vital for the efficient management of criminal investigations and prosecutions. Several weaknesses identified by the Inspectorate in Garda Property and Evidence Management System (PEMS) are highlighted in the report.

Figure D - Weaknesses identified by the Garda Inspectorate in the Garda Property and Evidence Management System



Inadequate storage for property outside of normal PEMS Store business hours



Absence of an audit trail for store security and access controls



Insufficient storage capacity for high-value and hazardous property



Inadequate training and security advice for newly appointed garda staff such as PEMS managers



No current process for the contemporaneous recording of property seized during a search

- > The Inspectorate recommends that the Garda Síochána improve the recording of evidence seized during search operations and the security of PEMS stores and personnel.

Information Security

Garda information systems are a vast repository of sensitive information and a valuable commodity for persons with bad intentions seeking to exploit such information, including; terrorists, organised crime groups, and those intending to exploit vulnerable persons or to benefit commercially from such information.

- > While the PULSE system appears to have an effective audit function which identifies members of the garda workforce who access or change a record, unlike other police services it does not have the capacity for proactive real-time monitoring of information systems to detect suspicious persons and activities.

... investigations into serious criminality such as suspected child sexual exploitation or sexual violence by members of the garda workforce outside of their work environment does not automatically result in an audit of their police systems user history...

- > The Inspectorate found that investigations into serious criminality such as suspected child sexual exploitation or sexual violence by members of the garda workforce outside of their work environment did not automatically result in an audit of their police system user history to identify other possible victims or instances of police computer systems misuse.

- > The report recommends that the Garda Síochána enhance its capability for proactive surveillance of police information systems and always review an individual's use of garda ICT systems following identified or suspected unethical behaviour. This should be a responsibility of the Anti-Corruption Unit once it has been established.

What Discretionary Garda Powers Did the Inspectorate Identify that Require Greater Scrutiny and Supervision?

Police discretion is a well-established feature of modern policing but it harbours the danger of misuse. The Inspectorate examined a range of areas within the Garda Síochána where a wide degree of discretion exists and where strong leadership and supervision are critically important for the fair and consistent delivery of policing services free from the risk of coercion or corruption.

Discontinued Cases

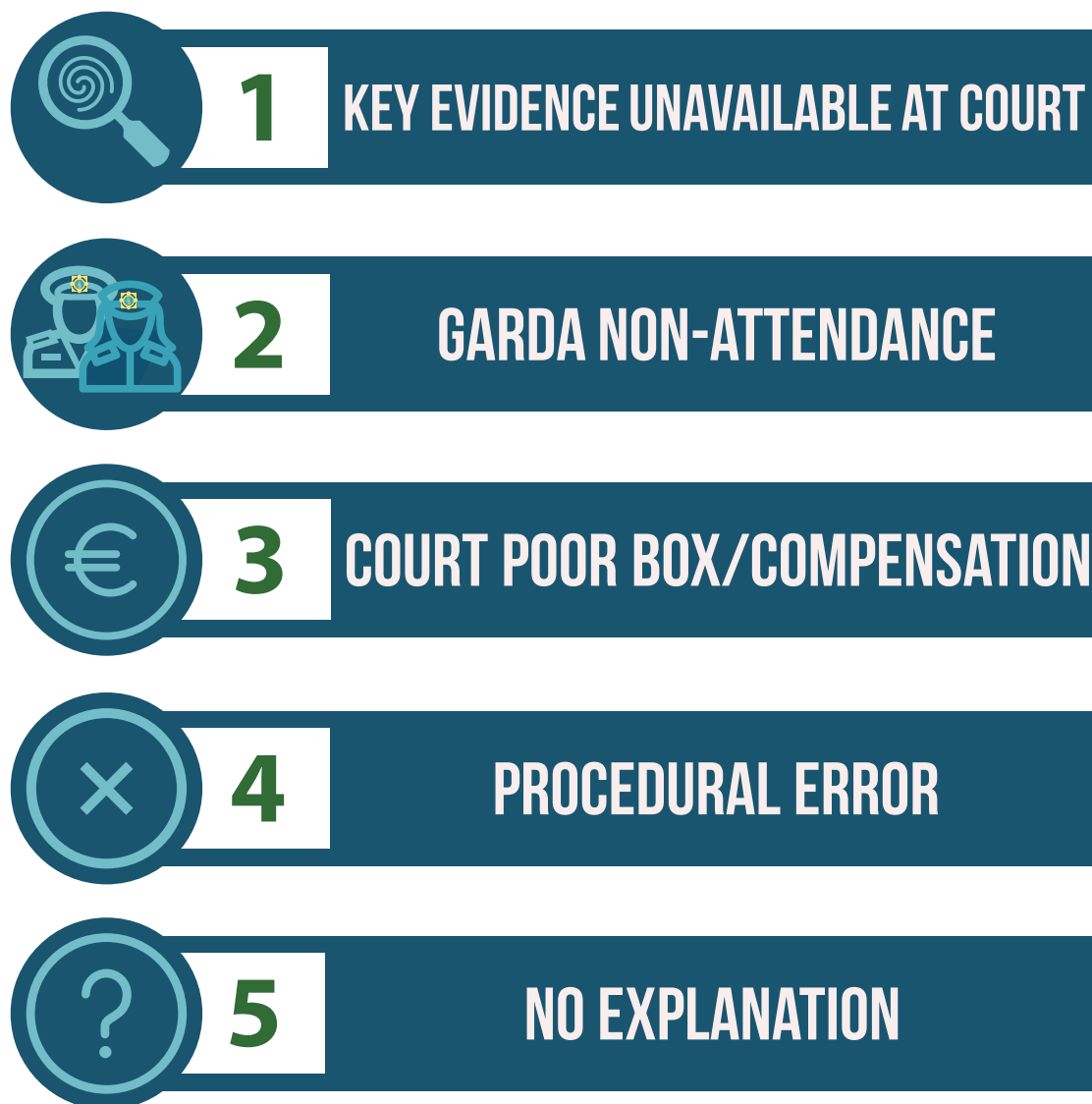
Unlike any of the other police services benchmarked for this report, garda members have a wide discretion under statute to institute criminal proceedings in the State.

- > An examination of a sample of District Court prosecution files by the Inspectorate identified significant gaps in the supervision and management of garda members and a high volume of prosecution cases that were discontinued at court.
- > The types of discontinued cases included serious threats to public safety, such as; driving while intoxicated, and public order offences. The risk of corrupt

exploitation in the absence of strong supervision is clear and it constitutes a significant threat to the reputation of the Garda Síochána.

- > There were a number of reasons for the discontinuation of the cases sampled, with one of the more prominent being the non-attendance of the garda member responsible for the case.

Figure E - Top five reasons for discontinuation of garda prosecuted court cases



- > The Inspectorate recommends that the Garda Síochána introduce comprehensive guidelines for and strengthen the supervision of garda-led prosecutions.

Fixed Charge Penalty System

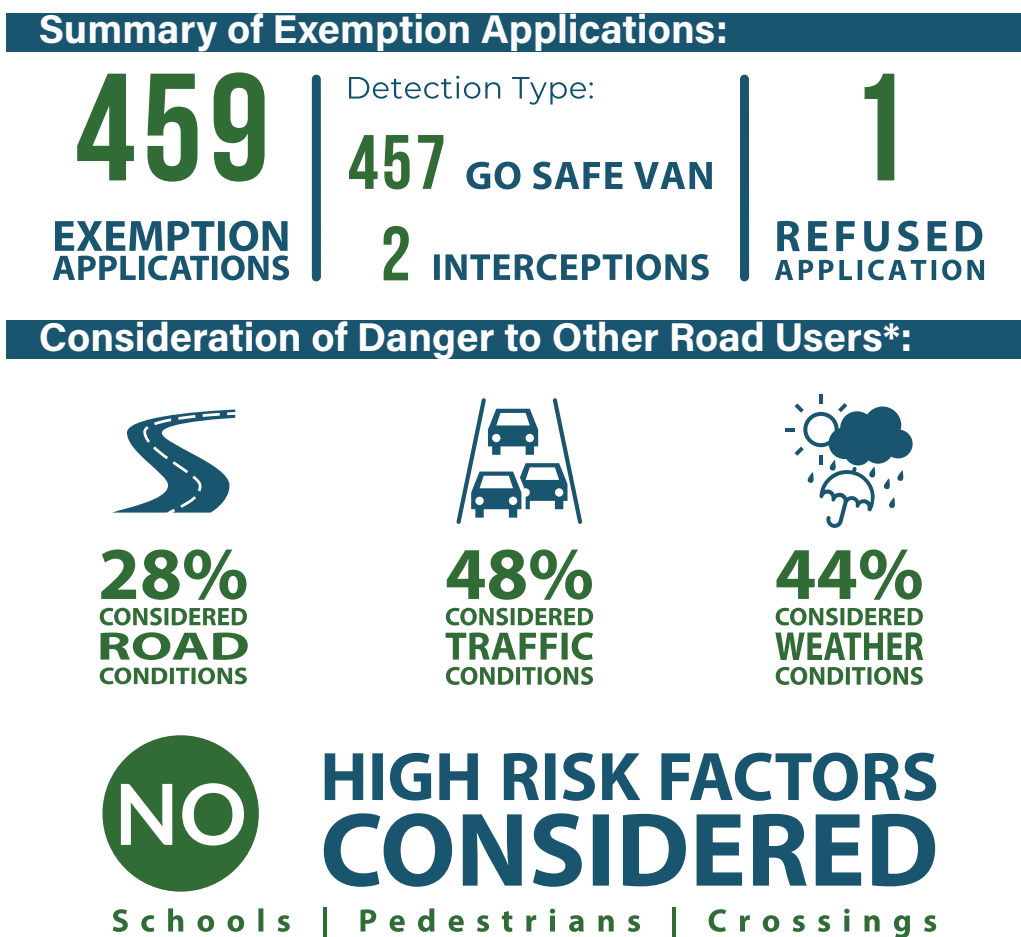
The legislation underpinning the fixed charge penalty system provides for a statutory exemption for members of emergency services, including garda members, from

the imposition of penalty points as a result of breaches of the road traffic laws. There are two statutory conditions for the exemption to apply. The garda member concerned must be driving or directing a vehicle in the performance of their duties and the use of the vehicle must not endanger the safety of other road users. Garda policy imposes a third condition to the effect that the statutory exemption should be relied upon only in exceptional circumstances.

> The Inspectorate examined specific aspects of the system related to the statutory exemption from penalty points for emergency services personnel. Applications for statutory exemptions

lacked detail and supporting verification by applicants and were not always subject to robust scrutiny by supervisors.

Figure F - Fixed Charge Penalty Notices issued to garda members using official vehicles or private vehicles between August 2018 and August 2019



Source: Data supplied by the Fixed Charge Penalty Office; Analysis by the Garda Inspectorate

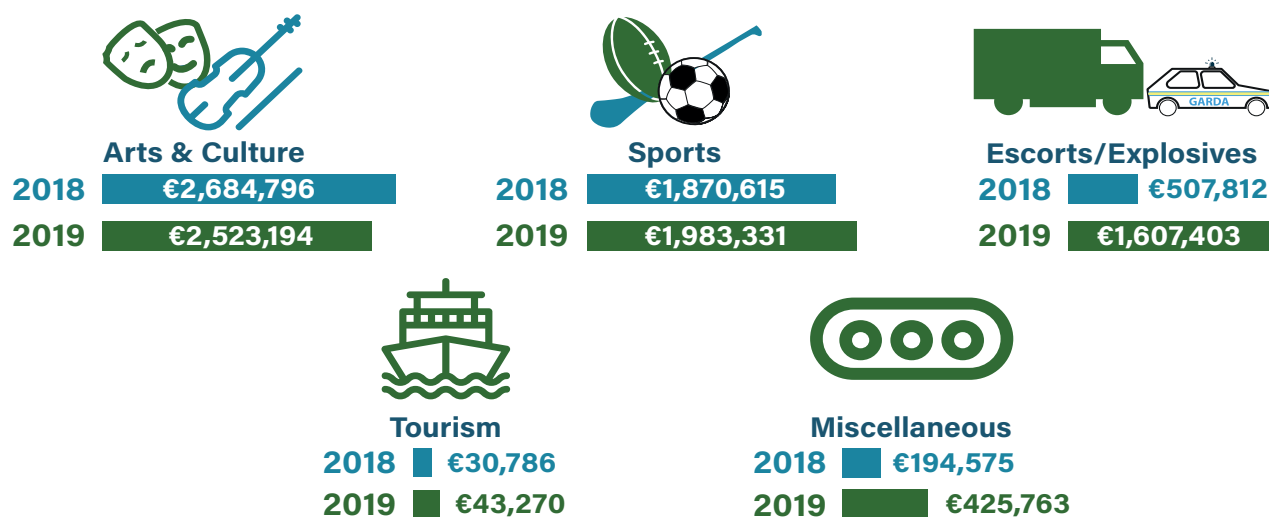
> The Inspectorate recommends that the Garda Síochána process for cancelling a Fixed Charge Penalty Notice for a garda member considers all relevant factors and that the exceptional circumstances test be more rigorously applied in the decision-making process.

Non-Public Duty

The Garda Síochána Act 2005 provides for the recovery of cost for policing certain events or activities, such as sporting fixtures, concerts and festivals, conferences and film productions, and for the protection of property at risk of harm.

- > Several concerns regarding charging for non-public duty (NPD) events were highlighted during the inspection, in particular, lack of policy and guidance, inconsistent charging practices, charging of NPD for activities not originally foreseen in the legislative framework, and over-reliance on overtime for policing NPD.

Figure G - Total amount charged by the Garda Síochána for non-public duty in 2018 and 2019, by category of event



Source: Data supplied by the Garda Síochána; analysis by the Garda Inspectorate

- > The Inspectorate recommends that the Garda Síochána introduce clearer guidance and more consistency in the charging and recovery of NPD costs including an approval role for Regional Assistant Commissioners.

How Can the Garda Síochána Best Organise its Approach to Identifying and Investigating Corruption in the Workforce?

This strand of the inspection focused on how the Garda Síochána can best organise its efforts to identify and investigate internal corruption as well as the optimal structure for the proposed Anti-Corruption Unit. This included an examination of two important sources of information on the ethical health of an organisation: reporting wrongdoing and ethical monitoring.

Operational Structure

Any response to corruption requires more than simply reacting to cases as they arise. The approach adopted in similar jurisdictions commonly follows four of the broad strands identified in the report, including *plan*, in terms of strategic assessment and governance; *protect*, in terms of building integrity within the police workforce; *prevent*, in terms of strengthening systems and supervision; and *pursue*, in terms of identifying and investigating instances of corruption. The renewed counter-corruption approach announced by the Garda Commissioner in 2019 must embrace all of these elements.

- > The Garda Síochána is in the process of establishing a standalone Anti-Corruption Unit. The Inspectorate has recommended that for cases not investigated by the Garda Síochána

Ombudsman Commission (GSOC) this unit should have primary organisational responsibility for the prevention, detection and investigation of internal corruption.

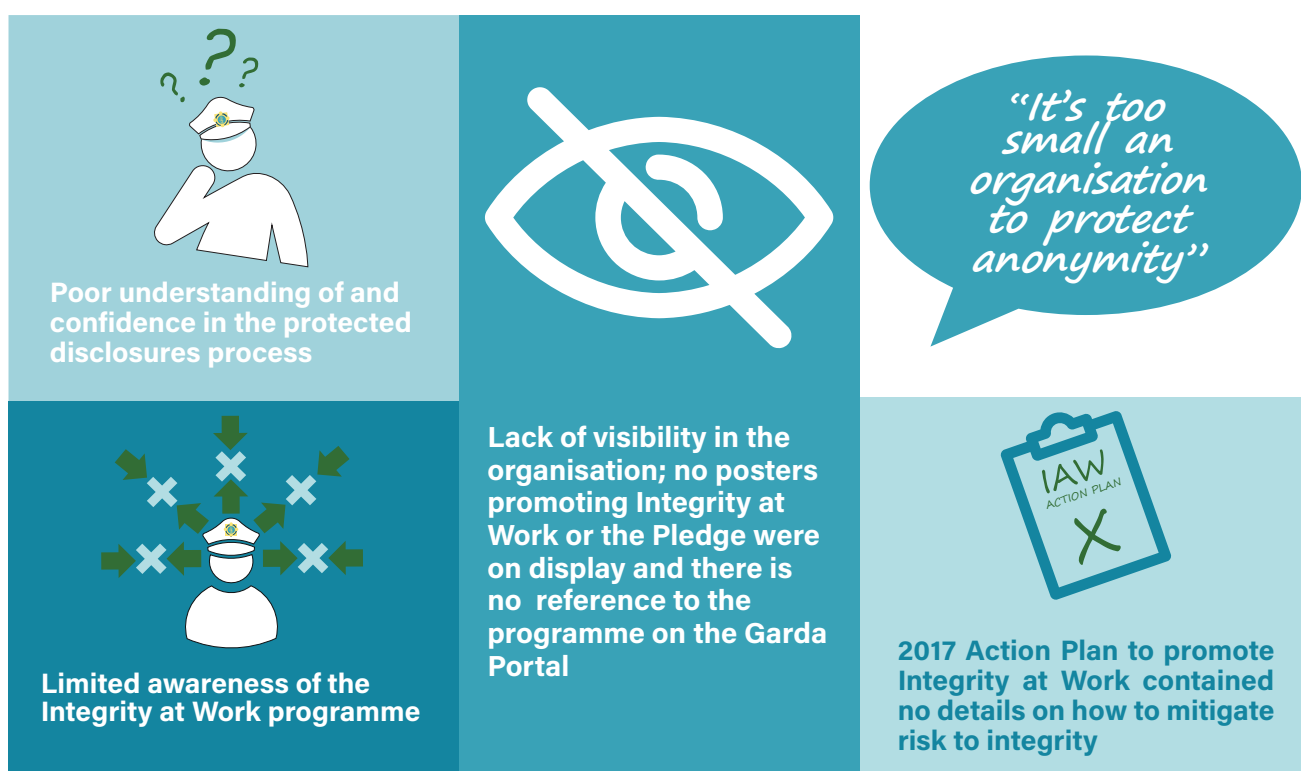
- > This should include a strong intelligence function allowing it to collate and develop intelligence from a range of internal and external sources and a dedicated investigative capability. The

unit should have an overview of all disciplinary and crime-related enquiries.

Reporting Wrongdoing

Several international organisations, including the OECD and Transparency International, promote whistle-blowing as one of the most effective ways of tackling corruption in any organisation. The Inspectorate has identified several barriers to the reporting of wrongdoing within the Garda Síochána.

Figure H - Barriers to the reporting of wrongdoing identified by the Garda Inspectorate



- > This inspection found that while there is a comprehensive statutory framework for protected disclosures in the State and a recently strengthened policy in the Garda Síochána, there was poor understanding and lack of confidence in the protected disclosure process among the garda workforce.
- > In 2017 the Garda Síochána signed up to the Integrity at Work Pledge, a scheme which provides an independent advice

service for persons considering making a protected disclosure, including a confidential reporting line. The Inspectorate found that there was very limited awareness of the programme at all levels of the organisation.

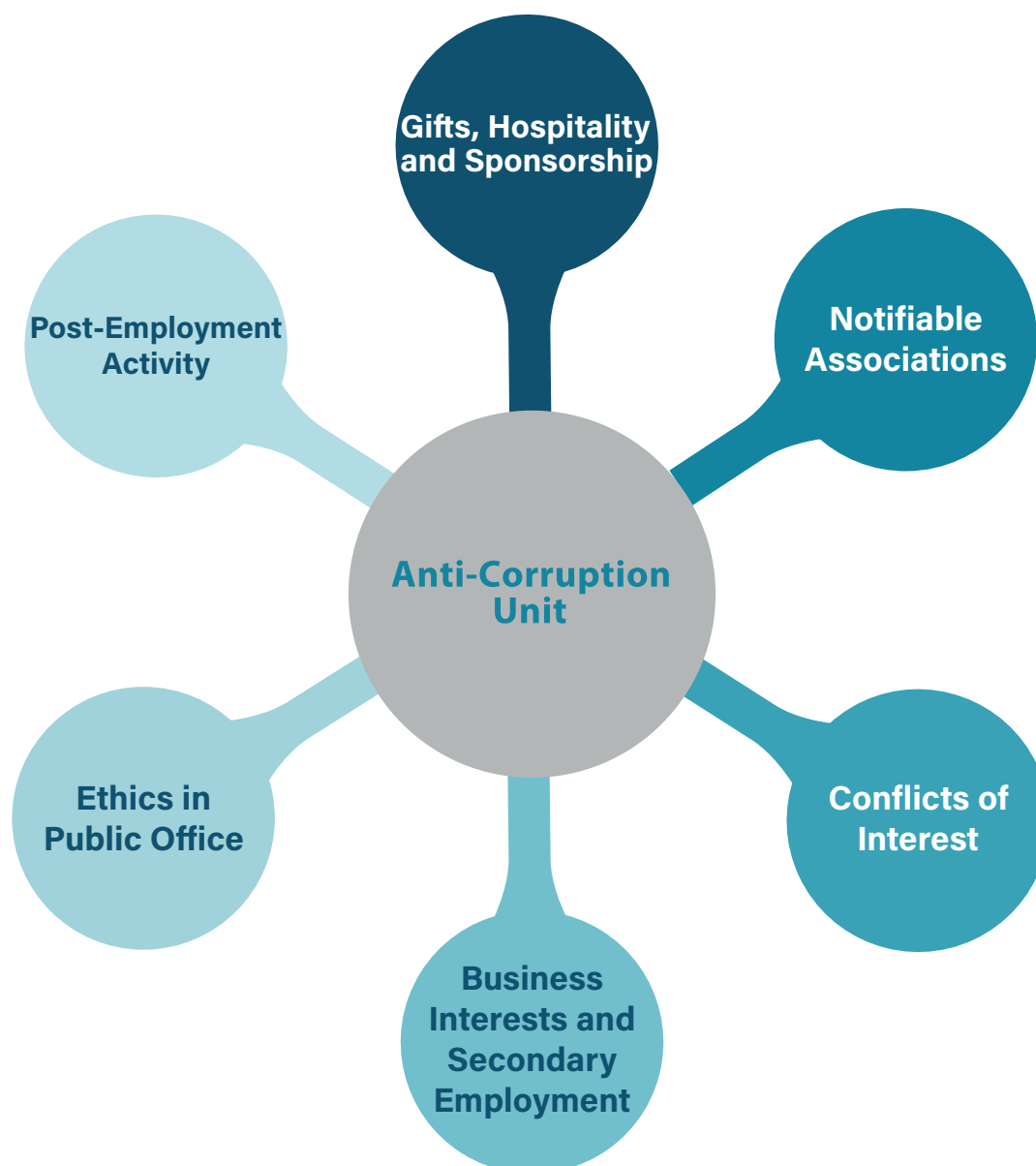
- > In this regard the report recommends that the Garda Síochána implement a strategy to encourage reporting of wrongdoing and build understanding and confidence in the process.

Monitoring Ethical Declarations

It is an important responsibility of any police service to proactively monitor ethical and professional standards. This inspection found a significant deficit in corruption and integrity related policies and guidelines for

the garda workforce as well as the lack of a broad range of ethical declarations common in other police services. Having a single body responsible for monitoring all ethical declarations by collating, analysing and challenging them is an essential tactic for identifying corruption.

Figure I - Monitoring of ethical declarations by the Anti-Corruption Unit



Having a single body responsible for monitoring all ethical declarations by collating, analysing and challenging them is an essential tactic for identifying corruption

- > The Inspectorate recommends that the Anti-Corruption Unit be responsible for monitoring compliance with all counter-corruption policies and registers including those with ethical declarations.

What Supports and Resources for Intervention Are in Place to Reduce the Impact of Corruption on the Garda Workforce?

The welfare of the workforce should be a primary objective of the Garda Síochána. This duty is no less significant when it comes to those who might be vulnerable to being corrupted by external influences.

- > While the Garda Síochána have a range of welfare supports in place, these are not part of a specific counter-corruption strategy aimed at preventing corruption in the garda workforce.
- > The Inspectorate identified several factors which can affect individual behaviour in the garda workforce and place organisational integrity at risk.

Figure J - Organisational integrity risk factors



- > The Inspectorate recommends that the Garda Síochána introduce a structured early intervention and support programme to prevent members of the garda workforce who may be in need of support from developing unethical traits unacceptable to the organisation.

How can the Garda Síochána Adapt and Learn from Corruption Cases and the Experiences of Oversight Bodies and Other Organisations?

The inspection examined how organisational learning could be better captured by the Garda Síochána and how these lessons could be communicated to the garda workforce and the wider public.

Organisational Learning

- > In particular, the inspection identified that corruption and fraud cases are not routinely profiled to identify patterns and common underlying causes as happens in the other police services benchmarked for the purposes of the inspection. This was a weakness identified by GRECO¹ in its first evaluation of Ireland in 2001.
- > Insights and recommendations from external organisations are not consistently drawn on by the Garda Síochána for learning purposes. The example of systematic recommendations made by GSOC were highlighted in the report to illustrate this point. This is in contrast to the situation in England and Wales where there is a partnership approach to organisational learning between the police complaints body (the IOPC), police services and other criminal justice agencies and institutions.
- > The comparative research carried out for the inspection highlighted how effective communication of the outcomes of police discipline and misconduct procedures, criminal investigations and substance tests can provide valuable opportunities for the Garda Síochána to learn from past

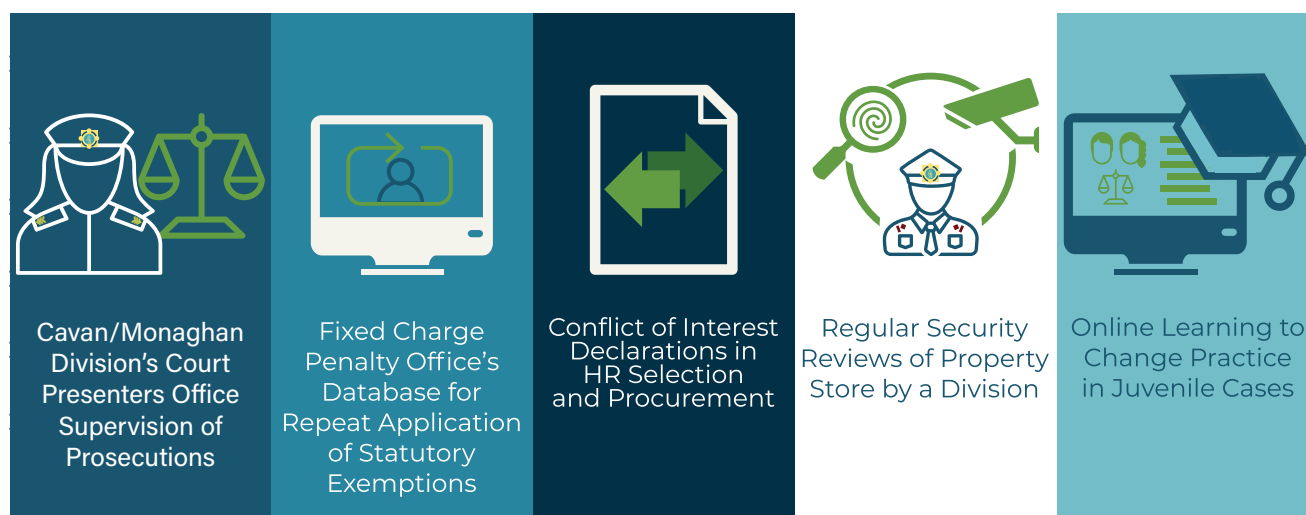
mistakes. This is a particularly common practice in UK police services, which publish the outcomes of such cases on their websites.

Insights and recommendations from external organisations are not consistently drawn on by the Garda Síochána for learning purposes.

What Examples of Good Practice Did the Inspectorate Identify?

Despite the fact that until recently counter corruption within the Garda Síochána was not considered in a formal, systemic or strategic manner, the Inspectorate did encounter examples of individuals and specific departments developing policies and practices that could enhance organisational integrity. These examples are important as they show how on their own initiative, sections of the garda workforce are identifying processes to improve leadership and supervision, strengthen professional integrity, enhance organisational resilience, and cascade organisational learning. This shows the value placed on integrity by the organisation.

Figure K - Identified good practice in the Garda Síochána

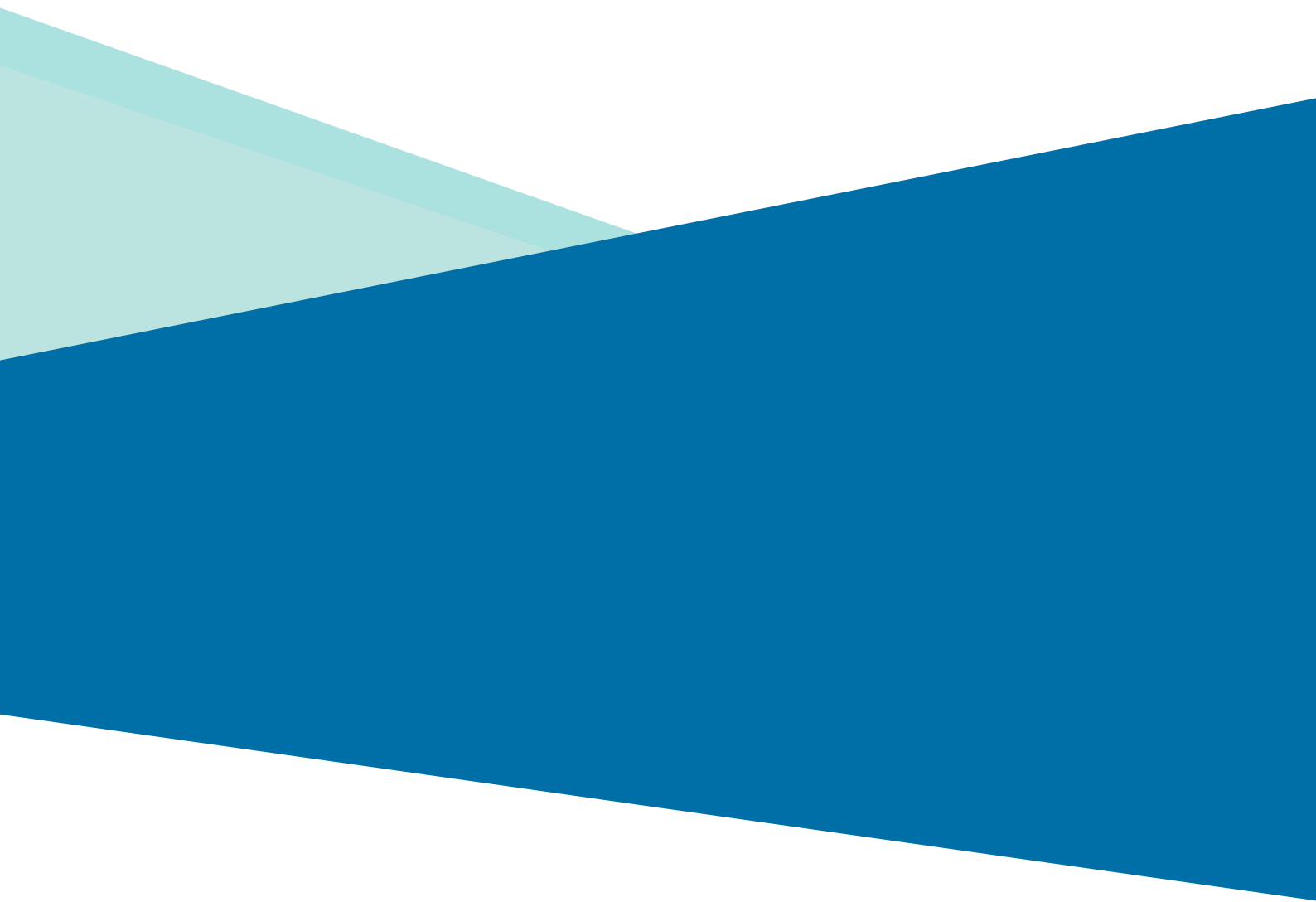


¹ The Groups of States against Corruption was established by the Council of Europe to monitor states' compliance with Council of Europe anti-corruption standards.



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Introduction and Background

Introduction

Due to the unique nature of policing, internal corruption will always pose a threat to the integrity of policing organisations. As a consequence a police service should always acknowledge the existence of the threat, recognise that it cannot eliminate corruption permanently, and through leadership strive to find ways of reducing the likelihood and impact of corruption. This can only be achieved through a framework of integrity and respect for the rule of law. In order to understand which interventions might make a difference to counter corruption in any organisation it will need to analyse what are the most damaging and disruptive aspects of corruption and how these impact on public trust and confidence and the human rights and dignity of persons.

There are opportunities in every organisation for corrupt insiders to operate or to exploit weaknesses in the human resources, the procedures or the systems of that organisation. In the policing context corrupt insiders make society more vulnerable to terrorism, organised crime and other threats. As a result, this inspection is focused on the threat of internal corruption within the Garda Síochána.

For the purposes of this inspection, the Inspectorate has relied on a commonly accepted definition of corruption used by a number of government agencies, departments and commercial entities within Ireland. This definition describes corruption as an abuse of a position of trust in order to gain an undue advantage.

Background to the Inspection

The Garda Inspectorate is an independent statutory body established under the Garda Síochána Act 2005 with the objective of ensuring that:

“the resources available to the Garda Síochána are used to achieve and maintain the highest levels of efficiency and effectiveness in its operation and administration, as measured by reference to the best standards of comparable police services”.

All inspections are conducted in accordance with the Act and may enquire into any aspects of the operation or administration of the Garda Síochána. The Act stipulates that an inspection can commence under any of the following circumstances:

- > If the Inspectorate considers it appropriate to do so;
- > At the request of the Policing Authority in respect of a matter relating to policing services; or
- > If requested by the Minister for Justice and Equality.

In considering which aspects of policing should be examined in its Work Plan for 2019-2021, the Inspectorate consulted widely with a number of key stakeholders including the Garda Síochána, the Policing Authority, and the Department of Justice. The final Work Plan outlines several distinct areas of operation and administration, prioritised for examination taking into account the level of risk to human rights, public safety, public confidence, reputation and financial management in the Garda Síochána. One such area is countering the risk of corruption within policing.

On 14 June 2019 the Inspectorate commenced its first self-initiated inspection, examining counter-corruption practices within the Garda Síochána.

Terms of Reference

This inspection examined the effectiveness of the Garda Síochána at preventing, detecting and mitigating against internal corruption and assessed the systems and processes in place in the following areas:

- > *Strategy and Governance in terms of the identification and management of risk, internal and external oversight, and the current anti-corruption architecture and strategy.*
- > *Enhancing Professional Integrity in terms of ethics and integrity training, organisational registers and disclosures, substance testing, transparent and ethical decision-making, professional standards, and maintaining professional boundaries.*
- > *Building Organisational Resilience against corruption in terms of selection, vetting, leadership and supervision, physical and systems security, and procurement.*
- > *Identifying and Investigating Corruption in terms of protected and confidential disclosures, intelligence, investigation, regulation and information sharing.*
- > *Reducing the Impact of Corruption in terms of demonstrating an effective response to reports of corruption and organisational learning.*

Specifically, the inspection assessed the effectiveness of the Garda Síochána in relation to international standards and practice.

Perceptions of Corruption in Ireland

Corruption is a notoriously difficult phenomenon to measure directly. Official statistics will reveal only part of the picture because corruption is a crime which certain actors will go to extraordinary lengths to keep hidden from the authorities. As a result, public and business opinion surveys are increasingly relied upon to provide international comparisons and some measure of corruption trends.

Ireland's ranking in several well-established indices of public perceptions of corruption (i.e. the Transparency International Corruption Perception Index and the World Bank Public Integrity Indicator) has fluctuated considerably over time, falling significantly over the period 1995 to 2002 and rising again between 2012 and 2017. What this means for corruption trends in Ireland is difficult to judge because of certain measurement problems. These include refinements of the collection methodologies and a significant expansion of the measurement base over the period, making direct comparisons problematic. However, while Ireland's position may have changed in these rankings it has consistently remained in the top quarter of the least corrupt of the countries surveyed.

What is clear however is that over the same time frame, Ireland went through a period when public concerns about corruption were heightened and public confidence in state institutions shaken as a result of a series of tribunals of inquiry. Despite this uncertainty about the extent of corruption in wider Irish society there are no grounds for complacency. In a recent result from the Eurobarometer survey, which measures public awareness and attitudes towards a range of issues including corruption, more than half of Irish respondents believed Ireland's public institutions were corrupt to

some extent. While this was slightly lower than the European average it was noticeably higher than most of its Northern European counterparts.

Concerns about misconduct and corruption in policing have emerged in a number of highly publicised controversies, four of which were examined in tribunals of enquiry² over the period 2000 to 2017. While some of the tribunals related to specific incidents, others involved institutional practices and procedures. The range and scale of the issues exposed were significant and included the “*finding of the Smithwick Tribunal Report that there was collusion with the IRA from within An Garda Síochána*”,³ findings from the Morris Tribunal of involvement of garda members in planting explosives and firearms and tampering with evidence and witnesses (Department of Justice, undated), the O’Higgins Commission in which serious issues of “*poor supervision and related management responsibility were raised*” (Policing Authority, 2006), as well as reports on inappropriate cancellation of penalty points (Garda Inspectorate, 2014) and falsified breath test records (Crowe Horwath, 2017).

Understanding the Risk of Corruption

While the likelihood of corruption cannot be eliminated, it can be better understood and managed and any consequential harm mitigated against. In order to understand which interventions might make a real difference to the Garda Síochána it is important to understand what the most damaging and disruptive threats to the organisation are and how these could impact on public trust and confidence.

By understanding the risks better it is easier to identify and address the persons, institutional structures, systems and processes which make an organisation vulnerable to corruption. In its *Speak Up* report for 2017 Transparency International Ireland produced a simple model for understanding the risk of corruption in an organisation. This model, which is described in Figure i, is organised around pairs of factors: Incentive and Accountability, Inclination and Transparency and Opportunity and Integrity.

Figure i Transparency International Corruption Risk Model



Source: Transparency International Ireland, *Speak Up Report 2017*

² The Smithwick Tribunal, the Morris Tribunal, the O’Higgins Commission of Investigation and the Disclosures Tribunal.

³ Comment by then Tánaiste Eamonn Gilmore in response to the publication of the report of the Smithwick Tribunal of Inquiry, Merrionstreet.ie (2013).

The International Legal Framework

Since the mid-1990s, the issue of corruption has gained increasing prominence on the global agenda as it has become the subject of widespread international concern. The past decade, in particular, has seen an expanding framework of ‘hard law’ (treaties and conventions) and ‘soft law’ (resolutions, guidelines and declarations). The purpose of these developments was to set common standards, develop and disseminate good practice, and provide for increased international cooperation. A range of international bodies, including the Organisation for Economic Co-operation and Development (OECD), the World Bank and the United Nations, as well as business groups and non-governmental organisations such as Transparency International have addressed the issue and it has been established as an important transnational legal speciality. A major achievement has been the adoption of a series of international agreements designed to harmonise national counter-corruption measures.

For Ireland, the Council of Europe Criminal Law Convention on Corruption, is of most significance. The Convention came into effect in November 1998 and incorporates all the Member States of the Council of Europe together with eight additional observer states. The Convention covers a broad range of criminal corruption offences, as well as cooperation and asset-recovery measures. The evaluation programme associated with the Convention, which is carried out on a peer-to-peer basis by the Group of States against Corruption (GRECO), helps to identify deficiencies in national counter-corruption structures and promotes the necessary legislative, institutional and practical reforms needed to bring Member States into line with the standards laid out in

the Convention. The programme is now on its fifth round of evaluations and is themed around preventing corruption and promoting integrity in central governments (top executive functions) and law enforcement agencies.

Significant findings from the Fifth Evaluation Round of 18 countries so far include the following:

- > The importance of strategic risk assessment and broad strategic approaches to understanding the threat of corruption in police organisations;
- > The importance of integrity supports and training, including confidential advice and reporting mechanisms;
- > Strengthened recruitment and vetting processes, including greater co-ordination between police services and regular in-service re-vetting;
- > Better regulation of secondary employment and post-employment activities in order to minimise the impact of reach back into police organisations;
- > Comprehensive declarations of financial and other interests, including declaration of financial liabilities and disclosure of the interests of close associates; and
- > Enhanced whistle-blower protections, including anonymity and confidentiality.

Given the significance of the Council of Europe Convention and GRECO to Ireland's counter-corruption framework, any assessment of the Garda Síochána's approach to tackling corruption in its ranks would be incomplete without considering the impact of emerging trends in counter-corruption practice in Europe.

Counter-Corruption Evaluations of Ireland

As a state signatory to a series of international counter-corruption agreements, Ireland has participated in the evaluation and review programmes associated with a number of these agreements, as well as being evaluated by well-respected international cooperation organisations, such as the OECD and Transparency International.

GRECO

Ireland has been evaluated by GRECO on four separate occasions.⁴ The fifth round of evaluations, which is examining law enforcement agencies for the first time since the 2000/1 round, is ongoing and Ireland is due for evaluation in late 2020 or in early 2021.

The first evaluation of Ireland by GRECO was reported in December 2001. The evaluation team concluded that Ireland was relatively unaffected by corruption but that there were indications public confidence was weakening in the face of high-profile political corruption allegations. The evaluation noted that important legislative measures were a strong deterrent against corruption and made the following critical findings with regards to the Garda Síochána (GRECO, 2001):

- > The evaluation team was unconvinced by the explanation as to why there was no link between corruption and organised crime in Ireland;
- > In the absence of a full intelligence picture there was no accurate

assessment of corruption of public officials including garda members;

- > The absence of a multi-agency anti-corruption strategy or plan was a considerable weakness;
- > While there were documented audit and review processes, organisational learning from these processes was weak; and
- > The organisation consistently failed to properly act on points of vulnerability identified from previous instances of corruption.

Crucially, the Inspectorate found that these findings remained valid at the time of this inspection and important aspects of counter-corruption strategy in Ireland have not been developed since they were first identified as being weak in 2001. It is important to note that the Garda Síochána has never been specifically re-examined by GRECO in the intervening period because of the evaluation approach, which focuses on a small number of themes for each round of evaluation.

Transparency International

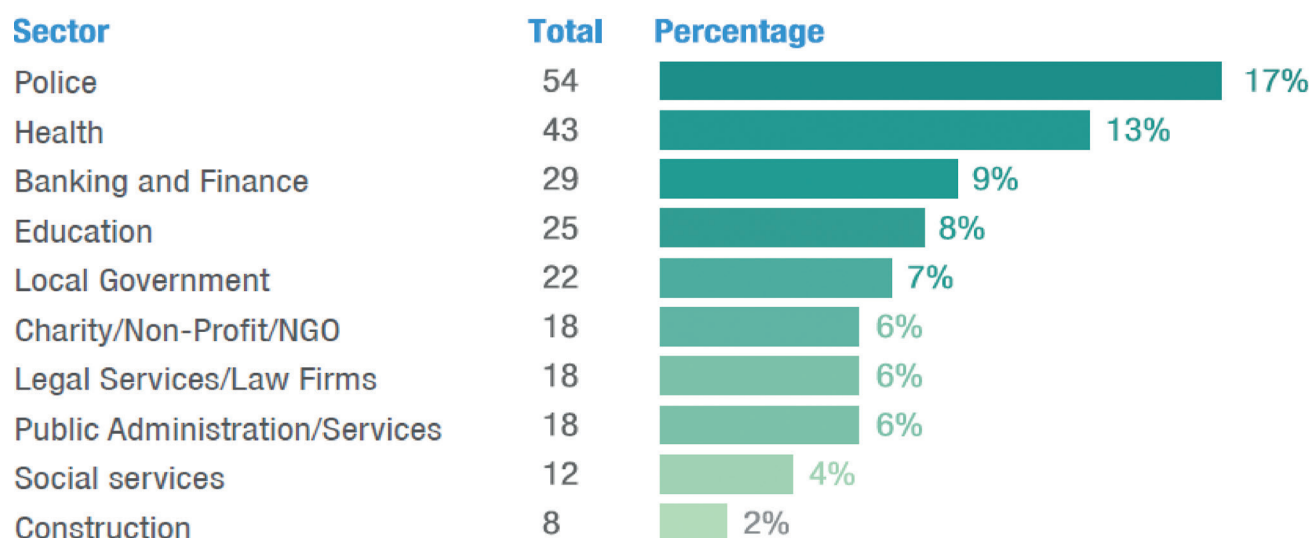
In 2009, Transparency International carried out its first review of Ireland's National Integrity System, looking at the institutional and legal response to corruption in Ireland. The review concluded that, while Ireland's integrity system was relatively strong by global standards, significant weaknesses existed. The review also noted that while public trust in the Garda Síochána had traditionally been strong, its reputation was tarnished by the findings of the Morris

⁴ GRECO's evaluation rounds operate in cycles, with each round taking a different theme. The first round (2000–2002) evaluated the independence, specialisation and means of national bodies engaged in the prevention and fight against corruption, including the extent and scope of immunities of public officials from arrest and prosecution. The second round (2003–2006) looked at the identification, seizure and confiscation of corruption proceeds, the prevention and detection of corruption in public administration; and preventing legal persons being used as shields for corruption. The third round (launched in January 2007) considered (a) the incriminations provided for in the Criminal Law Convention on Corruption and (b) the transparency of party funding. The fourth round (launched in January 2012) focuses on prevention of corruption in respect of members of parliament, judges and prosecutors.

Tribunal. It also found that a proposed Corrupt Assets Bureau, which was to be modelled on the Criminal Assets Bureau, and that increased transparency around the investigation and detection of cases involving corruption, including a promised Corruption Index, had not been introduced (Transparency International Ireland, 2009). While a follow-up review of Ireland's integrity system in 2012 noted some positive developments, including strengthening of the legislative base and new white-collar crime powers, there was still concern about the risk of political interference and influence over the Garda Síochána (Transparency International Ireland, 2012). However, it is important to bear in mind that there have been significant changes to the oversight of policing in the intervening period, including, the establishment of the Policing Authority, which now has responsibility for all senior-level appointments in the Garda Síochána.

Transparency International Ireland operates a Speak Up Helpline service which offers support and advice to members of the public wishing to report suspected wrongdoing across a wide range of sectors. Between May 2011 and January 2015 complaints about policing were the third-highest category and amounted to 8% of all calls received. By the time of the 2017 Speak Up Report, policing accounted for the highest category of complaints with calls about policing raising from 8% to 17% of all calls. This report covered the period January 2015 to December 2016, during which the helpline received a total of 327 complaints of wrongdoing, with 54 related to policing. Figure ii shows the complaints for this period broken down by sectors.

Figure ii Reports of wrongdoing to the Speak Up helpline - January 2015 to December 2016

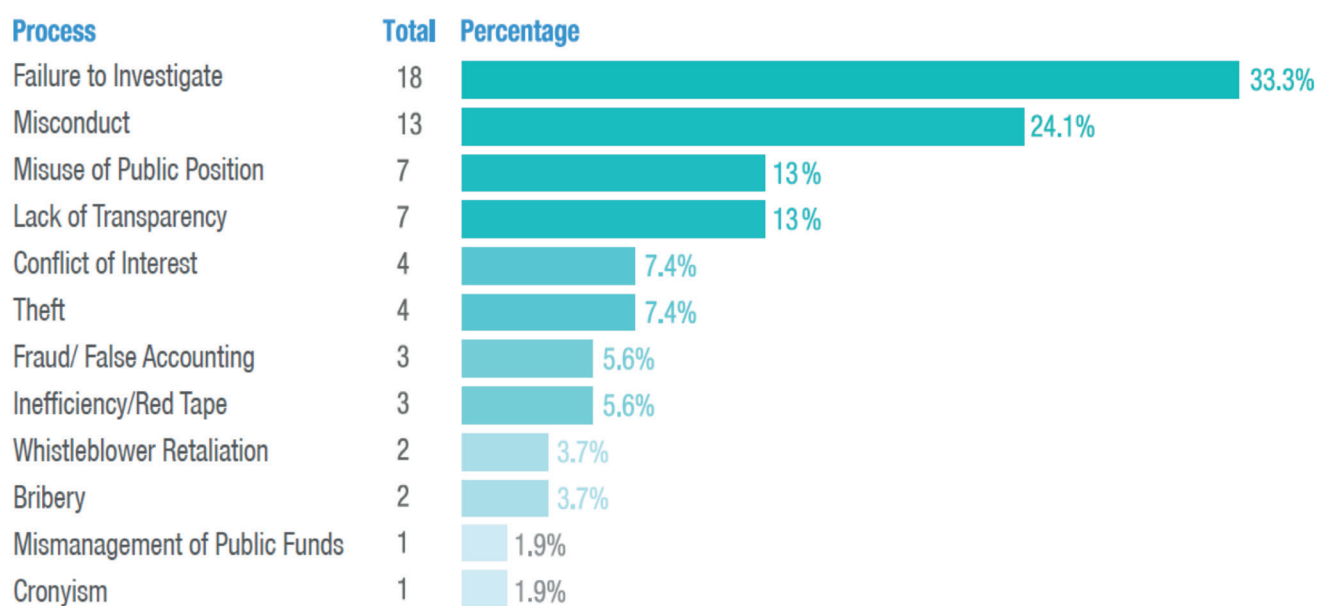


Source: Transparency International Ireland, Speak Up Report 2017

The 2017 Report provided a more detailed breakdown of information regarding the nature of the concerns raised about policing by callers to the helpline. Figure iii contains a detailed breakdown of complaints concerning policing and shows that while failure to investigate received the highest

number of complaints, there were also high levels of concern about misconduct and misuse of public position. Within this analysis, callers reported specific concerns about orchestrated neglect in the handling of evidence and shortcomings in statement-taking and note-taking by gardaí.

Figure iii Types of concerns about policing reported to Speak Up helpline - January 2015 to December 2016



Source: Transparency International Ireland, Speak Up Report 2017

The report, along with many other sources such as media and official reports from Tribunals and other public inquiries, adds to the collective understanding of the issue and suggests that, while the scale of corruption within policing in Ireland may be unknown, corruption does exist and presents a significant threat to the integrity and reputation of the Garda Síochána. As such, the Garda Síochána needs to have robust governance mechanisms in place to prevent and identify internal corruption as well as to allow the identification of those seeking to corrupt members of the garda workforce.

Links with Organised Crime

Corruption is not a static threat and criminal corruptors will adapt their methods in line with the States response and changes to their own business and operating models. This will include emerging markets for illicit drugs and other criminal commodities and services, or changing social, environmental and technological factors such as COVID-19, large scale migration or the development of digital currencies. Changes in the Garda

Síochána can also provide opportunities for criminals. New Garda Síochána technologies and systems can create organisational weaknesses, while external factors, such as diminishing workforce morale or financial crisis, can create new personal vulnerabilities in the workforce. The Garda Síochána needs to be alert to the changing corruption threat and adroit in its response to ensure the integrity of the organisation is not compromised.

Police Ethics

There is no commonly accepted definition of either integrity or corruption in policing. However, they are fundamentally a matter of ethics and depend on the particular circumstances of the conduct itself. Popular conceptions of corrupt behaviour encompass such activities as obtaining personal financial gain in return for a favourable decision or abuse of power and position in a policing context. However, it is now well accepted that corrupt behaviour extends to a much wider range of behaviours, such as perverting the course of justice or excessive use of force.

Ethical behaviour is influenced by a range of factors and it is important to bear in mind that unethical decisions will not always be based on unethical intentions. Police ethics is about its workforces doing the right thing for the right reason. There have been four broad approaches which have set the context for modern ethical policing (Newburn, 2008):

- > An increased drive towards the professionalisation of policing by setting standards and accrediting learning;
- > Performance ethics with an increased focus on managerial approaches and target setting, requiring the right balance of holding individuals to account without creating perverse incentives leading to unethical choices;
- > Participatory policing, which is about ensuring that police officers and the police service are responsive to the communities they serve; and
- > Approaches which focus on policing in action and respond to crises in policing as they arise, such as abuses of covert policing or the use of force.

No single approach dominates and aspects of all four will be visible in any modern police service.

Integrity in policing is essential to maintaining public order and the rule of law. It supports the legitimacy of the State and is crucial for public trust in the democratic process. The nature of the policing environment, the ethical climate and the introduction of codes of conduct for police services have all been identified as critical organisational factors impacting on the ethical choices of police officers. Situational factors also influence ethical decision-making by officers. These include the extent of consensus among police peer groups, familiarity with the person

being affected by a policing decision and perceptions of any negative consequences for the police officer. In addition, individual factors can also influence ethical choices by police officers. These might include an officer's moral philosophy, certain personality traits, demographic factors and job satisfaction.

Like any police service, achieving high levels of integrity and professionalism in the Garda Síochána would require an organisational culture that relies more on positive peer pressure than punitive approaches. Other important elements would include the setting of clear policing standards and the clear implementation and enforcement of codes of conduct. Effective organisational change would also require extensive awareness raising, training and capacity building.

Due to the nature of policing and the provision of extensive powers, a police workforce should always adhere to high standards of honesty and conduct. Any misuse of authority by a police officer or other member of staff is an intolerable breach of the trust placed in them by the public. Garda members are frequently confronted with difficult ethical issues and are more likely to make the right decisions if senior leaders engage with them in a dialogue which acknowledges the complex moral world in which they operate. Strong leadership and governance play a significant role in promoting an ethical culture in any organisation.

A code of conduct or code of ethics is an important way of supporting and embedding ethical values within an organisation. In the Garda Síochána context there is a large variety of relevant international ethical standards, including the European Convention on Human Rights, UN Code of Conduct for Law Enforcement Officials and OSCE Principles of Democratic Policing.

These include broadly similar high-level ethical principles and values which can be translated into practical guidance for police officers in service-level codes of conduct or ethics.

A code of ethics can greatly contribute to improving the image of policing and can help to engender mutual respect between the police and the public. In addition, it provides guidance as to how the law should be enforced. However, a code by itself is insufficient to change an organisation's ethical climate and other factors, such as ethical training programmes and visible ethical leadership, are necessary to promote a healthy ethical culture.

Garda Ethical Framework

The Ethics Acts, which include the Ethics in Public Office Act 1995 and the Standards in Public Office Act 2001, impose certain obligations on public office holders and other senior members of the public service to report and surrender gifts and payments above the value of €650. In addition, the Ethics Acts also aim to combat corruption by requiring public declarations of financial interests, as well as regulating the receipt of gifts whether or not they are given with the intention of securing an advantage.

The Ethics Acts, by their nature, apply only in respect of public officials. They contain no single definition of 'public official', but rather they divide public officials into categories to which different rules apply. For example, an 'office-holder' faces more stringent oversight than a 'public servant'. An 'office-holder' under the Ethics Acts generally means a minister in the Irish government or certain other members of the parliament. The term 'public servant' encompasses a wide number of persons, and essentially covers all civil servants, or their equivalent, above the grade of principal officer in the civil service.

Section 10 of the Standards in Public Office Act mandates the Commission, a public body established under the Ethics Acts, to promote and oversee transparency and accountability in Irish public life, and to draw up codes of standards and behaviour for public officials. Up to this point, five such codes have been drawn up, including a code of conduct for civil servants and guidelines for a wider group of public servants on their obligations under the Ethics Acts and the Code of Practice for the Governance of State Bodies. Both of these simultaneously apply to some members of the garda workforce.

The Standards in Public Office Commission in Ireland has also published a guide (undated) to best practices for supporting ethics compliance in public bodies. Several of these are relevant to the Garda Síochána as a public body, including:

- > Nomination of a specific individual to assist designated persons to comply with their obligations, including tax compliance, and to act as a point of contact with the Standards Commission;
- > Maintenance of a register of designated persons in the organisation;
- > Overseeing of compliance with ethical obligations and review of ethical declarations to identify and manage conflicts of interest;
- > Implementation of annual disclosure cycles to remind designated persons of their obligations; and
- > Introduction of induction and refresher training.

The garda ethical framework is particularly complicated. While the public sector ethics framework applies to a substantial proportion of the garda workforce, the Garda Code of Ethics applies to the entire garda

workforce and overlaps with the public sector framework. In the Garda Síochána, the disclosure requirements for ‘public servants’ extends to all garda members of superintendent rank and above, all garda staff of assistant principal level grade and above, and certain persons in designated posts related to information and communications technology and procurement. In addition, garda staff at all grades are simultaneously bound by the Garda Code of Ethics and the Civil Service Code of Conduct. As a result, the ethical framework in the Garda Síochána is extensive and complex and a large proportion of the garda workforce will have overlapping, if not competing, obligations and responsibilities.

The first statement of ethical principles in the Garda Síochána was the Declaration of Professional Values and Ethical Standards approved by the Garda Commissioner in May 2003 and reproduced in Garda HQ Directive 82/03. The Declaration was eventually replaced by the Garda Code of Ethics, which has had a long and complicated gestation.

Section 17 of the Garda Síochána Act 2005 provided for the Minister to establish a Code of Ethics setting out standards and practice for garda members. The legislative provisions allowed the Minister to instruct the Garda Commissioner to propose a Code of Ethics, after consulting with specified parties which included the Standards in Public Office Commission. Following this, the Minister could then formalise the Code in Regulations made under the Act.

These provisions were subsequently amended in the 2015 Garda Síochána (Policing Authority and Miscellaneous Provisions) Act, transferring responsibility for drawing up the Code of Ethics to the Policing Authority. While a proposed Code of Ethics was first sent to the Minister

for Justice and Equality in July 2009 for the purpose of establishing the Code by regulation, the Code was not published until the Policing Authority did so in January 2017.

The Garda Code of Ethics is a written guide to the principles that everyone working in the Garda Síochána is expected to uphold. The Code complements the Garda Decision-Making Model, which places ethics and human rights at the centre of decision-making in the organisation. The Code sets out nine standards of conduct and practice for the whole garda workforce: Duty to Uphold the Law, Honesty and Integrity, Respect and Equality, Authority and Responsibility, Police Powers, Information and Privacy, Transparency and Communication, Speaking Up and Reporting Wrongdoing, and Leadership. Guidance regarding the ethical standards is provided through 53 separate ethical commitments which clarify and contextualise the duty of garda members and garda staff.

The Code reflects the core values of policing which have been practised by generations of garda members and echoes the sentiments expressed by the first Garda Commissioner, Michael Staines, at the founding of the organisation that “*the Garda Síochána will succeed, not by force of arms or numbers, but on their moral authority as servants of the people*”. A central theme running through the Code is the ‘common good’ and the principle that everyone bound by the Code will treat others the way they expect to be treated themselves.

The Policing Authority has an important role in monitoring progress on implementing the Code. In particular, this oversight has focused on the extent to which the Code has been embedded into everyday policing and into internal processes and procedures. Up to 2018, the Policing Authority’s Code of Ethics Committee took the lead in this regard but responsibility has since passed to the Policing

Authority's Development Committee. The Policing Authority has reported that the issue is frequently discussed at public meetings with the Garda Commissioner and his senior team and is also prominent in the agreement on the annual policing priorities in accordance with Section 20 (1a) of the 2005 Act.

A number of steps have been taken to embed the Code within the Garda Síochána. Initially, early in 2017, this involved the distribution of soft copies of the Code to all members, followed by the distribution of hard copies towards the end of 2017. When members received a hard copy of the Code, they were required to sign it and to make a formal commitment to its observance. The number of those signing the Code is tracked by the Garda Síochána and regularly reported to the Policing Authority.

The Garda Decision-Making Model was adapted in 2019 to place the Code, as well as human rights, at the model's core. Ethics training, which focuses on the new Garda Decision-Making Model and the Code, is now a central element of recruit training. As part of this inspection, the Inspectorate reviewed training materials for garda recruit training. The Inspectorate found that this training material is comprehensive and heavily focused on ethical decision-making in all aspects of policing. A substantial proportion of the training involves group-based ethical scenario exercises to draw out recruits' understanding of the ethical principles of various situations they are likely to encounter in their careers.

The remainder of the garda workforce has received ethics training through continuous professional development classes since 2017. During focus groups held by the Inspectorate, garda members were critical of

the way in which the Code was introduced. The approach adopted gave the impression that it was more of a disciplinary tool than an aid to ethical decision-making in professional practice. They were also critical of the emphasis placed on Code of Ethics training after an extended lacuna in continuous professional training as a result of financial austerity measures from 2008 onwards. Most members felt that the opportunity could have been better used to upskill them in other ways. Garda staff also criticised the training for being too heavily focused on the role of garda members and for failing to explore ethical issues relevant to their role more comprehensively.

Ethical Leadership

It is commonly accepted that police leaders should have the autonomy, within established regulatory and budgetary frameworks, to decide how best to respond to law and order situations. This is commonly referred to as operational independence. This level of independence trickles down to the whole police workforce and takes the form of police discretion. The discretionary use of policing powers is at the heart of policing and has been reflected in the common law definition of the police constable. It is impossible to regulate for every single police action in advance through laws, regulations or standard operating procedures. In this way, there is a clear link established between ethical leadership and ethical policing.

In 2015, the UK College of Policing carried out a research study⁵ examining the role of leadership in promoting and embedding ethical behaviour in policing organisations. The study focused on in-depth interviews with serving police officers up to and including the rank of Chief Constable across five police services in England and Wales.

⁵ *The role of leadership in promoting ethical police behaviour: The findings of qualitative case study research*, College of Policing (2015)

The study concluded that ethical leadership requires an active shift from autocratic styles of leadership to more open and inclusive approaches. The factors that constituted effective leadership were intertwined with those that promote ethical behaviour. A range of leadership values were important, including honesty, integrity, visibility, transparency and consistency.

The study highlighted how police leaders are both the figureheads and role models for good conduct in setting the organisation's ethical standards as well as clearly communicating and enforcing these same standards. A transformative and participative leadership style is critical in senior leaders, and visibility and clear communication are vital to promoting the organisation's commitment to integrity in policing.

High levels of discretion in policing leave it particularly vulnerable to unethical behaviour and in response leadership needs to be balanced and flexible. This includes providing a consistent and fair application of rewards and sanctions. It is also the case that open and democratic styles of leadership will secure better commitment from the police workforce. Frontline supervisors can have the greatest influence on staff acting as day-to-day role models and supporting and empowering the workforce. As such, senior leaders and supervisors need to be more aware and self-reflective if they are to have a greater impact on ethical behaviour.

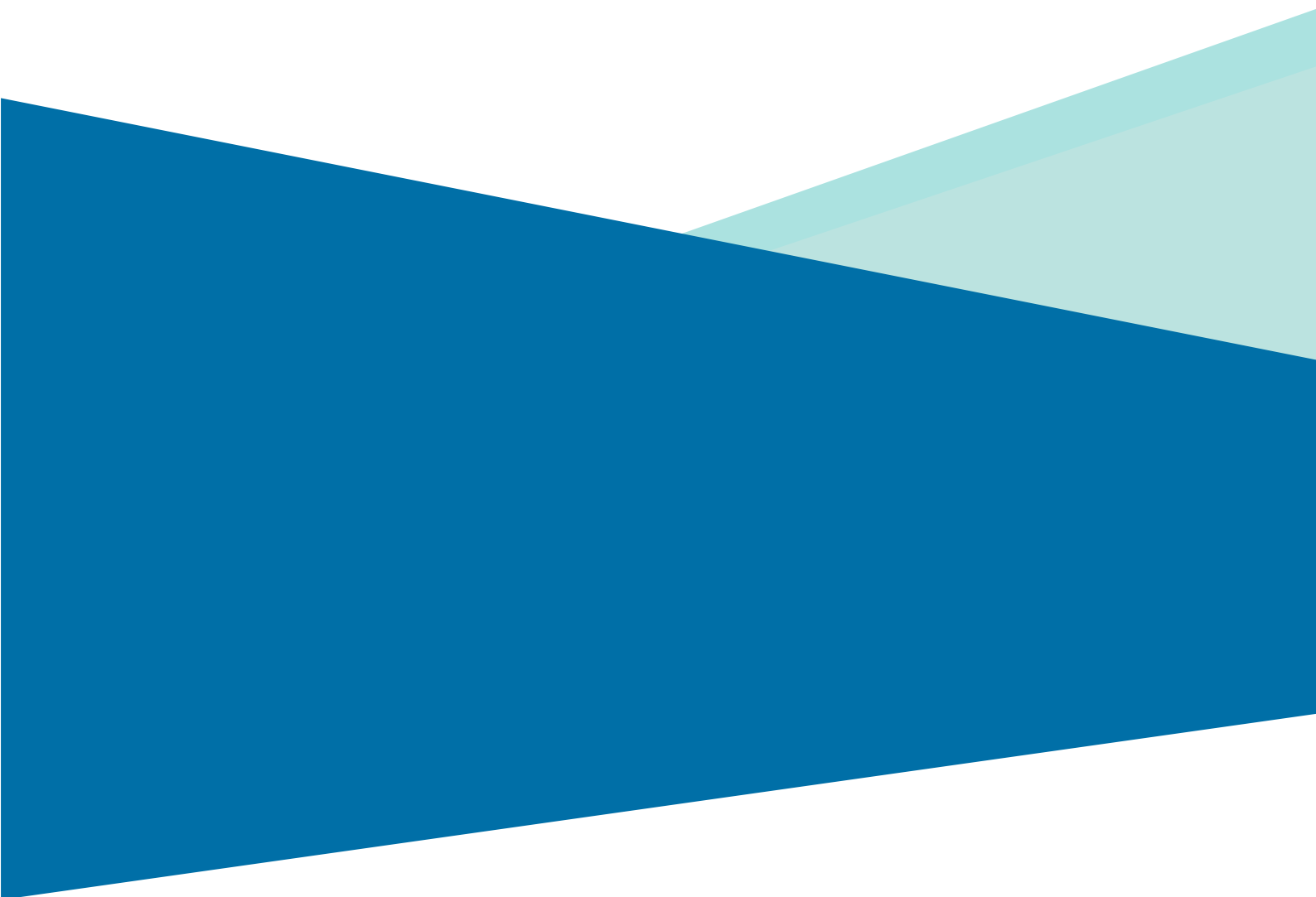


Part I

Strategy and Governance

Part I outlines how the Criminal Justice Sector develops understanding of the threats posed by internal corruption and how the Garda Síochána's governance structures prioritises its efforts to mitigate the most harmful consequences of corruption to the organisation.





Chapter 1

Strategy and Governance

Overview

One of the key objectives of this inspection was to assess the evidence of strategic leadership displayed by the Garda Síochána around the corruption threat, including its analysis and understanding of this threat and its approach to prioritising the response. Equally important was an assessment of the governance arrangements in operation to see if they are 'fit for purpose' in the light of any strategic analysis.

For any organisation to effectively respond to the challenges of corruption it must recognise the threat posed as well as understand its own response. Another way of describing such an approach is effective governance. In much international literature good governance is tightly linked with the fight against corruption, for example, in guidance from the United Nations Office on Drugs And Crime, Council of Europe, World Bank, Geneva Global Governance Centre and Basal Institute of Governance.

However, the risk of corruption within the Garda Síochána cannot be addressed in isolation. Developing effective counter-corruption governance is dependent on a wider understanding of all the known threats across the entire criminal justice sector. Tackling corruption independently could lead to the displacement of a threat to a more vulnerable area rather than an actual reduction in the risk.

Strategic Understanding of Threat

A strategic threat assessment is a necessary first step by the management of any organisation in understanding and responding to their strategic risks. Such assessments allow an organisation to achieve a deeper understanding of the threats it faces and the necessary strategic response. This is achieved through a comprehensive collection and analysis of all relevant data and information. The risk profile which emerges from this must be tested and challenged to ensure a full and detailed understanding of the issues concerned as well as capturing emerging trends and identifying critical organisational and personnel weaknesses. The process goes hand in hand with the wider processes of governance and control in the organisation, including developing and implementing a strategic risk management action plan and communicating the key risks and management response to the wider organisation.

International and Comparable Practice

The fifth round of GRECO evaluations has identified a number of countries with good strategic threat and risk processes which enable them to identify vulnerabilities and reduce the occurrence of corruption. Countries such as Belgium, the United Kingdom, Estonia and Denmark have all adopted risk-based approaches.

For example, in Estonia, GRECO (2018a) found that the Internal Control Bureau (ICB) of the Police and Border Guard Board (PBGB):

“... evaluates corruption risks in the PBGB annually, by carrying out both a corruption threat analysis and a risk assessment. The risk assessment classifies every structural unit of the PBGB as low to high risk, whereas the threat analysis is a future-oriented document based on intelligence gathered by the ICB as well as past incidents. Based on both documents, the ICB prepares an annual action plan, which includes the activities of the ICB for the prevention and detection of offences (including corruption offences) committed by officials and employees of the PBGB.”

In the United Kingdom, an overall National Counter-Corruption Strategic Threat Risk Assessment (STRA) is produced by the National Crime Agency (NCA) working in partnership with each UK police service and other law enforcement agencies such as the Border Force. This threat assessment aims to:

- > Identify key corruption threats and emerging issues; and
- > Highlight individual and organisational vulnerabilities.

To facilitate the consistent analysis of information across such a wide range of organisations, data is captured using 12 standardised and agreed categories. This standardisation of data collection allows trends and emerging threats to be tracked regionally and across time. This use of

a standardised methodology to define, capture and measure corrupt activities is widely recognised as an important feature of effective strategic threat assessment. For example, the UN Guide for Anti-Corruption Risk Assessment (2013) advises that:

“In designing an anti-corruption programme, the enterprise should define what it understands to be corruption and its various forms, as this will provide the reference for the risk assessment process.”

A key element in the development of strategic analysis of the corruption threat, both within law enforcement and the wider public sector is a better understanding of the intentions of those who seek to advance their criminal enterprises through corruption of the workforce.

The European Union’s 2017 Serious and Organised Crime Threat Assessment (SOCTA) found that:

“[Organised Crime Groups⁶] use corruption to infiltrate both public and private sector organisations, relying on bribery, conflicts of interest, trading in influence and collusion in order to facilitate their criminal activities. Over the past two decades, the issue of corruption has rapidly entered the agenda of international organisations and the EU.”

In 2019, a joint report by the European Monitoring Centre for Drugs and Drug Addiction and the European Union Agency for Law Enforcement Cooperation assessment found that:

⁶ The United Nations Convention against Transnational Organized Crime has provided an internationally shared definition of an organised criminal group as “a group of three or more persons existing over a period of time acting in concert with the aim of committing crimes for financial or material benefit”. This definition was also adopted in the EU’s Council Framework Decision 2008/841/JHA of 24 October 2008 <https://www.europol.europa.eu/socta/2017/defining-serious-and-organised-crime.html> [last accessed 29 September 2020]

“Drug markets are one of the most corruptive influences in the EU and have a serious impact on governance in producer and transit countries. Corruption may be used by organised crime to obtain information, to facilitate the transit of illicit drugs and/or the diversion of chemicals to illicit markets, and to obstruct investigations. Despite this, the extent of this problem remains both poorly understood and poorly monitored.”

The heavy cost of corruption to society has prompted the major international standard-setting organisations (e.g. UN and OECD) to rethink their approach to corruption and to promote national integrity systems as a more effective response to the problem. In particular, the OECD (2017) has suggested that action needs to go beyond simple organisational boundaries, and it advocates a Public Integrity Strategy which shifts the focus from an isolated or *ad hoc* approach to an integrated behavioural and risk-based approach emphasising the need for integrity across the whole of a society. The OECD guidance is around four specific pillars:

Commitment: which stresses the importance of political and public sector leadership in terms of establishing the legal and institutional framework for cross-agency cooperation.

Responsibility: which emphasises a clear division of responsibilities and good coordination across the public sector.

Strategy: which promotes cross-sectoral data collection and analysis to develop a deeper understanding of the problem and to prioritise the responses.

Standards: which is about setting clear values, rules and policies at the organisational and cross-organisational level.

Similarly the UN emphasises a risk-based approach and increased cooperation across the public and private spheres.

At the national level in the UK, the National Police Counter-Corruption Advisory Group reviews national threats and sets the counter-corruption strategy. The group is chaired by a Chief Constable and consists of representatives from across policing and other law enforcement agencies such as the Border Force. The Group also includes oversight bodies, such as Her Majesty’s Inspectorate of Constabulary and Fire & Rescue Services (HMICFRS) and other criminal justice partners such as the Crown Prosecution Service and the Probation Service. This provides a national forum for developing a comprehensive understanding of corruption threats and vulnerabilities across the criminal justice sector as well as agreeing common control measures to address identified threats.

Key Findings and Assessment

During the course of this inspection, as well as meeting with senior garda managers, the Inspectorate also met with senior leaders in a number of other criminal justice agencies, including the Prison Service, Courts Service and Office of the Director of Public Prosecutions to assess the wider challenges and cooperation across the sector. It became clear that there is no common understanding of the corruption threat across the criminal justice sector. This inspection also found that cooperation is *ad hoc* and there is no formal process for sharing information regarding corruption; risks, trends or operational responses. As a result, learning from one agency is not shared with other agencies in the criminal justice sector and there is no clear counter-corruption vision or leadership across the sector.

A significant threat for one criminal justice agency is likely to pose a threat across the entire sector. This could range from weaknesses in systems to enhance professional integrity, to the deliberate exploitation of staff by organised crime groups. Those seeking to corrupt criminal justice personnel will often target the weakest link, so simply strengthening one agency could displace the threat to another which is less well prepared. By sharing knowledge and practice, the whole criminal justice sector can become far more resilient.

International standard-setting organisations like the UN and OECD promote greater cross-sectoral and cross-government coordination. As reflected in the threat assessments of several high-profile national and regional law enforcement bodies (e.g. EUROPOL, the European Monitoring Centre for Drugs and Drug Addiction and the NCA), experience has shown that corrupt actors will adapt their methods and targets in response to counter-corruption initiatives by specific criminal justice agencies or bodies. Counter-corruption evaluations have consistently highlighted the benefits of cross-government coordination of a country's counter-corruption efforts. Strategic threat assessments have now become common practice in many of the countries benchmarked for this inspection (e.g. UK, Estonia and Germany).

The Inspectorate reaffirms the 2001 GRECO finding that in the absence of a full intelligence picture, there can be no accurate assessment of corruption of public officials, including garda members. The case for a cross-sectoral criminal justice strategic or executive-level understanding and response to corruption is therefore strong.

Recommendation

In light of these findings, assessments and review of international practice, the Inspectorate makes the following recommendation.

Recommendation 1

Strategic Threat and Risk Assessment

The Department of Justice should develop a strategic understanding of the risk of internal corruption across the criminal justice sector with the objective of developing an overarching strategy and multi-agency approach to the management of the corruption threats.

Strategy and Governance in the Garda Síochána

Beyond the identification and assessment of corruption threats, policing organisations must have an effective process to prioritise their response to these threats and to measure the effectiveness of their actions. The policing response should focus its efforts on those threats that have the potential to cause the greatest harm. This requires robust governance which sets and actively oversees the police services counter-corruption strategy. As the World Bank publication *The Many Faces of Corruption* (2007) makes clear:

“Combating corruption is fundamentally about addressing poor governance rather than about catching crooks”

Several good governance principles must underpin any counter-corruption strategy. Governance must always be consistent with the rule of law in terms of being guided by legislation and published guidelines, as well as supported by clear social values and

broad public support. Governance must be responsive and serve all stakeholders in a prompt and appropriate manner. There should also be dedicated and adequate resources for receiving and attending to complaints and grievances. It should be effective and efficient making the best use of the resources available to produce results and meet the needs of the public. It must be transparent and accountable.

International and Comparative Practice

The UN has developed the Global Compact Management Model to help organisations who are seeking to eliminate corruption through respect and promotion of universal human rights (Deloitte & United Nations Global Compact, 2010). Figure 1.1 shows the components of the model; these components provide a comprehensive and structured process for continuous improvement.

Figure 1.1 UN Global Compact Management Model



Source: UN Global Compact Management Model Framework for Implementation: Human Rights

This model contains all the elements necessary for effective governance of organisational-level issues such as counter corruption, and is used by UK policing services, where it is referred to as the Police Integrity Model (College of Policing, 2015).

In a 2016 review of Police Scotland's Counter Corruption Unit, Her Majesty's Inspectorate of Constabulary in Scotland found that a local STRA had identified as many as 23 serious and organised crime groups whose actions posed a threat to law enforcement and the public sector throughout Scotland.

By drawing on the wider intelligence assessment and putting good governance models such as the UN Model into practice within policing, the counter-corruption threat assessment becomes the first element in the governance programme in any policing organisation. It is used to identify vulnerabilities in the organisation. All UK police services benchmarked for the purposes of this report develop regular strategic threat and risk assessments. These serve two purposes: they highlight the specific threats and vulnerabilities faced by the police service, and they feed into higher-level national policing and cross-sectoral assessments. The example of the Police Scotland assessment underscores this point.

Subsequently, a control strategy allows a police service through an action plan to prioritise the threats that have the greatest consequences and to allocate responsibility for specific actions to address these vulnerabilities. In the UK action plans are developed under four themes: Prevention, Intelligence, Enforcement, and Communication and Engagement. In particular, the plans will clarify how key policy holders and functional leaders are expected to contribute to the counter-corruption efforts of the organisation as a whole.

Regular monitoring of the programme to identify progress or emerging issues will establish the degree to which the organisation is meeting its integrity objectives. Within policing, this monitoring is supported by an intelligence-collection plan which gathers and assesses intelligence from various sources across the police service and beyond.

Police services also build public confidence and seek to deter would-be corruptors through public reporting on their counter-corruption programme. Reporting in this way emphasises the organisation's strong commitment to integrity and transparency

and shows the importance it places on the integrity of the police workforce. In addition, reporting raises awareness of the issue among employees and supervisors and will enhance their capacity to prevent corruption and support their conviction and commitment to greater integrity in the organisation.

In each of the police services benchmarked by the Inspectorate for this inspection, a single senior police officer at either Commissioner or Deputy Commissioner level or equivalent rank took responsibility for overseeing and coordinating the counter-corruption governance programme. This commitment sends a clear message that countering corruption is an organisational priority supported by senior leadership and it holds policy leads to account for delivery of action plans. It also provides objective oversight of counter-corruption investigations, ensuring they remain necessary and proportionate to the corruption threat.

Key Findings and Assessment

This inspection found that the strategic approach to counter-corruption within the Garda Síochána needs further development. At present, control measures are largely based around an operational response to specific incidents rather than around a formalised strategic assessment process that identifies organisational threats and vulnerabilities and a control strategy to shape the Garda Síochána response. In particular, the Inspectorate found:

- > At organisational level, there is no strategic analysis available to identify current and emerging corruption threats with an assessment of their potential harmful consequences. However, there is an ongoing process to develop this type of analytical approach, which is in line with comparable international practices;

- > The Garda Síochána has no process for co-ordinating and tasking the collection of intelligence to inform its strategic understanding of corruption threats or for measuring how these threats change over time in response to organisational activity or a changing environment;
- > There is currently no commonly shared definition of corruption within the Garda Síochána or process for ensuring that incidents or information indicating corruption or a vulnerability are captured using standardised and agreed categories. Without this process, consistent analysis will not be possible in the future;
- > There is no single senior police leader who is accountable for the governance of counter-corruption practices, policies and procedures or who has oversight of all counter-corruption activity. At present key counter-corruption policies are spread across a number of senior management positions. For example, policies relating to fraud, vetting, whistle-blower protection, and gifts, hospitality and sponsorship that are all managed by separate individuals. Consequently, there is no single process for prioritising actions and co-ordinating the organisation's response to the corruption threat. Without the benefit of evidence-based analysis the development and review of any counter-corruption policies will lack the rigour necessary to determine their effectiveness in preventing current threats; and
- > With the exception of persons appointed to the Security and Intelligence Section, specific roles within the Garda Síochána are not risk assessed to identify those which are more vulnerable to compromise or corruption.

The absence of a structured counter-corruption governance programme within the Garda Síochána has significant implications for its ability to identify key vulnerabilities, to mitigate threats through targeted policy development and to effectively measure the success of the counter-corruption control strategy and actions. Additionally, the lack of a single leader responsible or accountable for tackling corruption in all its guises limits the effectiveness of counter-corruption governance, which in turn may undermine the confidence of the public and the workforce.

Based on the international practice identified by the Inspectorate, strategic governance of counter corruption requires three elements to be effective, as described in the next sections.

Threat and Risk Analysis

There should be a forward-looking analysis of existing and emerging corruption threats to the police service, including an assessment of how likely they are to occur within the organisation taking into account existing systems of control. This analysis will draw on information regarding known incidents of corrupt behaviour, intelligence indicating potential wrongdoing and vulnerabilities identified by audits or inspections. In the Garda Síochána examples of threats could include the unauthorised provision of sensitive information, abuse of authority for personal gain, or sexual misconduct.

Identification of Vulnerable Roles

There should be a risk assessment of those roles within the policing service which are the most susceptible to corruption. Identifying such roles must be properly informed by the analysis of threats. In terms of the Garda Síochána, if for example the threat analysis identified sexual misconduct as a significant threat those roles within the workforce that have greater access to vulnerable individuals should be considered a higher risk.

Counter-Corruption Strategy

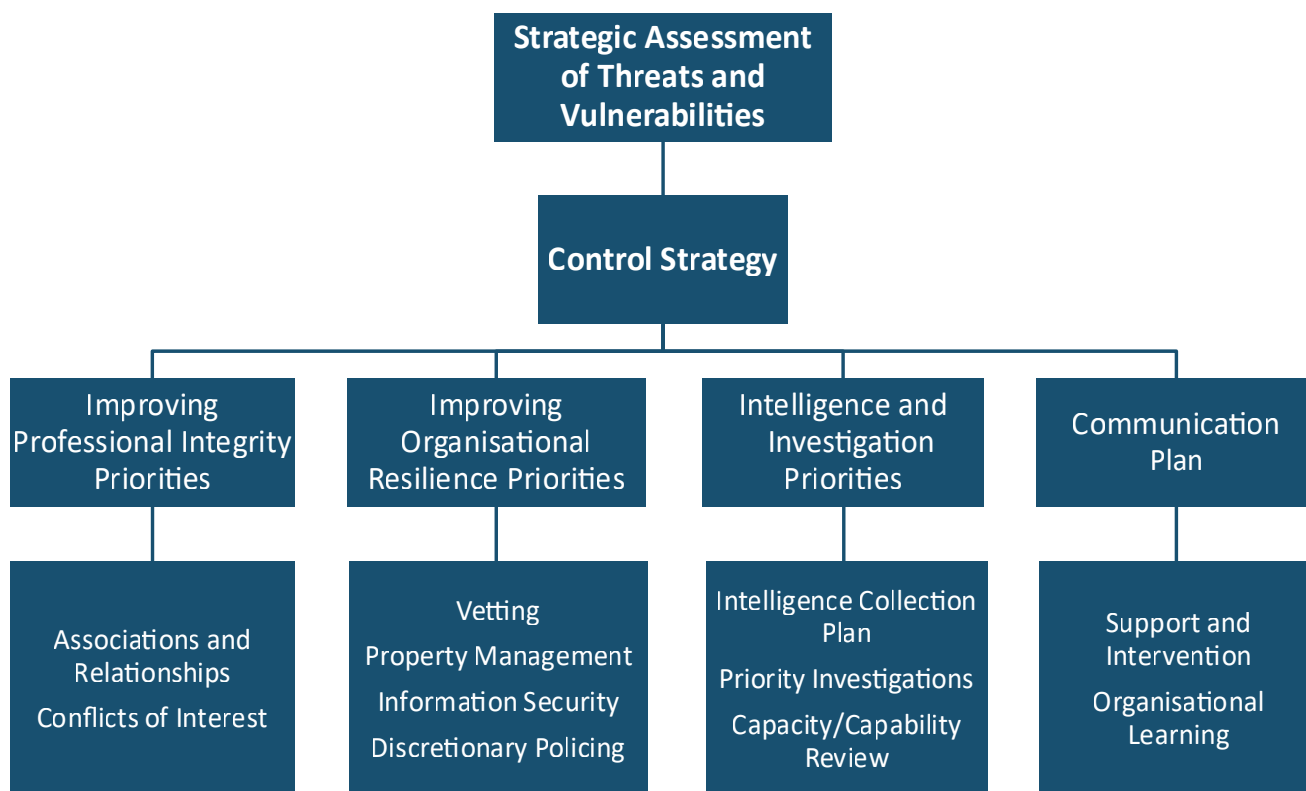
There needs to be an overarching counter-corruption strategy establishing the organisation’s priorities for action which is based on the identified threats and vulnerabilities and their likely consequences. Not all corruption threats or vulnerabilities should be treated equally. Those that could cause the greatest harm must receive the closest attention. This is why in the UK the threat of Abuse of Power for Sexual Gain (APSG), even though relatively rare, is a top priority because even a single incident would have grave consequences in terms of public confidence and the integrity of a police service. The strategy should be accompanied by an action or delivery plan which addresses each of the prioritised threats in turn. Each delivery plan should cover a broad range of activities under a common theme and involve senior leaders from across the organisation, not just those with responsibility for counter-corruption

operations. For example, if fraud or theft is identified as a priority within the Garda Síochána then those leaders responsible for property management, financial controls and internal audit will all have a role in the action plan.

The organisational response to corruption must be correctly focused and proportionate to the potential consequences. Resources should be focused on those threats that can lead to the greatest harms for individuals and the organisation. For this reason, governance should be led by a senior member of the Garda Síochána at either Assistant Commissioner or Deputy Commissioner level. This person will have the necessary authority and responsibility for reducing the risk of corruption within the Garda Síochána.

A model showing the necessary elements for effective counter-corruption governance is provided in Figure 1.2.

Figure 1.2 Model of counter-corruption governance based on Intelligence-led policing principles



Source: Intelligence-Led Policing Principles adapted by the Garda Inspectorate

In this model, delivery plans to counter each prioritised threat consist of four separate elements:

- > **Professional integrity:** Professional integrity is promoted and corruption prevented through effective policy and practice in the management of associations, relationships and conflicts of interest. For example, the control of inappropriate relationships and the receipt of gifts helps ensure policing decisions are impartial and in the public interest at all times.
- > **Organisational Resilience:** This relates to the organisation's ability to prevent internal corruption through the strength of its internal control mechanisms and supervision of discretionary powers. For example, vetting strengthens the workforce, and an information security policy prevents unauthorised use of sensitive or personal information.
- > **Intelligence and Investigation:** Intelligence collection should be focused on understanding corruption threats and supporting active investigations. Investigations should prioritise those threats with the most significant consequences and be independent and fair.
- > **Communication and Engagement:** This should provide key anti-corruption messages and help staff to 'spot the signs' of corruption and not be reluctant to report it.

Each of these themes and the Garda Síochána's current capacity to deliver them will be discussed and developed in the forthcoming chapters of this report.

Without a formal governance process in the Garda Síochána, threats may not be properly understood and, more significantly, may never be identified. Consequently, counter-corruption plans may not be focused on those threats that have the greatest consequences. It may also be the case that prevention plans are disproportionate or insufficient, leading to an excessive use of resources or weakening of controls. Additionally, the absence of accurate and standardised data makes it difficult to determine the impact of any initiatives to address corruption.

Recommendation

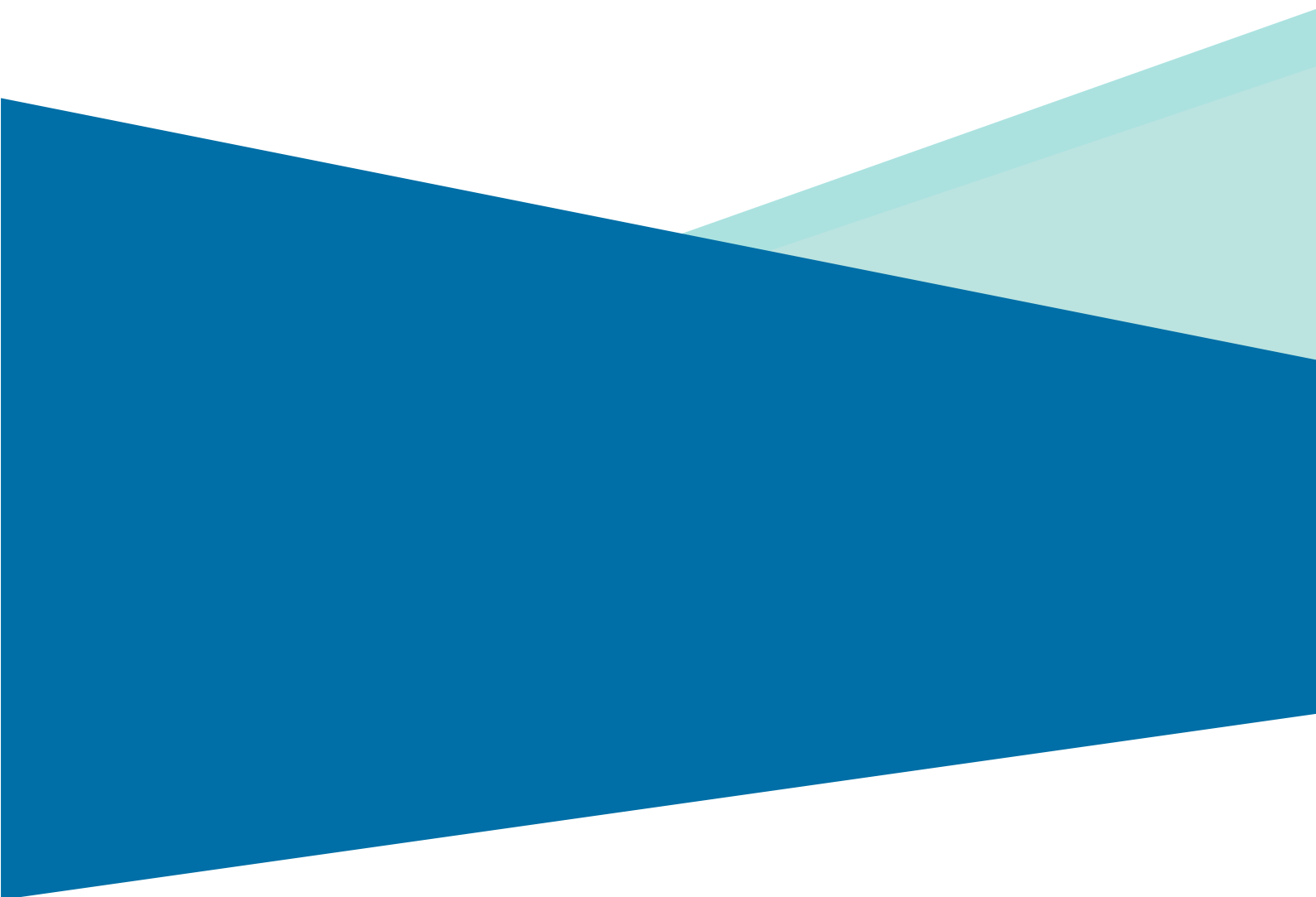
In light of these findings, assessments and review of international practice, the Inspectorate makes the following recommendation.

Recommendation 2

Strategy and Governance in the Garda Síochána

The Garda Síochána should develop and implement a governance process for identifying and mitigating the threats, risks and potential harms associated with internal corruption. This process must include:

- The appointment of a senior police leader with responsibility for counter corruption.
- The development of a strategic assessment of corruption threats.
- The setting out of a counter-corruption control strategy that establishes priorities for action.



III

Part II

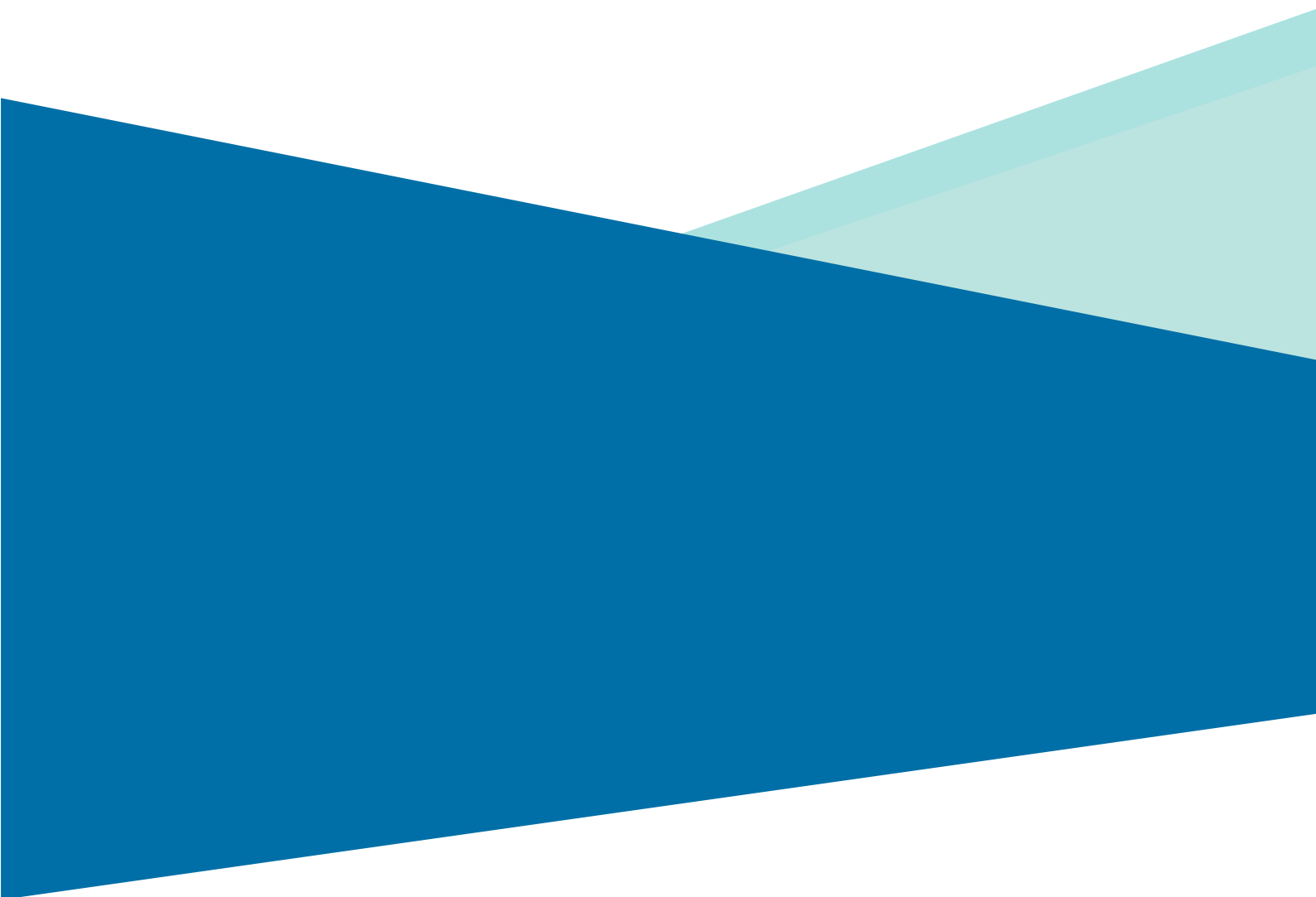
Enhancing Professional Integrity

Part II examines how personal integrity, corporate responsibility and professional boundaries can strengthen the garda workforce against the pernicious effects of corruption. It also examines the effectiveness of existing corporate governance practices in the Garda Síochána in protecting it against corruption's malign influence.



GARDA
INSPECTORATE

PROMOTING EXCELLENCE & ACCOUNTABILITY



Chapter 2

Managing Relationships and Associations

Overview

The concept of Democratic Policing is fast becoming the cornerstone of modern police practice. It relies on improving the relationship between police organisations and the community. The key priorities of democratic policing include: serving the needs of civilian and democratic institutions, police organisations being accountable to the law rather than to politicians, and police officers being guided by principles of respect for human rights and transparency in all their activities.

This chapter focuses on the effectiveness of Garda Síochána strategies for promoting the professional integrity of the workforce by managing relationships and associations that could undermine democratic policing principles.

In considering which areas to examine in more detail, the Inspectorate has drawn on international practice. International practice consistently highlights the need to prevent the police workforce from engaging in conduct that is unduly influenced by a personal motive or that could undermine the perception of impartiality or give the impression that the public interest is not being properly served. The Inspectorate believes a lack of effective strategies in these areas could adversely impact on the ability of the police service to maintain the necessary standards of professional integrity among the workforce and hinder its ability to prevent corruption. Such a lack could also allow the perception that the organisation serves the personal interests of the leadership or workforce.

Professional Boundaries

A professional standards policy would help to clarify the boundary between what behaviour is and is not acceptable in the Garda Síochána. As such, it is important that the Garda Síochána develops a culture that supports its workforce to build appropriate relationships and sets clear professional boundaries about the nature and limits of these relationships. It should also equip its workforce with the necessary tools to manage their own professional boundaries.

A number of principles should underpin any professional relationship, and in the case of policing these primarily relate to protecting public safety and maintaining public order. The wellbeing of persons in need should always be paramount. It is the responsibility of every member of the garda workforce to set and maintain appropriate professional boundaries. Professional boundaries should apply to all forms of communication, including social media, and should be exercised with fairness, clarity, consistency and transparency at all times.

International and Comparable Practice

The New Zealand Police Service's policy on maintaining professional distance (2008) recognises that professional policing relationships are inherently unequal because they require the public to disclose confidential and personal information and a police officer can take certain coercive actions against the people, such as stop and search, arrest and detention. Under the New Zealand guidelines, police officers are expected to be

aware of their need to maintain professional boundaries and appropriately manage any relationship where a conflict of interest arises. They also have a duty to avoid unethical or inappropriate relationships. As well as clarifying the duty on individual officers and staff, the guidelines lay out certain obligations for the organisation itself, which include a duty to clearly define what an inappropriate relationship is and to implement measures to limit the risks of potential conflicts of interest in the personal relationships of its officers and people they have contact with.

The College of Policing in the UK has also published guidelines (undated) on maintaining professional boundaries. These guidelines go hand in hand with the code of ethics and set out broad principles from which police services can determine their policies and procedures. In particular, the guidelines include the following principles:

- > Inappropriate sexual conduct or unprofessional behaviour undermines public trust and confidence in policing;
- > The guidelines apply to all police officers, police staff and volunteers, such as special constables (similar to garda reserve members in the Irish context), in terms of their relationships with members of the public, but do not apply to relationships with colleagues;
- > Failure to adhere to them can amount to a breach of professional standards or a criminal offence depending on the circumstances;
- > Staff must be fully aware of the imbalance of power between them and members of the public and maintain an appropriate professional relationship accordingly. For example, the guidelines stipulate that police personnel should not engage in

sexual conduct or other inappropriate behaviour while on duty and should not pursue or establish an improper sexual or emotional relationship with a person with whom they have come into contact professionally;

- > This duty extends to the times when police personnel are off duty in the case of an ongoing incident or investigation;
- > Police personnel should inform their supervisor if a person with whom they have come into professional contact attempts to pursue an improper sexual or emotional relationship with them, and agree any necessary control measures including disengagement;
- > Police personnel should not use a professional relationship with a member of the public to pursue a relationship with someone close to that person (e.g. a family member) and they should never end a professional relationship for the sole reason of pursuing a personal relationship;
- > Police personnel should never use police systems to check a person's background in order to assess whether a personal relationship would be in breach of the professional standards; and
- > Police personnel should speak up regarding concerns that a colleague is acting in breach of the guidelines and supervisors should ensure that officers are aware of their obligations under the guidelines.

While social media can bring substantial benefits to policing it also poses additional risks. Concerns have been expressed in the UK that misuse of social media by police personnel has led to associations which may make them more susceptible to corruption.

Key Findings and Assessment

While all of the standards of conduct and practice set out in the Garda Code of Ethics have some significance as regards setting professional boundaries, the third standard, Respect and Equality, has a particular significance. The Code recognises the special responsibility of the Garda Síochána to uphold human rights and equality and the special duty of members and staff to children and other vulnerable persons. The garda workforce is expected to treat everyone with fairness and to avoid discrimination, and to challenge discriminatory language and behaviour in others.

The Garda Síochána does not at present have a policy or guidelines which support the garda workforce to develop suitable professional boundaries in their dealings with the public. This inspection also found that there was only a limited understanding among those interviewed of the harmful consequences that could result from the absence of effective control measures to prevent inappropriate relationships.

The development programme for the proposed Garda Anti-Corruption Unit (ACU) does contain a commitment to develop a professional boundaries policy. To be effective, it is important that the policy and guidelines clearly set out all the duties and responsibilities of garda members and staff. The policy should also lay the foundation for other related policies and practices, such as notifiable associations and abuse of power for sexual gain, and be compatible with policies and guidelines on conflict of interest in the Garda Síochána.

Recommendation

In light of these findings, assessments and review of international practice, the Inspectorate makes the following recommendation.

Recommendation 3

Professional Boundaries

The Garda Síochána should develop, publish and implement an overarching policy and guidelines on professional boundaries for the garda workforce.

Abuse of Power for Sexual Gain

Abuse of power by police officers for sexual or emotional purposes is commonly understood as any behaviour of police personnel which takes advantage of their position in order to pursue a sexual or inappropriate emotional relationship. This is recognised as an emerging corruption risk by many police services in common law jurisdictions.

The abuse of power for sexual gain (APSG) can be hugely harmful to victims and represents a significant breach of trust. In addition, the exposure of such cases could reduce the likelihood of other victims reporting crimes because confidence in the Garda Síochána has been damaged.

International and Comparable Practice

In 2013, the Independent Police Complaints Commission (IPCC) in the UK conducted research into the nature and extent of APSG. While the IPCC concluded that there was no evidence to suggest that the problem was widespread it did clearly recognise it as a distinct form of corruption in policing in the UK. In recent national strategic assessments of corruption in the UK, APSG has been identified as one of the more significant corruption risks for policing.

To better contextualise the issue, the IPCC research drew comparisons with the emergence of similar sexual misconduct in other professions, such as among medical, religious and social care professionals. Perpetrators of such abuse tend to target vulnerable individuals, including those with alcohol, drug or mental health difficulties or those who have previously experienced sexual or domestic violence.

In terms of how the problem has affected policing in the UK, the IPCC concluded that there were common themes in many of the cases examined, including police computer system misuse, poor supervision and missed opportunities to identify and intervene in such cases. The victims were disproportionately women while the perpetrators were disproportionately men. Certain structural failings were also identified, in particular, a certain organisational blindness to the risk. As a result, police organisations failed to identify the issue and put appropriate control measures in place. Suitable control measures would include, for instance, policies on professional boundaries or APSG, awareness raising among supervisors (particularly of the common indicators of such behaviour) and better exchange of information between police services in relation to dismissal of police officers for such behaviour.

In 2017, the National Police Chiefs' Council in the UK launched a *National Strategy to Address the Issue of Police Officers and Staff Who Abuse Their Position for Sexual Purposes*. The strategy has five strands:

- > **Prevention:** this focuses on providing guidance to supervisors and police personnel, building awareness of the issue particularly among supervisors and organisations dealing with vulnerable victims, and improving training and selection processes;
- > **Intelligence:** this will support better risk assessment, closer inter-agency cooperation, effective confidential reporting mechanisms, and improved technical intelligence-gathering capability for Anti-Corruption Units;
- > **Enforcement:** this will standardise case reporting and referral mechanisms and enhance investigations, victim supports and prosecutions;
- > **Engagement:** this refers to developing communication and awareness-raising strategies; and
- > **Governance:** this involves the creation of new structures with a National Counter Corruption Advisory Group and strategic leads at senior management level in all police services.

The ethical standards in this area have evolved and adapted over several years. These standards range from a general duty on professionals to conduct themselves in such a way as to avoid conflict between their professional and private lives to more explicit prohibitions on professionals engaging in particular relationships.

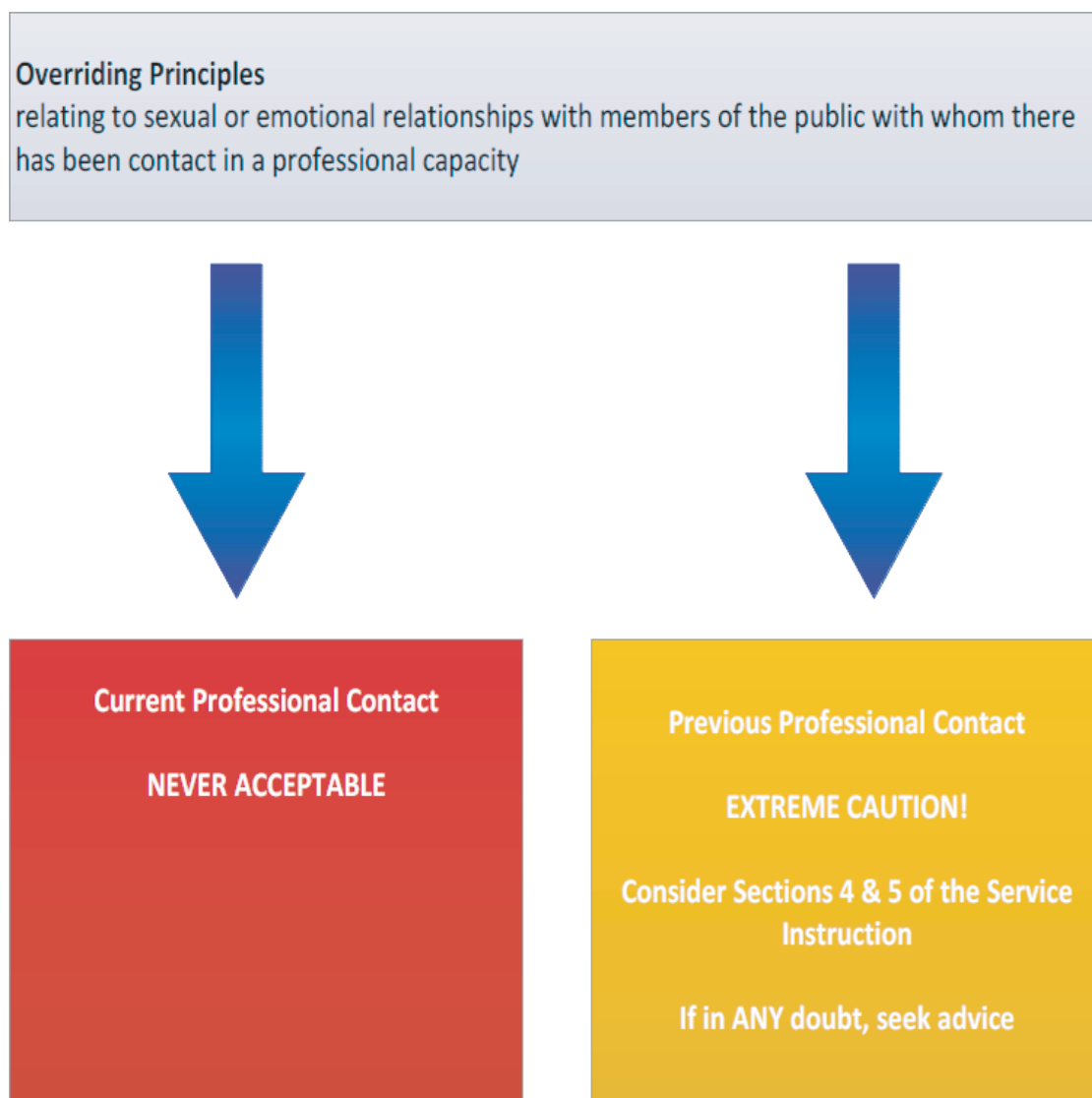
The Medical Council of Ireland, the Nursing and Midwifery Board of Ireland, and CORU – The Health and Social Care Regulatory Body for Ireland all have clear prohibitions on certain relationships in their codes of professional conduct and ethics. The professional standards of these bodies prohibit their members from using their professional position to form relationships of a sexual, inappropriate emotional or exploitative nature with persons they have met in a therapeutic or professional capacity, or such person's partner, spouse or other close relative.

Another particularly good example of international practice from a policing perspective involves police services in the UK which are obliged to implement clear policies and guidelines on professional relationships based on the guidelines published by the National Police Chiefs' Council. The Police Service of Northern Ireland (PSNI) has a particularly comprehensive policy, which prohibits contact between police officers and members of the public involved in an ongoing investigation and places a duty on police officers to notify their supervisor

about a relationship with anyone with whom they formerly had professional contact.

The PSNI produced a simple chart as shown in Figure 2.1 as part of their policy guidelines on maintaining professional boundaries between police and members of the public. This provides a clear guide for members of the workforce to determine the appropriateness of a sexual or emotional relationship they may have formed with members of the public whom they have interacted with during the course of their professional duties.

Figure 2.1 PSNI Overriding Principles relating to sexual or emotional relationships with members of the public with whom there has been contact in a professional capacity



Source: Police Service of Northern Ireland, Corporate Policy Service Instruction SI3217, Maintaining a Professional Boundary between Police and Members of the Public

Key Findings and Assessment

Unlike in police services in the UK there is no policy on APSG in the Garda Síochána and there is no awareness raising or guidance for the garda workforce leaders or supervisors, particularly as regards common indicators of APSG-type behaviour. During the course of this inspection, the Inspectorate found that while there were documented cases of sexual misconduct and violence by garda members investigated by the Garda Síochána Ombudsman Commission (GSOC) and the garda authorities, at no level within the Garda Síochána were these cases identified as a corruption threat. In addition, there was no shared definition or understanding of what constituted APSG between the two organisations.

Beyond the common international understanding of APSG, other cases of sexual impropriety in the Garda Síochána have occurred and there are several examples of sexual misconduct by members of the Garda Síochána that have resulted in a criminal conviction. GSOC has investigated several allegations of sexual misconduct by members of the Garda Síochána over recent years. GSOC's annual report for 2018 included a case summary of a garda member who was convicted of a sexual assault during that year. GSOC also reported in its 2019 annual report that a separate case was decided in 2019 which concerned an investigation by GSOC of a garda member convicted of a sexual assault. The conviction has been appealed. Some sexual crimes, such as the possession of child pornography by garda members, were investigated by the Garda Síochána.

The Inspectorate also found that there was no prohibition in policy on garda trainers and students pursuing an emotional or sexual relationship while engaged in a training relationship. This type of relationship is universally acknowledged as a clear example

of a power imbalance and the absence of a prohibition in policy is contrary to international practice.

A number of non-governmental organisations were consulted in the context of this inspection. They similarly highlighted several anecdotal cases of sexual misconduct within the Garda Síochána. One organisation in particular shared its experiences of victims of sexual violence being overwhelmingly anxious not to criticise or complain about garda handling of cases. Victims of sexual violence are acutely aware of their reliance on subjective credibility assessments by investigating and other garda members if their cases are to progress. They drew attention to this example as a way of demonstrating the power dynamics of the relationship between victims and garda members and the harm that this power differential can result in.

Recommendation

In light of these findings, assessments and review of international practice, the Inspectorate makes the following recommendation.

Recommendation 4

Abuse of Power for Sexual Gain

The Garda Síochána should develop, publish and implement a strategy and policy to mitigate the threat of Abuse of Power for Sexual Gain.⁷

This policy should highlight the dangers of relationships where a position of power can be abused for emotional or sexual purposes and provide guidance for the garda workforce and supervisors on the key indicators of such relationships and the appropriate organisational response to the issue.

⁷ Please note that Recommendation 28 provides a framework for the identification and investigation of APSG.

Notifiable Associations

The garda workforce is drawn from the very communities that they are expected to serve and, as such, it is inevitable they will bring existing associations with them and form new associations through their professional lives. It is vital that garda management are fully aware of any inappropriate associations and that they take any control measures necessary to prevent associations that may compromise the workforce or the organisation and its systems.

Associations that could pose a risk to professional integrity can occur in a number of ways. First, they can occur through new exposure to individuals who are associated with crime or who could otherwise exploit access to a member of the garda workforce. This can occur through membership of sporting clubs and gyms or through a new personal relationship. Secondly, existing relationships such as with long-term friends or colleagues may become a risk. This could be because of a criminal conviction or association, or because of a new occupation such as that of private investigator or journalist. In all these cases, the Garda Síochána needs to be aware of the association and to take proportionate steps to protect the organisation's reputation and integrity.

International and Comparable Practice

Professional standards and policies related to counter corruption in the UK recognise the critical importance of properly managing relationships and associations in the policing context. The general aim of such policies is to protect the integrity of the organisation and its personnel, in particular from persons who might seek to corrupt its officers or staff or compromise their professionalism.

It is very common for UK-based police services to have policies and procedures related to notifiable associations. Police services which have particularly good

examples of such policies include Merseyside, Gwent, North Wales, and Devon and Cornwall. These policies impose certain duties on police officers, staff and volunteers such as special constables to notify a designated supervisor of certain personal associations. These associations can be with an individual, a group or an organisation. The policies lay down detailed principles about the types of association which must be notified. As regards individuals, the guidelines stipulate that associations with persons who have unspent convictions, who are the subject of pending investigations or criminal charges, who are the subject of adverse criminal intelligence, who have been dismissed as police officers, or who are journalists should all be notified to a supervisor. Personnel should also notify any association with a group or organisation where they would expect to come into contact with such persons or which has the potential to otherwise compromise the police officer, staff member or volunteer, or which promotes discrimination in any form. These policies also prohibit membership of political organisations or active involvement in politics. The guidelines stipulate that police systems should never be used by a member of the police service to check if a particular association of theirs is of a notifiable type. This task is for supervisors from Anti-Corruption Units. There is also a duty to speak up if an individual becomes aware of a notifiable association by a colleague.

Key Findings and Assessment

During the course of the inspection, the Inspectorate was informed on several occasions of criminal investigations that had identified members of the Garda Síochána who were socialising with associates of criminal suspects or had family members themselves linked to criminal activity. These associations came to light only as a consequence of the investigation and had not been disclosed by the members concerned. The Inspectorate was also provided with

details of a case involving an applicant for the Garda Síochána who had excluded details of a family member with criminal connections from their vetting information. This matter came to light only when this person had commenced their training at the Garda College and another garda member who had served in the area where the applicant lived raised concerns about the family association with a supervisor.

While the Garda Síochána does not at present have a policy or guidelines on the notification of certain associations or relationships, the development programme for the proposed Garda Anti-Corruption Unit does contain a commitment to develop such a policy. It is important that any such policy and guidelines clearly set out which associations and relationships members of the garda workforce are obliged to report and the arrangements for reporting and managing such relationships.

Recommendation

In light of these findings, assessments and review of international practice, the Inspectorate makes the following recommendation.

Recommendation 5

Notifiable Associations

The Garda Síochána should develop, publish and implement a policy and guidelines on notifiable associations which all members of the garda workforce are obliged to report.

Covert Human Intelligence Sources

The increasing emphasis on intelligence-led policing underscores the need for a modern police service to better understand the criminal environment. Central to such

improved understanding is the use of covert human intelligence sources (CHIS). These are people who can provide information that can assist with police investigations. The use of CHIS has traditionally been associated with the detective function and in that context is utilised in connection with specific crimes or investigations.

However, the use of CHIS is a difficult, challenging and potentially high-risk activity. In the Garda Síochána, members are specifically selected and trained as CHIS ‘handlers’ and ‘controllers’. Collectively they operate as a ‘source management team’ whose role is to ensure the safety of the individual and to obtain information that can be used to keep people safe. The management team must remain objective in their dealings with the CHIS, alert to the possibility that some information may be inaccurate or malicious, and conscious of not compromising themselves or any ongoing investigations. In addition, the CHIS depends on the management team to keep their identity protected.

The provision of gifts of any kind (with the accruing sense of obligation) to the management team by a CHIS has the potential to adversely affect the nature of the relationship. At the very least, this could result in the objectivity of the relationship being compromised (potentially unconsciously) leading to a less rigorous assessment of the information provided. In extreme circumstances, it may even erode the professional boundaries necessary to ensure the safe and secure management of the CHIS and the case.

International and Comparable Practice

Commenting on their November 2019 Audit of the FBI’s Management of its Confidential Human Source Validation Processes, the Inspector General of the US Department of Justice stated:

“Ineffective management and oversight of confidential sources can result in jeopardising FBI operations, and placing FBI agents, sources, subjects of investigation, and the public in harm’s way.”

Similar to other police interactions with those who depend on them for their safety, the CHIS-police relationship may result in an imbalance of power that could be abused by members, or former members, for sexual gain.

In 2019, the UK Home Office issued a Revised Code of Practice for CHIS. The Code provides detailed guidance on the authorisation and use of CHIS by all public authorities, including the police. The Code lays down a single set of standards for all public authorities. It includes special considerations for certain categories of CHIS, particularly vulnerable persons and children. Such persons should be considered suitable as a CHIS only in the most exceptional circumstances and should be authorised by a nominated officer in each public authority. Other special safeguards include limiting the duration of such authorisations, enhanced risk assessments, more regular reviews and the presence of an appropriate adult at meetings with child sources.

The New Zealand guidelines for police officers on professional distance has designated sexual or emotional relationships between police officers and CHIS as unethical and has strongly prohibited such relationships.

Key Findings and Assessment

This inspection examined aspects of CHIS management in the Garda Síochána in the context of managing professional relationships. The Inspectorate found there were robust policies in place for official interaction with CHIS; however, the

absence of a framework for managing other professional relationships in the Garda Síochána means there are no guidelines in relation to maintaining professional boundaries with a CHIS outside of the formal interaction process. The CHIS Charter does not explicitly prohibit sexual or emotional relationships with a CHIS or the acceptance of gifts or hospitality from them. It is noteworthy that the Morris Tribunal (2005) criticised the Garda Síochána for poor supervision of members’ relationships with sources and in some instances there was evidence to suggest they were inappropriate. Furthermore, there are no guidelines in relation to contact between members of the management team and a CHIS once the relationship has ended.

Recommendation

In light of these findings, assessments and review of international practice, the Inspectorate makes the following recommendation.

Recommendation 6

Covert Human Intelligence Sources

The Garda Síochána should revise its Covert Human Intelligence Sources Management Policy to prohibit the acceptance of gifts or hospitality from a Covert Human Intelligence Source. This should reinforce the obligations in other related garda policies dealing with professional boundaries, relationships and associations with an emphasis on the management of Covert Human Intelligence Sources. In particular, the revised policy should impose an obligation on garda members to disclose all relationships with a current or former Covert Human Intelligence Source.

Substance Misuse

Policing is widely recognised as a highly stressful occupation and substance misuse is seen as a growing problem in the international law enforcement context. There are multiple routes into substance dependency and misuse. These include coping with work and life stresses, or self-medication for physical or psychological injuries. The occupational demands of policing, such as rotating shift work, can greatly impact on officer wellbeing in terms of fatigue and can interfere with family and other personal supports. For some, this can lead to substance misuse.

The 2015 US President's Task Force on Twenty First Century Policing identified two risk factors, in particular, associated with substance misuse among police officers. One was the greater risk of occupational injury, either physical or psychological, while the other was the greater exposure to drug users, drug culture and organised crime networks involved in illicit drugs. All of these can have a normalising effect on substance misuse.

Police organisations therefore need effective strategies to mitigate the threats that could result from members of the workforce using illicit drugs.

International and Comparable Practice

In the UK, substance misuse among members of the police workforce has been recognised as an increasing threat for many years. While chief officers have broad authority to require testing, including random drug testing of personnel, some services have begun to question the effectiveness of random testing because the tests rarely yield positive results.

In a 2015 report, Her Majesty's Inspectorate of Constabulary and Fire & Rescue Services (HMICFRS) found that just over half of police

services in England and Wales were using random drug testing, with the remaining using intelligence-led testing targeted at officers at higher risk of being involved in drug misuse. HMICFRS recommended that all services should have a comprehensive policy on substance misuse and drug testing which provided flexibility in the testing regime to allow for random and targeted testing. It further stated that random drug testing was an important safeguard for police officers working undercover and that programmes of random drug testing provided an important awareness-raising opportunity.

Many UK police services have revised their substance misuse policies since that report. Good examples of such policies include Merseyside, Wiltshire, South Yorkshire and North Wales Police Service, as well as the Police Service of Northern Ireland. Some of the more common features of substance misuse policies and procedures include the following:

- > An objective to maintain the integrity of policing and a safe working environment;
- > Regular testing of officers in high-risk or vulnerable positions (e.g. protective services, serious crime, undercover, firearms and driving pursuit) as well as random testing;
- > Pre-employment testing of new recruits;
- > Management testing in terms of post-incident testing and testing for the purposes of developed vetting (i.e. a heightened level of vetting in the UK which allows access to secret level material);

- > Voluntary disclosure and access to welfare programmes outside of the normal testing regime and modification of a police officer's duties during any treatment periods;
- > Specification of the prohibited substances;
- > Providing for certain safeguards, including testing by accredited third-party contractors, split samples and independent testing of disputed samples;
- > The use of various sampling methods, including oral fluids, urine, breath and hair;
- > Acknowledging the risk posed to officers involved in substance misuse of coercion by organised criminal groups and the risk that a substance misuse habit leaves officers susceptible to criminal behaviours, including fraud, theft and corruption;
- > Acknowledging the risk to public and workplace safety from the impairment of an officer's ability to perform their duties effectively; and
- > Acknowledging that substance misuse can undermine the safety of a criminal conviction in cases involving identified officers.

Key Findings and Assessment

In 2018, the Garda Representative Association commissioned a Wellbeing Survey of garda members. The survey follows on from a similar study in 1998, which found that welfare supports in the organisation were inadequate and that the culture at that time discouraged members from disclosing difficulties and seeking appropriate support. The 2018 survey suggests that one in every six members displays symptoms consistent

with a diagnosis of Post-Traumatic Stress Disorder. While this rate was similar to that among other first responders in comparable police services it was at the higher end of the scale of these comparisons. The survey report went on to acknowledge that this has significant implications for substance misuse and other life and health outcomes for garda members.

The present approach to confronting illicit drug use by the garda workforce requires an investigation by experienced investigators. Such investigations can be both time and resource consuming in order to satisfy the criminal evidence threshold required to bring a prosecution. In most cases, the subject must be found in possession of illegal drugs in order to bring the investigation to a successful conclusion. The protracted time frame for such investigations poses a considerable risk to public safety and the health and safety of other members of the garda workforce because of the requirement to keep the investigation confidential for extended periods. In the interim, this places considerable constraints on the organisation's ability to manage the subject of the investigation and any risk from their behaviour to colleagues and the public more generally.

As part of this inspection, the Inspectorate consulted widely at all levels of the Garda Síochána about the issue of substance misuse and the use of illicit drugs among the garda workforce was acknowledged as a serious concern. Misuse of alcohol and prescription drugs was also reported and there was a broad consensus in support of testing across the organisation. The cost of testing and risk of legal challenges were identified as possible impediments to the introduction of an effective testing programme and some concerns were raised about privacy and gender equality issues linked to specific approaches to testing.

A substance misuse testing programme linked with effective disciplinary and dismissal processes could substantially expedite the time required to deal with cases of drug misuse and mitigate some of the risks concerned. Furthermore, it could have a positive effect on perceptions of the integrity of the organisation highlighting the consequences for the workforce.

Introducing a testing regime in the Garda Síochána presents a good opportunity for more effectively managing the consequences of substance misuse by the workforce in terms of identifying and mitigating the risks concerned.

Recommendation

In light of these findings, assessments and review of international practice, the Inspectorate makes the following recommendation.

Recommendation 7

Substance Misuse

The Garda Síochána should develop, publish and implement a substance misuse and testing policy and procedure. As a first step, all new entrants should undergo mandatory pre-employment testing as a condition of their employment.

Chapter 3

Corporate Responsibility

Overview

Members of the Garda Síochána workforce should execute their duties impartially, honestly and in the public interest. They have a fiduciary duty for the proper care of financial and other resources and should be aware of the standards regarding accepting gifts and hospitality. They should not have private interests which conflict with their public position or take advantage of their position for personal gain or that of their families or close associates.

There are three basic ethical values which underpin every corporate governance system: fairness, accountability and transparency. As values they have featured in a wide variety of both national and international reports and standards documents. While the three values are equally important perhaps the most relevant in terms of conflict of interest is transparency.

Conflict of Interest

As a general principle public servants are expected to be honest, fair and unbiased in their decisions. Furthermore, public bodies have a duty to ensure that conflicts of interest are identified and appropriately managed in such a way as to protect the integrity of their employees and the public body itself. This is designed to maintain public confidence.

Conflict of interest in public services is a growing public concern and new challenges arise as the State and non-state sectors work more closely together. However, a balanced approach is required because too strict an approach can be unworkable and costly and can interfere with personal rights.

An effective conflict of interest policy should do the following: identify all the risks concerned, prohibit unacceptable forms of private interest, raise awareness among the public and public service, and ensure there are effective procedures for resolving conflict of interest situations in the organisation. While it is common practice for top-level decision-makers to make regular disclosures of interests, some countries are increasingly requiring disclosure by lower-level public officials in high-risk areas such as policing.

In 2014, the OECD Survey on Managing Conflict of Interest put Ireland behind the OECD average for disclosure across all categories, including executive, legislative, judicial and other high-risk areas.

The OECD (2003) guidelines on conflict of interest set out four principles for public servants, as follows:

- > Decisions makers should at all times serve the public interest without any regard for personal gain;
- > Their actions must be transparent and they should at all times act in a way that will bear close public scrutiny;
- > Decision-makers should promote individual responsibility and should demonstrate integrity by serving as an example in all of their actions; and
- > Public organisations should create an organisational culture which does not tolerate public servants acting in their personal interest.

International and Comparable Practice

The New Zealand Police Service has a comprehensive policy for managing conflicts of interest within the service⁸. The policy acknowledges that conflicts of interest arise frequently in policing and in order to minimise risk they must be routinely declared and managed. The policy defines conflict of interest as a situation where personal and professional interests may conflict with a person's position, obligation or responsibilities as a police employee. Conflicts of interest occur naturally and frequently in policing, particularly in small communities where police employees may live close to and work in such communities. It is important to bear in mind that a conflict of interest is not wrong in and of itself, but that it is the actions that are taken in response to such conflicts that may be unethical.

The policy applies to all police employees and all aspects of their work, including every incident, every investigation and all corporate or organisational duties. A partnership approach is adopted and employees must recognise and report any conflicts of interest to their supervisor, who must work with the employee to assess the risk and identify any appropriate action necessary. There are additional policies and procedures for dealing with specific conflicts of interest that arise as a result of the following: secondary employment, gifts and gratuities, personal relationships and public procurement, and special care is required in relation to the use of public funds and access to confidential and sensitive information.

While the policy acknowledges that conflicts of interest can be difficult to identify, police employees must be alert to the possibility in

any of their dealings with the public and be aware of the risk such conflicts might do to the professional reputation of the organisation. The policy sets out a comprehensive list of examples of where a conflict of interest might arise and of particular policing roles which might be vulnerable to it.

There are clear procedures for reporting possible conflicts and making specific declarations for situations involving investigations, procurement or general conflict of interest situations. Managers and supervisors are encouraged to create an open environment where ethical and conflict of interest issues can be discussed freely.

In 2015, the Northern Ireland Audit Office produced its Conflict of Interest Good Practice Guide. The guide is underpinned by and builds on the 'Seven Principles of Public Life' or the Nolan Principles, which were first elaborated by the UK Committee on Standards in Public Life and are intended to apply to anyone who serves the public in any way. The guide describes a conflict of interest as a situation where an individual has two different interests which overlap. It also provides a broad definition of conflict of interest as a situation which involves *"a conflict between the public duty and the private interests of a public official in which the official's private-capacity interest could improperly influence the performance of his or her official duties and responsibilities"*. It clearly describes interests and relationships, such as with family and associates, which may conflict with the public duties of the official concerned. It also identifies the principal risks associated with conflict of interest, such as reputational damage, litigation and financial loss.

⁸ Since our inspection New Zealand Police Service have published an updated policy for managing conflicts of interest <https://www.police.govt.nz/sites/default/files/publications/managing-conflicts-of-interest.pdf> [last accessed 29 September 2020]

As pointed out earlier in this report the Standards in Public Office Commission has also published a guide to best practice in ethics compliance, including managing conflict of interest.

Key Findings and Assessment

The Garda Code of Ethics obliges members of the garda workforce to declare and manage any actual or potential conflicts of interest that might impair their ability to carry out their duty or weaken public confidence in the Garda Síochána. This includes any conflict that might arise from a personal or business relationship outside of the organisation. However, while there are guidelines for dealing with conflicts in specific situations (for example, procurement and selection processes), there is no garda policy or procedure to facilitate reporting or active management of the broader risks associated with conflicts of interest in the policing context. During focus groups with the garda workforce it became clear that there was no commonly accepted understanding of what constitutes a conflict of interest or how it should be managed.

While many superintendents demonstrated an understanding of what could amount to a conflict of interest and how it should be managed, such as reallocating prosecution decisions where the suspect or victim was known to them, there was no formal process for capturing this and the understanding of the issue and how it should be managed was more limited in frontline staff.

The Inspectorate also found that there remains a concern both within the organisation and among some members of the public that conflicts of interest continue to influence decisions. This included situations involving management of overtime, local appointments, discipline investigations and the investigation of crime.

While not yet in place, the development programme for the proposed Garda Anti-Corruption Unit does contain a commitment to developing a comprehensive conflict of interest policy.

Identified Good Practice

Selection panels organised by the Garda Human Resource Management Department have an effective process for mitigating against conflicts of interest. This process provides guidance on what amounts to a conflict of interest namely:

“A conflict of interest arises when an individual has two different interests that overlap. A conflict of interest involves a conflict between the public duty of a Selection Board member and the private interest of the member in which the member’s private-capacity interest could improperly influence the performance of his/her official duties and responsibilities. A conflict of interest can also be perceived. A perceived conflict of interest exists where it could be perceived, or appears, that private capacity interests could improperly influence the performance of a selection board member’s official duties and responsibilities.”

Panel members are required to make a declaration that no such conflict exists before participating in the selection panel. There is a similar process and declaration for managing conflicts of interest that could arise within members of Garda procurement panels.

Recommendation

In light of these findings, assessments and review of international practice, the Inspectorate makes the following recommendation.

Recommendation 8

Conflict of Interest

The Garda Síochána should develop, publish and implement a policy and guidelines on the declaration, recording and management of conflicts of interest.

Gifts, Hospitality and Sponsorship

During the course of their duties in the community or as a result of their relationships with other persons or organisations, the garda workforce may be offered gifts or hospitality from time to time. These can range from a small gift of appreciation from a grateful member of the public to quite substantial offers of corporate hospitality, usually provided to more senior personnel in the organisation.

It is becoming an increasingly common corporate practice for commercial and public bodies to prominently publish information related to gifts or hospitality received by senior executives as well as any offers declined. This practice is part of a trend towards greater transparency regarding remuneration, expenses and business interests of senior leaders or directors within large organisations in order to make the actions of senior executives more transparent to all stakeholders.

International and Comparable Practice

During the course of this inspection, the Inspectorate found transparent policies and up-to-date, comprehensive gifts and hospitality registers in place in the South Yorkshire Police, Merseyside Police, the Metropolitan Police Service, Police Scotland, the Royal Canadian Mounted Police, New Zealand Police and Victoria Police in Australia. For analysis purposes, the Inspectorate examined the registers of those police services with the most similar policing environments and functions to those of the Garda Síochána. This examination found that between 1 July 2018 and 30 June 2019, Police Scotland published 385 entries, New Zealand Police published 205 entries, the Royal Canadian Mounted Police published 186 entries and Victoria Police published 84 entries. These registers applied to police personnel of all ranks and grades, and to gifts or hospitality accepted as well as those declined.

Figure 3.1 shows an extract of declarations published online by the New Zealand Police. The register includes gifts to all of the workforce, ranging from the Commissioner to frontline staff.

Figure 3.1 Extract of declarations from New Zealand Police's 2018-2019 Gift and Hospitality Register

Position of person(s)	District or Service Centre	What was offered/received?	Est value	Donor (individual or organisation)	Date offered/Received	Outcome
Constable	Canterbury District	Bottle of wine, confectionery and hand cream	\$ 25	Individual	04/07/2018	Accepted, but wine subsequently securely disposed of
Area Commander and Area Executive Officer	Eastern District	Meal vouchers	\$ 200	Walker Painting & Decorating	06/07/2018	Declined
Māori, Pacific & Ethnic Services	Māori, Pacific & Ethnic Services	Cash	\$ 100	NZ Alcohol Harm	17/07/2018	Accepted and subsequently donated to charity
Constable	Waitematā District	JB Hi-Fi voucher	\$ 100	JB Hi-Fi	20/08/2018	Accepted and subsequently used as a spot prize at a course to assist young adults to obtain their drivers licences
Commissioner	Executive	Hosted tickets to All Blacks match in corporate box	\$ 370	Air New Zealand	04/09/2018	Declined
Assistant Commissioners (two)	Executive	Lunch	\$ 50	High Commission of Canada	17/09/2018	Accepted
Detective Sergeant	Waikatō District	Cheese hamper	\$ 30	Fonterra	10/10/2018	Accepted and shared among team
Detective Sergeant	Auckland City District	Drink/Finger food voucher	\$ 100	JIREH Hospitality Group	24/10/2018	Accepted but not redeemed
Business Advisor	Finance	BP Voucher	\$ 60	BP Oil NZ Ltd -Cunningham Lindsey NZ Ltd, t/a Sedgwick	30/10/2018	Declined
Liaison and Compliance Officer	Financial Crime Group	Restaurant Voucher	\$ 50	Property Institute New Zealand	09/11/2018	Accepted and retained for group use
Sergeant	Response and Operations Group	Dress watch with presidential emblem	\$ 300	Korean Security Team	04/12/2018	Accepted and a donation made to charity in recognition of the gift
Executive Assistant	Executive	Honey Samplers	\$ 50	Air New Zealand	14/12/2018	Accepted
Detective Constable	Auckland City District	Prezzy card and confectionery	\$ 55	Individual	20/12/2018	Declined
Constable	Southern District	A bag containing a plastic drink bottle and USB stick	\$ 25	Camp Quality	06/01/2019	Accepted
Senior Procurement Manager	Infrastructure	Network/marketing event	\$ 30	FCM Travel	23/01/2019	Declined
Eastern Bay of Plenty Police	Bay Of Plenty District	6 x AED devices	\$ 13800	Eastern Bay Energy Trust	28/01/2019	Accepted and distributed to small community stations and road policing vehicles
Canterbury District	Canterbury District	Book	\$ 25	Individual	28/02/2019	Accepted for the shared resource library
Prevention South Manager	Central District	Milwaukee "Tick" bluetooth tracking device	\$ 70	Milwaukee Tools NZ	22/03/2019	Accepted and retained for use by team
Inspector	Counties Manukau District	Gift hamper including alcohol and food items	\$ 100	Individual	10/04/2019	Accepted and subsequently donated to charity
Field Intelligence Officer	Eastern District	Bottle of wine	\$ 15	Tairāwhiti District Health Board	07/06/2019	Accepted

Source: Information from New Zealand Police website; summarised by the Garda Inspectorate

The volume, depth and transparency of this register demonstrates how well the internal policy is embedded into practice and the service's commitment to managing the issue as a corruption risk.

With regard to effective policies in this area, North Wales Police has a comprehensive policy framework related to counter-corruption. In respect of gifts, gratuities and hospitality, the policy links to the wider ethical and integrity framework and clarifies the legal context in which gifts and hospitality will be managed by the service and lays out a principles-based approach to the practice. For a gift to be acceptable under the policy it must be genuine and made in circumstances where the donor is genuinely expressing appreciation. It must also be justifiable to the extent that it would not appear to a reasonable person to undermine the impartiality or independence of the officer and it must be free in that there is no expectation of reciprocity on the part of the donor. Finally, it must be transparent in so far as the offer of the gift and the identity of the donor will be made public. All offers of gifts made to the police workforce must be declared and recorded in the Register of Gifts, Gratuities and Hospitality. These rules also extend to the acceptance of a gift by a spouse on behalf of the police officer or staff member concerned. The register is reviewed regularly by the Anti-Corruption Unit and cross-referenced with other registers, such as registers of business interests and procurement.

Other good practices identified by the Inspectorate include the publication of all gifts and gratuities registered by UK Chief Police Officers, and the practice in the South Yorkshire Police Service of the Anti-Corruption Unit regularly challenging entries in the register to ensure they are in line with ethical behaviour.

The 2019 guidelines to civil servants from the Standards in Public Office Commission in Ireland states:

“Civil servants should not receive or accept benefits of any kind from a third party which might reasonably be seen to compromise their personal judgement or integrity. The actions of civil servants should be above suspicion and not give rise to any actual or potential conflict of interest, and their dealings with commercial and other interests should be able to withstand the closest possible scrutiny.”

The guidelines state that particular care should be taken in relation to gifts from donors who stand to derive a personal or commercial benefit from their relationship with the department or office concerned. Cash, gifts, cheques or vouchers that may be exchanged for cash may not be accepted, regardless of the amount. Civil servants may not solicit gifts, directly or indirectly and may not approach any business with which they have contact through their official duties seeking sponsorship or support for any club, charitable organisation, association, trade union or other organisation. Civil servants should also not accept special facilities or discounts on private purchases from suppliers with whom they have had official dealings.

Key Findings and Assessment

The garda policy on the acceptance of gifts, hospitality and sponsorship is set out in HQ Directive 32/2018 and applies to all of the garda workforce. The policy defines a number of terms, including gifts (modest and significant value), hospitality, routine hospitality and sponsorship, and sets out the procedure for accepting gifts or hospitality. There is a general prohibition on soliciting gifts and hospitality or accepting special

facilities or discounts on private purchases. The policy also sets out the circumstances in which a gift or hospitality might be accepted without requiring prior approval or recording. The policy contains a non-exhaustive list of circumstances in which prior approval is not required but the overriding consideration is reasonableness. In circumstances where prior approval is required, the approving person must be either a principal officer or chief superintendent and an application must be made in writing. A record of such gifts (including those which were declined) must be kept in the Register of Gifts, Hospitality and Sponsorship. This register should contain the date and the identity of the garda member or staff concerned, as well as the value, the details of the donor and the decision of the approving person. There are a number of special rules concerning sponsorship, which requires prior approval in all circumstances and should be recorded in the register.

The Executive Director of Human Resources and People Development is responsible for collating all registers completed in the Garda Síochána, publishing them on the garda website each month and ensuring the policy is fully complied with. A separate register must be maintained for the Garda Commissioner. The registers and associated applications must be open at all times for inspection or audit by the Internal Audit Unit or the Garda Professional Standards Unit. The Inspectorate found that no registers have been published since the introduction of the policy. When the Inspectorate asked to see a copy of the records held by Executive Director of Human Resources covering the period 1 January 2018 to 31 May 2019 the Inspectorate was told that there were no registers for the period requested.

During inspection visits to divisions, the Inspectorate found that the level of understanding of the principles and procedures underlying this policy was poor. The common understanding was that there was a total prohibition on receiving gifts and hospitality in the organisation and little if any awareness of the special rules that applied to sponsorship. Examples of gifts, such as tickets to sporting or other events being received by senior ranks and alcohol and free meals by other garda ranks and staff, were openly discussed at focus groups held. While there was a general impression that there had been a noticeable decline in the receipt of gifts over recent years, examples were provided to show that the practice has not completely ceased. This inspection also found that the sponsorship of certain sporting clubs and societies in the Garda Síochána could lead to possible conflicts of interest in terms of the sponsors being involved in supplying services and equipment to the organisation or being dependent on the organisation for licences and other authorisations in order to operate.

While the garda policy came into effect on 11 June 2018, the corporate register has never been completed or published on the garda website in line with the policy. There is also limited transparency of the practice of receiving gifts and hospitality despite a policy being in place for over two years. This inspection found no evidence that the decisions of approving persons were being examined or challenged at corporate level. It was also found that there is limited transparency of the garda policy with only a 600-word summary of the policy available to the public while the detailed procedures and guidance document is marked restricted. Public visibility of the policy and gifts received is a key element in any counter-corruption plan.

Recommendation

In light of these findings, assessments and review of international practice, the Inspectorate makes the following recommendation.

Recommendation 9

Gifts, Hospitality and Sponsorship

The Garda Síochána should raise awareness of the garda policy on gifts, hospitality and sponsorship both within and outside of the organisation and take steps to ensure full compliance with the policy among the garda workforce. In particular:

- The Anti-Corruption Unit should take responsibility for monitoring organisational compliance with the policy.
- Failure to submit a monthly register of gifts, hospitality and sponsorship should be subject to challenge by the Anti-Corruption Unit.
- Gifts, hospitality and sponsorship received should be triangulated against other sources, such as procurement contracts and Standards in Public Office declarations.
- The Anti-Corruption Unit should audit the registers and challenge the responsible manager and recipient in relation to selected entries.
- The gifts, hospitality and sponsorship registers should be published by the Anti-Corruption Unit at regular intervals including when no gifts, hospitality or sponsorship have been recorded for the period.

- Gifts, hospitality and sponsorship offered to or received by ranks from superintendent and assistant principal and above should be published in such a way that the person concerned can be clearly identified. This should extend to inspectors who regularly exercise the functions of a superintendent. All other gifts should be published against the relevant division/department.
- Gifts, hospitality and sponsorship should not be accepted from organisations that could be subject to a non-public duty charge, those with a commercial relationship with the Garda Síochána, or those subject to statutory oversight by the Garda Síochána.

Business and Other Interests

The clear separation of an individual's private and work life is a relatively recent occurrence in historical terms. Duty rosters for police officers began to be introduced from the middle of the twentieth century before which there was little if any distinction between the personal and professional life of a police officer. To an extent the idea that a garda member is never off duty is still part of the public consciousness in Ireland and part of the culture of the organisation itself.

The question of how to regulate the off-duty conduct of police officers is not unique to the Garda Síochána. The approach adopted by the Garda Síochána for dealing with the off-duty activities of its members is a list of prohibited spare-time activities contained in the Disciplinary Regulations and Garda Code.

In order that police actions are impartial and are seen to be impartial and thereby to maintain public confidence in policing, it is necessary to make a clear distinction between the professional duties and private interests of the garda workforce. This requires systems and processes to identify, report and manage any conflicts of interest which might arise.

International and Comparable Practice

In the UK, the police workforce may not engage in any employment or business activity which is incompatible with their work in the police. Such activities are generally considered vulnerable to corruption and before a member of the workforce can engage in secondary employment or have a business interest they must first inform their chief officer. It is a matter for the chief officer to determine whether the activity is compatible with their policing role or not. This duty extends to special constables, police staff and recruit police officers.

The Association of Chief Police Officers (2012) in the UK has issued guidelines to ensure that more consistent decisions are made in respect of secondary employment and business interests. These guidelines lay down six principles to assist chief officers:

- > The business interest or occupation must not interfere with the impartiality of the person concerned;
- > The decision-maker must consider the potential impact in terms of undermining confidence in policing;
- > The decision must be proportionate to the seniority and role of the applicant;
- > The decision-maker must consider the implications for the performance of the police officer or staff member concerned;

- > The decision must comply with equality and diversity legislation; and
- > The decision must recognise the duty of care to the person concerned in terms of their health, safety and wellbeing.

During the course of this inspection, the Inspectorate examined the business interest and secondary occupation policies of the Merseyside and North Wales Police Services. These policies provide extensive rules based on the guidelines of the Association of Chief Police Officers and apply to the whole police workforce and the extended police family including volunteers (although acknowledging that volunteers were likely to be otherwise employed), certain contractors, and the spouse and family members of those subject to the policy. The policies outline the roles and responsibilities of line managers, chief officers and the Professional Standards Departments and Anti-Corruption Units. All decisions are recorded and transparent, with anonymised details published on the website of the police service concerned. There are provisions for appealing or reviewing decisions as necessary. The policy for North Wales Police also had special rules for members of the workforce who are also private landlords or who volunteer with charitable or other organisations.

Figure 3.2 shows examples of business interests and activities and whether they are compatible, conditional or non-compatible for persons in employment in North Wales Police. Staff who are unsure whether their interest is compatible or whether it may fall within the conditional category are instructed to seek advice from the Anti-Corruption Unit.

Figure 3.2 North Wales Police Compatible Employment Guidance

Compatible	Conditional	Non-compatible
Sports Coaching	Nursing	Licensed Trade
Sports Refereeing	Supply Teaching	Security Consultancy
Lecturing (non-police related)	Promoting/endorsing third party products	Doorperson/Bouncer
Landscaping	Youth Work	Private Detective
Holiday Letting	Property management	Bailiff
Hairdressing	Entertainer	Financial Advisor
Beauty Therapy	ATC, ACF, Sea Cadet, Sea Scout Leaders	Neighbourhood Warden
Lodgers (subject to Police Regs)	Child Minding (Police houses)	Political Agent
Shopkeeping (non-licensed)	Driving	Legal Advisor
Business Consultant	Property renovation	Fire Fighter
Computer Consultancy	Driving Instruction	Journalism (News Media)
Cartoonist	Journalism (non-news media, e.g. hobby/interest newsletter)	Counting Votes (Elections)
Sportsperson	Sales Person	Lecturing Police Issues
	Dog Training	Computer Consultancy (DFU staff)
		Vehicle Recovery/Breakdown
		Undertaking/Mortuary Services

Source: North Wales Police Counter Corruption Policy

Another dimension to business interests is personal liabilities and debts. In its 2009 annual report, the Standards Commission in Ireland expressed the view that all public officials should be required to disclose their liabilities as well as their assets under the Ethics Acts. In coming to this view, the Commission cited the requirements of the National Asset Management Agency Act 2009, which obliges members of staff assigned to the Agency to provide a statement of interests comprising both assets and liabilities to the CEO.

The Group of States against Corruption (GRECO) Fifth Round Evaluation of several Member States has also suggested that police officials should be required to provide information on their liabilities. However, it is not a common practice and is confined to very limited circumstances, usually confidential disclosure to the tax authorities. GRECO recommended that those Member States that do not require the disclosure of liabilities should regulate for an obligation on police management and those in certain vulnerable police posts to declare both their assets and liabilities. The OECD Toolkit on

Managing Conflict of Interest in the Public Sector also recommends that liabilities (other than minor debts) should be disclosed by public officials (OECD, 2005).

Another issue which has come to the fore in GRECO's latest round of evaluations concerns secondary employment. In general, Member States operate principles-based regimes for regulating secondary employment among police officers. With such approaches, there is a strong prohibition on involvement in politics, which is in line with the approach adopted by the Garda Síochána. In all of the other Member States evaluated police officers were required to notify their superiors, who must consent to the outside employment. Another important principle was that the primary duty of police officers must be to their police service and not to a secondary activity.

Belgium and Estonia in particular came in for some criticism as a result of recent changes to their regimes. Both countries had changed from a very restrictive approach to one which was more permissive. In the case of Belgium, this change occurred as a result of the integration in 2018 of policing and security services, which had different regimes prior to their integration. The relaxation of the regime was heavily criticised by police representative bodies and other groups. The GRECO evaluation team went on to recommend that the Belgian process for sanctioning secondary employment should be more strictly governed using objective and transparent criteria.

The 2008 annual report of the Standards in Public Office Commission in Ireland recommended that any proposed code of ethics or professional standards for the Garda Síochána include a commitment that a garda member should not engage in, or be connected to, any business or activity which

would be inconsistent with their official position or which would undermine public confidence in the Garda Síochána.

Key Findings and Assessment

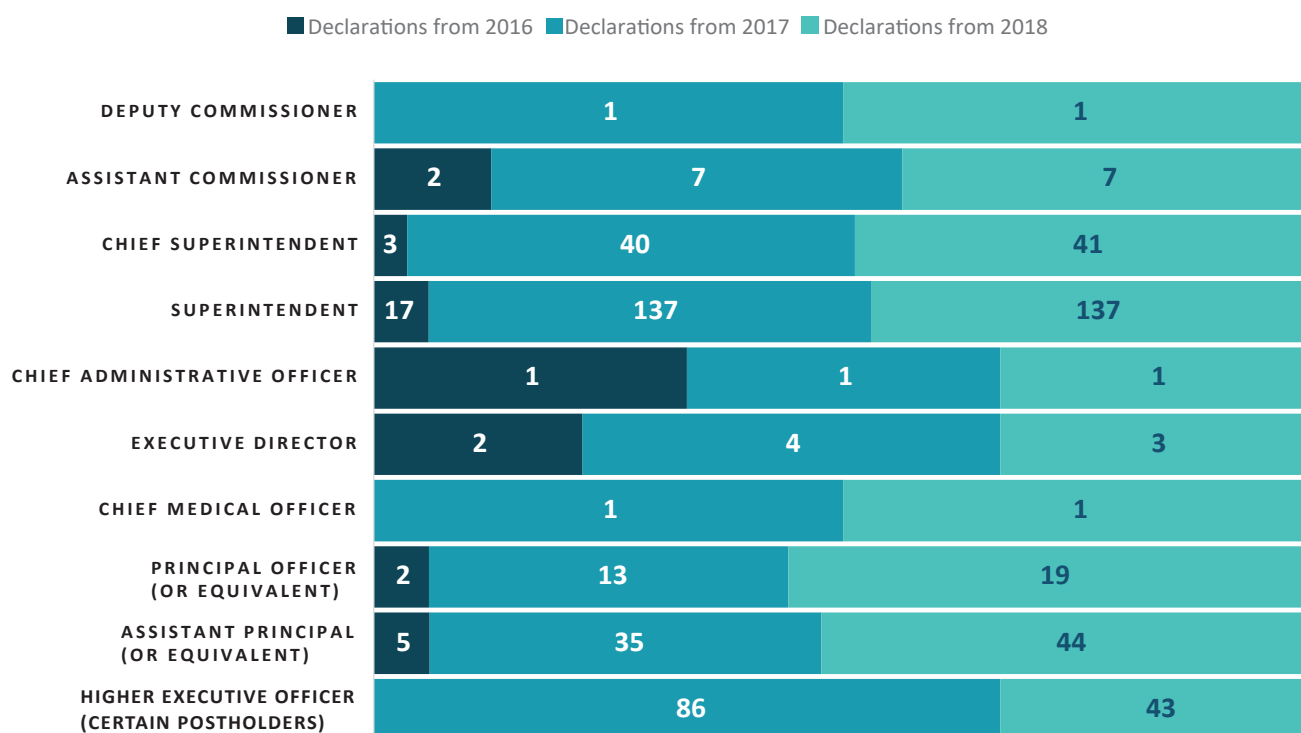
There is no specific policy for managing the external business interests of the garda workforce and the organisation relies on the statutory duty of disclosure on public servants. The Ethics Acts⁹ provide for annual disclosure of 'registrable interests'. This disclosure relates to "*the following categories of interests: occupational incomes, shares, directorships, interests in land (including premises), gifts, other property and services, travel facilities, living accommodation, meals or entertainment and contracts to supply goods or services to the public service*". The intention of the Ethics Acts is to provide for appropriate disclosure of any interests which could materially influence a public official in the performance of his or her official functions. Designated public servants under the Acts are required to make annual statements of interests, statements of material interest when their circumstances change, and evidence of tax clearance. The duty of disclosure also extends to the interests of the spouse and close relatives of the designated public servant.

In the Garda Síochána, persons at superintendent rank or assistant principal grade or above have all been designated under the Ethics Acts, as have certain specified posts in the organisation associated with information and communication technology or procurement.

Figure 3.3 shows the number of declarations made under the Ethics in Public Office Act by designated members of the garda workforce for the years 2016, 2017 and 2018. The number will vary as staff numbers and the designated roles change.

⁹ Ethics in Public Office Act 1995; Standards in Public Office 2001.

Figure 3.3 Disclosures of interest made by designated positions under the Ethics in Public Office Act for 2016, 2017 and 2018



Source: Garda Síochána Finance Directorate; analysis by the Garda Inspectorate

The data shows that declarations within the Garda Síochána under the Ethics Acts has increased from 33 in 2016 to 297 in 2018. This is a significant source of information on potential conflicts of interest and requires detailed examination and verification in order to identify and mitigate any risks for the organisation and the designated officials concerned. However, there is no formal process in the Garda Síochána for reviewing and verifying declarations.

The Standards Commission promotes the practice of designated persons making 'nil returns' as good practice within organisations. During the course of this inspection, the Inspectorate found that the policy and approach in the Garda Síochána in this regard is unclear. An examination of Ethics in Public Office declarations by the garda workforce illustrates this point. While the Inspectorate was told on several occasions that it was the policy of the organisation that designated officials were required to

make 'nil returns', garda workforce figures published by the Department of Justice and analysed by the Inspectorate highlight a considerable gap between the number of Standards in Public Office returns and the number of persons in ranks designated under the Ethics Acts. For example, while in 2018 there were 45 chief superintendents and 165 superintendents in the Garda Síochána, only 41 chief superintendents and 137 superintendents completed ethical declarations.

This inspection found that designated persons, including executive-level officers, were not fully aware of their additional obligations under the garda policy as opposed to their basic duties under the Ethics Acts. Persons fulfilling the duties in an acting capacity of designated persons under the Acts were not required to disclose their interests even though they routinely carried out such additional duties and received allowances for this purpose. There

was also no evidence that there were any compliance measures other than reminding designated persons of their obligations under the Acts and no effort was made to confirm the veracity and accuracy of disclosures or to cross-reference the disclosures against other available records. Similarly, disclosures were not relied upon to identify possible conflicts of interest by designated persons.

Recommendation

In light of these findings, assessments and review of international practice, the Inspectorate makes the following recommendation.

Recommendation 10

Business and Other Interests

The Garda Síochána should develop, publish and implement a policy and guidelines relating to the holding of business and secondary interests by the garda workforce including:

- A requirement for members of the garda workforce to declare all personal commercial interests and those involving family and friends to the Garda Commissioner.
- The replacement of the prohibited spare-time activities guidelines with an objective and transparent principles-based approach to secondary employment.

Recommendation 11

Business and Other Interests

The Garda Síochána should ensure there is clarity regarding completion of the Ethics in Public Office declarations.

- Declarations should be completed upon appointment to positions designated under the Ethics Acts.
- Those regularly designated to temporarily perform in a higher rank as assistant principal or superintendent should be required to complete the declaration of interests.
- There should be guidance regarding the requirement to complete a nil return.

Post-Employment Activities

It is generally accepted that the influence and authority of an employer over an employee ceases when the employment relationship comes to an end. However, it is frequently recognised that conflicts of interest may continue to arise in several different contexts even after an employment relationship. For example, a conflict of interest may impact on the performance of an employee during the transition period from one employment to the next. A previous employment can provide an undue advantage in terms of favourable treatment for the person seeking employment in a new organisation. Post-employment, a previous employment relationship can provide an advantage to the ex-employee in terms of reach back to their former employer regarding access to confidential information and influence in decision-making.

Post-employment restrictions are increasingly seen as an effective approach to mitigating the impacts of conflicts in both the private and public sectors. In the private sector this is frequently achieved by way of post-employment restrictive covenants, while in the public sector they are usually regulated by law or by statutory codes of

conduct. Irish law recognises a common law right for employers to protect trade and confidential information and a common law duty of fidelity and loyalty on employees. The courts have found that post-employment restrictive measures are lawful where they are intended to protect a legitimate interest and are proportionate and reasonable. In particular, the courts have examined two aspects of post-employment restrictions: duration and territorial application. Restrictive measures for a period of up to 12 months have been accepted by the courts, and territorial restrictions must be reasonable to the extent that they would not prevent an ex-employee from earning a living.

In the public sector, post-employment activity is more commonly referred to as the 'revolving door' and it is widely acknowledged that the risks associated with this have been growing in response to increased outsourcing of public services including certain aspects of policing services. It is also recognised that this activity can have a detrimental effect on the reputation of the police service and public confidence in the impartiality of policing. Transparency International has recommended that any post-employment process should build in the following protections for the organisation:

- > There should be a clear policy and approval process for taking up external appointments;
- > There should be no ambiguity regarding the positions in the police service to which the approval process applies;
- > There should be a cooling-off period during which designated officers may not take up an appointment; and
- > There should be a publicly available register of post-employment appointments.

International and Comparable Practice

The Civil Service Code of Standards and Behaviour, which has its legal basis in Section 10(3) of the Standards in Public Office Act 2001, applies to all serving civil servants including garda staff, and imposes certain duties and obligations on civil servants with respect to external appointments.

This includes an awareness of any potential for conflict of interest from accepting an appointment outside of the civil service, particularly if it is with an organisation with which a civil servant had official dealings as a civil servant or which could gain an advantage over competitors by employing that person. Civil servants must also inform the appropriate authority if they intend to take up such employment and if they hold a designated position, as defined under the Act, cannot, within 12 months of resigning or retiring from the civil service, take up such an appointment without first obtaining the permission of the appropriate authority. In the case of designated positions, for roles up to and including principal officer, the appropriate authority is the Secretary General of the department concerned, and for officers at assistant secretary level or above, the appropriate authority is the Outside Appointments Board.

The Canadian Federal Conflict of Interest and Post-Employment Code, which extends to police officers of the Royal Canadian Mounted Police (RCMP), imposes a range of post-employment restrictions on public servants. These include: a duty to inform a designated official (i.e. the Ethics Commissioner) of an offer of employment, a duty not to be influenced by the prospect of future employment in any of their decisions or actions, and a prohibition on benefiting from contracts or transactions that occurred while they were public servants. There is

also a 12-month cooling-off period regarding employment with any organisation with which they had significant official dealings (RCMP External Review Committee, 2015).

The GRECO Fifth Round Evaluation of Belgium, Denmark, Finland, France, Netherlands, Poland and Spain identified that post-employment restrictions on police officers are imposed in very limited circumstances. However, in Belgium and Finland there were prohibitions on taking up employment in the private security industry and in France there was a duty on national police officers to seek approval from the Ministry of Interior.

Since January 2018, all Chief Officers in all police forces in England and Wales are required to notify their Chief Constable and Police and Crime Commissioner (who must satisfy themselves there is no conflict of interest) of any post-service employment for a period of up to 12 months from leaving the police service and any decision of the Chief Constable or Police and Crime Commissioner must be published on that force's website. In the UK, officers retiring or resigning from the National Crime Agency must seek authorisation for any employment taken up in the first two years of leaving the agency that is outside of the public service arena.

Key Findings and Assessment

This inspection established that there are no restrictions on garda members taking up employment which may bring them into conflict with their former role in the Garda Síochána. This is in contrast to the situation of garda staff, who have restrictions imposed on them by the Civil Service Code of Standards and Behaviour.

During interviews, several examples were identified of former garda members undertaking new occupations with direct links to their previous role in the Garda

Síochána. This includes staff who supervised an external service provider accepting a role with the contractor, and retired immigration staff providing immigration and related advice on a commercial consultancy basis.

The situation in the Garda Síochána is clearly out of line with the international practice outlined above and, in particular, important safeguards against conflict of interest such as cooling-off periods and prior approval.

Recommendation

In light of these findings, assessments and review of international practice, the Inspectorate makes the following recommendation.

Recommendation 12

Post-Employment Activities

The Department of Justice should carry out a review of post-employment activities of the garda workforce, and develop suitable rules and processes to reduce the risk of conflict of interest arising after a member of the garda workforce leaves the organisation.

Integrity Health Check

An ethical or integrity declaration, which is a periodic review of a police officer's adherence to the ethical and integrity standards of a police service, is an important method of managing the kinds of conflict of interest that frequently arise in policing as a result of certain relationships, financial and business activities, secondary interests or spare-time activities. Providing guidelines to staff ensures that they understand what standards of behaviour are considered acceptable. It is also an important opportunity to remind the police workforce of the public's expectations

of them and their police service. Requiring declarations in line with organisational policies is vital to monitor ethical standards and non-compliance with declaration requirements can also be a source of important information.

International and Comparable Practice

In order to preserve ethical behaviour and integrity in police workforces, police services in other jurisdictions, such as the South Yorkshire Police, include integrity health checks as part of their annual performance review for the police workforce. Integrity health checks provide an opportunity

to discuss the dangers of inappropriate relationships and interests, as well as general standards of behaviour.

Other integrity themes which are commonly discussed in the context of an integrity health check include unmanageable debt, substance misuse, and inappropriate use of police computer systems. At the end of the health check discussion, the police officer or police staff member and their supervisors sign an integrity health check document. This outlines what issues were discussed, any action deemed necessary and any integrity or ethical concerns raised during the health check. Figure 3.4 shows the integrity health check used by South Yorkshire Police.

Figure 3.4 South Yorkshire Police Integrity Health Check

Public confidence in the police depends on police officers and staff demonstrating the highest level of personal and professional behaviour. There are a number of policies that exist in order to safeguard officers, staff and the organisation and it is important that supervisors ensure that their staff are aware of these.

Maintaining Professional Boundaries – Supervisors must discuss with their staff the need to maintain professional boundaries at all times. This is an opportunity to confirm that officers and staff have a clear understanding of the [professional boundaries guidance](#) and to ensure that they are not using their position to start sexual or improper emotional relationships with members of the public they have met through police related work.

Business Interests – Officers and staff are required to notify the force of any business interest including paid or unpaid work outside of their police role. Supervisors should confirm that these activities and any changes to authorised business interests have been declared in accordance with the force policy – [Business Interest & Secondary Employment](#)

Notifiable Associations – All officers and staff must be reminded of the Notifiable Associations policy and ensure any relevant associations they have are declared to line managers and dealt with in accordance with force policy – [Self Reporting of Criminal or Civil Allegations and Inappropriate Disclosable Associations](#)

The Standards of Professional Behaviour – These reflect the expectations that the police service and the public have of how police officers and staff should behave and includes a duty to challenge and report improper conduct. Please click [here](#) for full details of the SYP Standards of Professional Behaviour for both Police Officers and Police Staff.

Other integrity issues that supervisors may wish to raise at a health check meeting include:

- Unmanageable debt issues
- [Gifts, Gratuities and Hospitality](#)
- Appropriate use of police systems
- [Substance misuse](#)

Source: Information provided by South Yorkshire Police

Key Findings and Assessment

This inspection found that there are limited opportunities for garda members to reaffirm the values and principles contained in their oath of office during the course of their careers. In addition, there is no requirement on them to cooperate in formal periodic reviews of their professional standards and integrity or to notify significant changes in their circumstances to their supervisors, such as relationship breakdowns or situations of unmanageable debt, which could have serious implications in terms of personal integrity. The Inspectorate believes that regular integrity health checks at key career points, such as on promotion or on selection for specialist posts, provide an appropriate opportunity to have open and frank discussions about matters related to standards of behaviour and integrity and to confirm compliance with all relevant counter-corruption practices and policies.

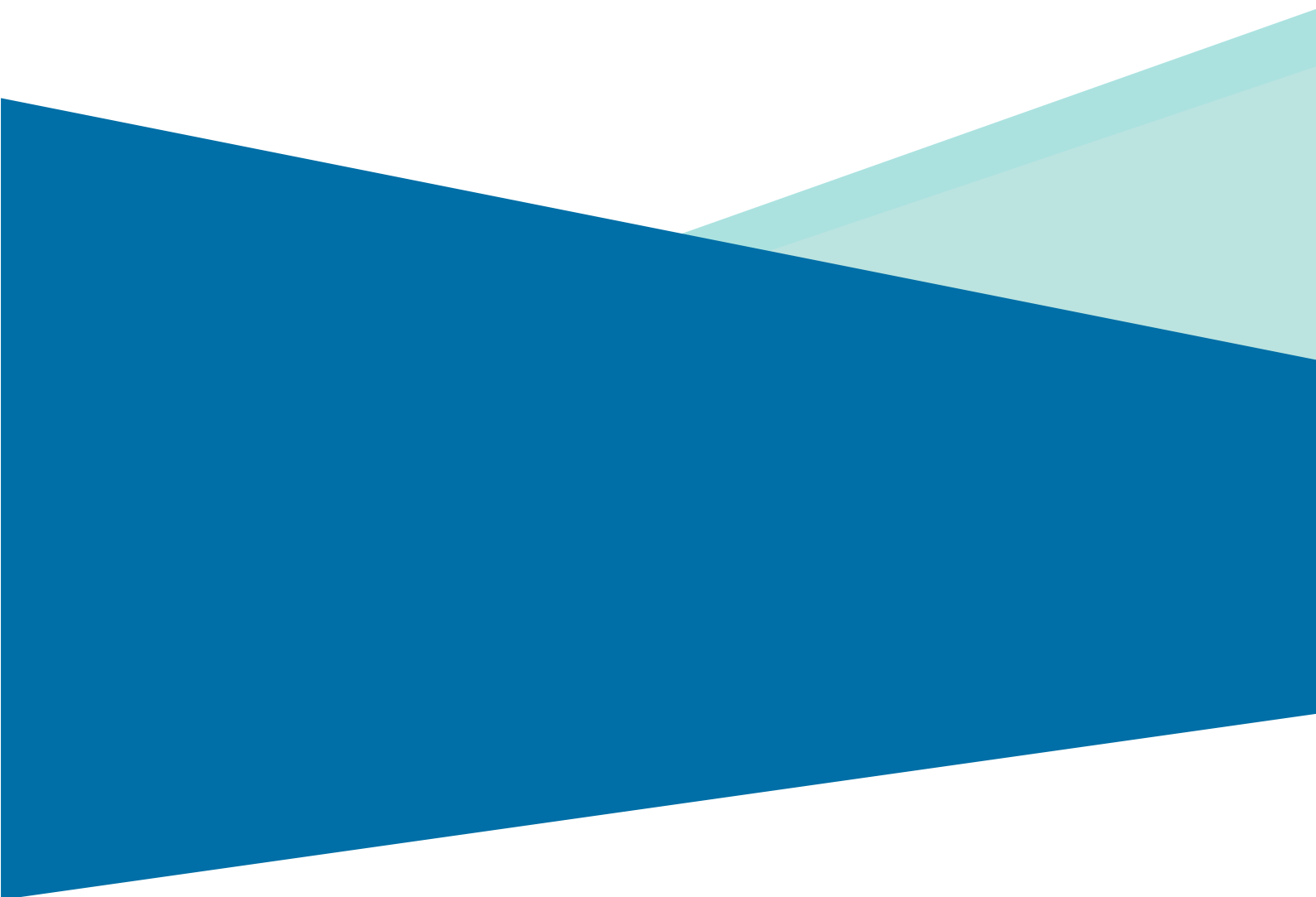
Recommendation

In light of these key findings, assessments and review of international practice, the Inspectorate makes the following recommendation.

Recommendation 13

Integrity Health Check

The Garda Síochána should undertake periodic integrity health checks of the garda workforce. These should occur if not on an annual basis at the very minimum at critical career points such as on promotion or selection for specialist or designated positions.



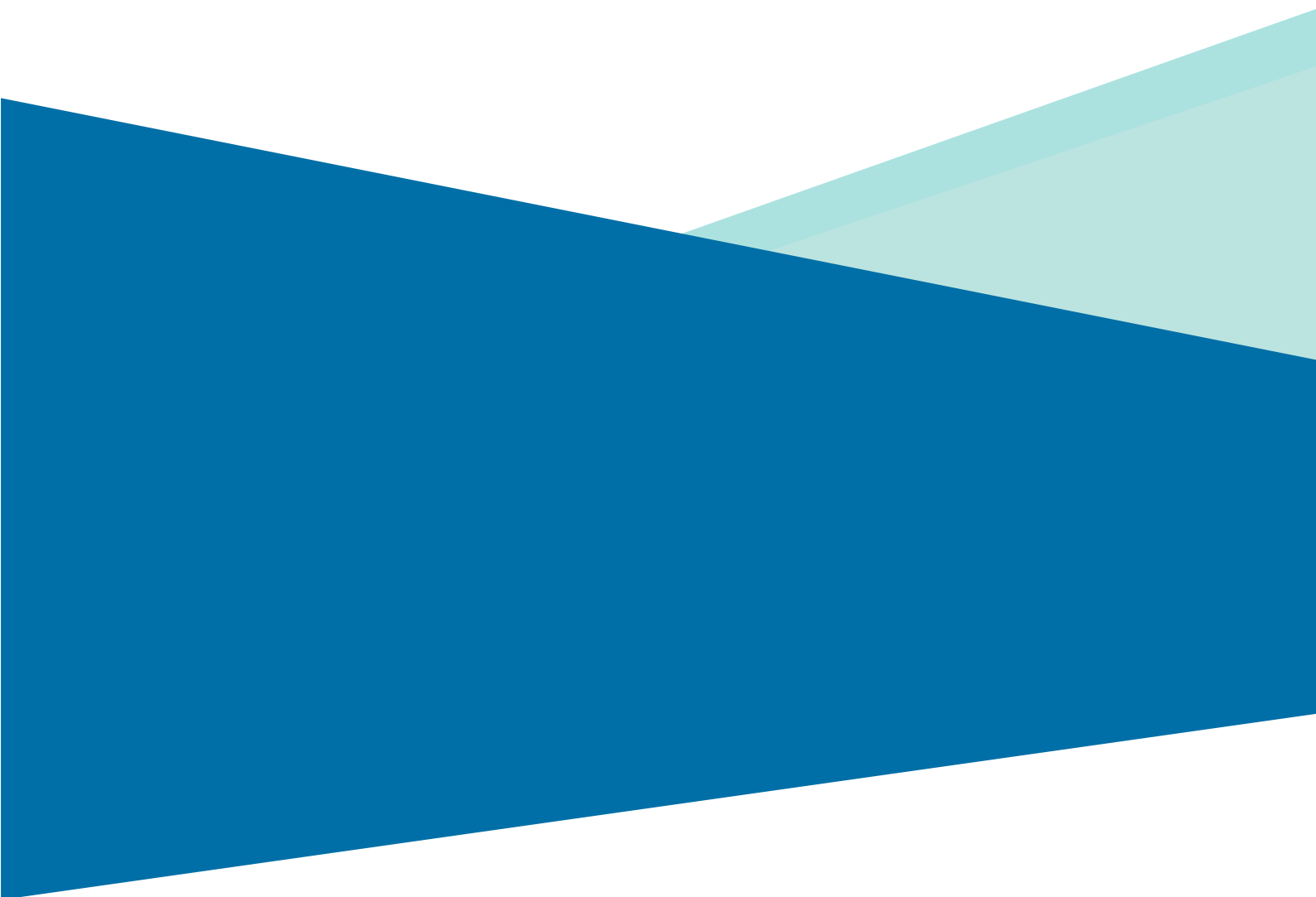
III

Part III

Building Organisational Resilience

Part III examines the Garda Síochána's defences against corruption and highlights a number of systems which are vulnerable to corrupt actors. It also examines what practices are in place to protect against the misuse of police discretion for corrupt purposes.





Chapter 4

System-Based Approaches to Preventing Corruption

Overview

To a large extent, the problem of police corruption has always been presented as bound up in the actions of a few individual police officers. The 'bad apple' myth has been pervasive not just across different countries but also over long periods of time. Perhaps the most damaging implication of this conceptualisation of police corruption is that little if anything is required other than the investigation and punishment of those culpable. Such an approach is flawed in several fundamental respects. For example, it assumes that a punitive approach will have a deterrent effect, it often fails to identify other persons implicated in wrongdoing or the full scale of the corrupt behaviour itself, it fails to hold supervisors or managers to account and it does not confront structural problems in policing itself.

Misconduct and corruption is increasingly identified as the product of organisational weakness and wider systemic failures in policing. Chapman in his 2014 *Review of Police Discipline Systems in England and Wales* came to the startling conclusion that "if you have good people and bad processes, bad processes will win nine times out of ten." Just listing a few of the characteristics of policing since the start of the twentieth century reinforces such a view. Modern policing has high levels of discretion, low managerial and public visibility, peer group secrecy, frequent exposure to law breakers, and increased opportunities for misconduct. Scandal after scandal and review after review found that the problem has penetrated all police ranks and all aspects of police organisations.

Effective systems of internal controls and intrusive supervision are perhaps the two most important managerial tools that any policing organisation has to respond to the problem of corruption or misconduct.

Well-structured systems, including robust internal controls, support both detection and prevention of unethical and corrupt behaviour among police workforces. The purpose of such systems is to ensure that the police service operates in line with its stated purpose at all times. The key tasks of an internal control system include:

- > Assessing whether the corporate and operational goals of the service have been fully met;
- > Checking that all necessary precautionary measures have been taken and that information, personnel and other resources are fully protected; and
- > Confirming that the actions of the service are legitimate, necessary, proportionate and in line with human rights obligations, and that they promote respect for ethical values, norms and rules within the organisation.

Internal controls must address three specific levels in any police service: the individual level, which involves building awareness and understanding of the organisation's values and norms; the process level, which involves developing and reviewing procedural rules and identifying weaknesses and risks and

the institutional or organisational level, which focuses on identifying and correcting vulnerabilities resulting from managerial or organisational weaknesses in information, financial or security systems.

Vetting

Vetting is the process for identifying people who are unsuitable to be members of a police service or undertake specific policing roles. This may be because of criminal activity or association, evidence of dishonest conduct, or behaviour that is inconsistent with the Code of Ethics or a vulnerability. It can also include illegal drug use or unmanageable financial liabilities that could expose them to coercion. Vetting is an essential element in any ethical and professional standards framework.

Ineffective vetting of the police workforce exposes the public and the police service to a number of risks including corruption or coercion of the workforce, public safety, national security and fraud. Long term, it can result in the corrosion of organisational values and behaviours and will ultimately damage public trust in a police service. Vetting of the police workforce needs to be continuously monitored, subject to regular formal review, and proportionate to the potential risk posed by certain roles.

International and Comparable Practice

A recent literature review by Her Majesty's Inspectorate of Constabulary and Fire & Rescue Services (HMICFRS), *Police Integrity and Corruption*, identified five critical recruitment standards for policing. These are: thorough criminal history checks with clear guidance on disqualifying offences, character reference checks, psychometric testing for unethical character traits, substance misuse testing and panel style

interviews which probe candidates' ethical values and awareness (Newburn, 2015). Common selection screening techniques also used by other police services have included: home visits, background checks on family and associates, a higher recruitment age, financial and credit checks and requirements for higher educational standards.

Vetting is a recognised recruitment and monitoring tool used by most police services around the world and by international bodies such as the UN, the OSCE and the Group of States against Corruption (GRECO). During their Fifth Round Evaluation of the UK, GRECO (2018b) noted that all background checks are carried out against the Authorised Professional Practice (APP), a comprehensive vetting code of practice published by the College of Policing in the UK. Checks extend to previous employment with other law enforcement agencies, and family members and associates, as well as financial checks.

There is also regular in-service vetting and enhanced vetting for specialist or vulnerable posts which may be specifically targeted by corrupt actors. There is an ongoing duty on police personnel to declare any changes in personal circumstances (e.g. marital status or address). At any stage, intelligence may come to light which can trigger a vetting review.

The College of Policing in the UK issued its APP standards on vetting in October 2017. The APP sets out a rules-based approach to vetting where the roles and responsibilities of all parties, including recruits, police service personnel, volunteers, contractors and vetting units are well documented and clear. There are two separate regimes for vetting in the UK. The first, Force Vetting, is concerned with protecting access to police assets while the second, National Security Vetting, is intended to protect state security. There are three separate levels of Force

Vetting (i.e. Recruit Vetting, Management Vetting and Non-Police Vetting), each with different rules and requirements. There are a number of minimum standards related to checkable history, minimum residence, foreign enquiries, identity authentication, decision-making and transparency and appeals. The APP also lays down standards with regards to the types of checks expected, including national convictions and financial and biometric checks, as well as additional vetting requirements for senior positions or vulnerable posts.

Financial assessments are carried out as part of the vetting process and debts which are in line with a candidate's income will not be considered problematic as long as candidates can meet regular commitments. The APP states that *"debts only become a problem where they are substantial and individuals fail to take remedial action or where they are caused by compulsive behaviour, such as gambling"*.

The APP also recommends that police services, as part of pre-employment screening, check content on publicly available social media sites for the purposes of service reputational reassurance and compatibility with the Code of Ethics.

In general, non-police personnel who are accompanied and under constant supervision while on police premises and who are not permitted access to police information systems or classified material will not require vetting checks. However, the APP does lay out minimum personal vetting requirements for unaccompanied workers such as electricians, vehicle recovery operators and some volunteers.

The Inspectorate also identified other examples of good international practice. This includes the Royal Netherlands Marechaussee, which screens all prospective employees and re-screens for all positions

at regular intervals after recruitment. The German Federal Ministry of the Interior and the Federal Police are required under law to carry out a risk assessment of all posts and identify those which are vulnerable to corruption. Additional training and supports are provided to persons occupying such posts and annual ethical retraining is mandatory for such post holders.

Thorough criminal checks are an essential part of any vetting process. In an era of increased mobility and travel the risk of police service candidates having foreign convictions is increasing. In this regard international cooperation in terms of information exchange is critical. The European Criminal Records Information System (ECRIS), which is a decentralised system for exchanging criminal conviction information between Member States of the EU, can support and enrich the vetting process in Member States.

In the UK, the vetting units for the police services in South Yorkshire and Merseyside are under the same business group as their Anti-Corruption Units. As such, vetting units have access to all intelligence relating to staff integrity and a vetting review will be triggered as a result of credible information or intelligence coming to the attention of an Anti-Corruption Unit.

The UK also maintains a record of police employees and volunteers who have been discredited and are unsuitable for re-employment. The Police Barred List is a list of all officers, special constables and staff members who have been dismissed from policing through the Police Conduct and Performance Regulations as well as the equivalents for police staff. Details of officers and special constables included on the list will be published by the College of Policing, unless there is justification for keeping this information private.

The Police Advisory List is a list of all officers, special constables and staff members who have resigned or retired during an investigation or who leave before an allegation comes to light. It also includes designated volunteers who have had their designated status withdrawn due to conduct or performance matters. Both lists are held and administered by the College of Policing.

Key Findings and Assessment

During the course of this inspection, the Inspectorate found that vetting in the Garda Síochána is a three-stage process involving criminal record checks, local enquiries and intelligence checks. Vetting is conducted for all of the garda workforce before their appointment. There is, however, no coherent recruitment and vetting policy framework in the Garda Síochána and the following deficiencies have been found in the vetting process:

- > There are inconsistencies between the vetting process for the recruitment of trainee gardaí and the vetting process for the recruitment of garda staff. In the case of garda trainees, checks are carried out in relation to their extended family while no checks are carried out in relation to the family of garda staff with the exception of those applying for some specialist positions such as the Garda Síochána Analysis Service. Reviews following incidents of misconduct by probationer gardaí have, in some cases, subsequently turned up intelligence on garda databases linking them to inappropriate or undisclosed activity prior to their recruitment into the Garda Síochána;
- > Criminal record checks are confined to garda prosecutions and convictions recorded on PULSE and do not include prosecutions or convictions by any of the other state bodies with a power to prosecute (e.g. Revenue Commissioners);
- > No financial background checks are carried out for those applying to join as garda trainees or garda staff;
- > Vetting checks for persons who have resided outside of Ireland (i.e. foreign enquiries) are carried out by the Security and Intelligence Branch and are restricted to security information only;
- > Checks are not carried out against the police disciplinary records of former UK police personnel or against the UK's National Barred Police Officers Database;
- > The disciplinary records of applicants who were previously in the Defence Forces or who served in the army of another country are not checked;
- > Social media history checks are not carried out as part of recruitment background checks to assist in identifying possible inappropriate behaviour, attitudes or associations;
- > In-service vetting in the Garda Síochána occurs only when a member applies for promotion and is limited to checks for complaints of bullying and harassment, garda discipline records, and criminal proceedings and garda convictions;
- > Appointments to specialist roles or vulnerable posts do not receive additional vetting with the exception of appointments to the Security and Intelligence Branch;
- > Garda members are not subject to the vetting checks required under the Children First Act 2015 despite having professional contact with children and vulnerable adults;

- > There is inconsistent practice in relation to the vetting of contactors or those providing services to the Garda Síochána. While background checks may be carried out in relation to the main contracting companies providing services, agents or sub-contractors may not be similarly checked. Contract staff, with the exception of those providing agreed IT services, are not routinely screened against approved databases or lists when entering the garda estate; and
- > No background checks are carried out on persons providing accommodation to garda students who are accommodated off campus while in training at the Garda College Templemore.

There are a number of inconsistencies and gaps in the Garda vetting process when benchmarked against international and comparable practices. To protect the integrity and reputation of the Garda Síochána it is therefore critical that vetting procedures are improved.

Recommendation

In light of these findings, assessments and review of international practice, the Inspectorate makes the following recommendation.

Recommendation 14

Vetting

The Garda Síochána should develop a single policy and approach for vetting the garda workforce and those contracted to provide services.

- The level of vetting should be tiered to take account of access to police systems and identified threats.

- Vetting should include pre-employment and regular in-service reviews. For example, appointments to designated or vulnerable posts or promotion should attract re-vetting and staff in designated or vulnerable posts should be subject to additional vetting and provided with ethical training and supports.
- All in-service vetting should be conducted by a vetting section within the Anti-Corruption Unit.
- The policy should allow for a vetting review of anyone in the garda workforce at the discretion of the Head of the Anti-Corruption Unit.
- Recruitment vetting should in addition to existing checks consider: the European Criminal Records Information System, credit checks, financial intelligence, social media, convictions by other state bodies, military records, and other police disciplinary records if appropriate.
- All contractors providing a service to the Garda Síochána should have personal vetting at an appropriate level.
- The Anti-Corruption Unit should be responsible for assessing all information relating to an individual where a risk has been identified during vetting, and should provide a recommendation to the Garda Commissioner on the appropriate action to take.

Property and Evidence Management

Property and evidence management is an important function of any police service and has become increasingly complex in response to changes in the law and jurisprudence. There are increasingly sophisticated requirements for the storage of biological materials and the safe storage of hazardous materials. The need to guarantee the integrity of the evidential chain of an exhibit is critical to the successful prosecution of a case. The failure to effectively manage exhibits can have serious implications for criminal prosecutions, particularly in high-profile cases.

Any weaknesses in the property and evidence control systems create vulnerabilities for a police service and the loss or misplacement of an exhibit can lead to the impairment of an investigation or failure of a criminal prosecution. Wilful interference with evidence or exhibits by a member of the workforce, because of corruption or coercion, can have similar consequences and the theft of high-value items for personal gain, such as illegal drugs, firearms or cash, can seriously undermine confidence in a police service. The implications of a breakdown in evidence management controls for the Garda Síochána include a loss of trust, erosion of integrity or damage to the perception of their competence.

Comprehensive and effective policies and procedures are critical to the effective management of property and evidence, particularly in relation to staff safety, facility security and cataloguing and tracking processes. The key elements of an effective Property and Evidence Management System should include:

- > Organisational considerations, such as clear policies and procedures; professional, well-trained and competent staff; and contingency planning and access to facilities;
- > Cataloguing and tracking processes, which should clearly define the chain of evidence, provide specific protocols for certain categories of property (i.e. cash, drugs and firearms) and have a clear and well-documented audit trail;
- > Safe and secure storage facilities which consider good design layout and workflows, personnel and facility security, and temporary storage arrangements;
- > Audits, inventories and inspections, which should be regular, intrusive and carried out by experienced managers in order to provide a high degree of assurance regarding the system; and
- > Evidence and property disposal, which should focus on disposal cycles and comprehensive documentation as well as specific protocols for certain categories of property (i.e. cash, drugs and firearms).

International and Comparable Practice

The UK has extensive guidance and rules on property and evidence management. Common Policing Standards in relation to investigation management usually require material recovered during searches to be handled appropriately, labelled and packaged in accordance with the instructions and guidelines of police services. Each police service has detailed evidence and property management instructions or guidelines. These outline the duties and obligations of the police workforce and supervisors as well as property officers, with the latter being

responsible for accurately accounting for and securing evidence and property in the possession of the police.

In the West Yorkshire Police Service Evidence and Property Policy it is the responsibility of all police officers to ensure that all seized evidence is taken to the station for safe storage at the earliest opportunity. In addition, they are responsible for marking all exhibits and property with the Retained Property Reference Number before such property goes to the station to be stored in an overnight or permanent property store.

In the PSNI, Instructions and Guidelines are in place for the seizure, handling and disposal of property. Members of the police workforce who seize or receive property from a member of the public, either for safekeeping or as evidence, are responsible for recording property management information immediately and providing this information to the member of the public along with a reference number.

In England and Wales, and in Northern Ireland statutory Codes of Practice deal with the exercise of coercive powers by police officers, for example, powers of arrest, detention and seizure. In particular, Code of Practice B under the Police and Criminal Evidence (Northern Ireland) Order 1989 and Code B of the Police and Criminal Evidence Act 1984 (PACE) set out the rights of owners regarding the seizure and retention of property. Both Codes stipulate that when property is retained by a police service, the person who owned or had control of the property immediately before it was seized must be provided with a list or description of the property within a reasonable time.

Key Findings and Assessment

A Property and Evidence Management System (PEMS) was originally introduced by the Garda Síochána in 2008 as a pilot project in a small number of locations. The 2017 report of the Garda Audit and Risk Committee noted that property management was to be prioritised within the five-year Modernisation and Renewal Programme (MRP) 2016–2021 by way of the following three-step approach:

- > Adoption of a standardised property and evidence management system across all divisions with a standardised computer system integrated into the Garda Information System. This was introduced in 2016;
- > The integration of PEMS records within the PULSE system together with software to barcode and register all items. This process started in September 2017; and
- > The development of a PEMS strategy and policy and the provision of adequate storage facilities. While the strategy and policy were published during this inspection, the provision of adequate storage facilities across divisions will take several years to achieve.

Several new policy and procedural documents concerning property and evidence management were issued by the Garda Síochána in November 2019. These documents updated and replaced the previous PEMS Manual from 2008. HQ Directive 60/2019 together with the PEMS Policy and PEMS Procedure documents impose an obligation on the organisation to safeguard property and exhibits which come into the possession of the Garda Síochána. The documents lay out the roles and responsibilities of garda members

and PEMS managers and obliges everyone concerned to ensure that all property comes into their possession lawfully and that their actions comply with data protection rules, the Garda Code of Ethics and the new PEMS procedures.

PEMS is part of the integrated PULSE IT system and access to the system is controlled and audited. Each item of property coming into a PEMS store is catalogued using a unique reference number generated on the PULSE IT system and property flows are tracked using barcode-scanning technology. In the case of lost property, the person who finds the property or who surrenders it to the Garda Síochána is issued with a PULSE-generated receipt. Property removed from persons taken into garda custody and retained for investigative purposes is catalogued and receipted on PEMS.

Property management concerns identified during the inspection include:

- > Inadequate storage for property outside of normal PEMS store business hours;
- > The absence of an audit trail for store security and access controls;
- > Insufficient storage capacity for high-value and hazardous property;
- > Inadequate training and security advice for newly appointed garda staff such as PEMS managers; and
- > The absence of a process for the contemporaneous recording of property seized during the search of a premises.

The Garda Síochána Anti-Fraud Policy requires the maintenance of a corporate Fraud Register and it is the practice to record allegations relating to the loss of or failure

to properly manage property in this register. The Inspectorate examined the register from the beginning of 2018 to May 2019 and found that it contained a total of 18 entries, of which 13 related to allegations of failure to properly manage or account for property taken from the public. Several of these records related to cash discrepancies. In one case, there was an €18,000 difference between the value of the cash recorded at the time of seizure and at the time it was subsequently audited.

Concerns regarding property and evidence management are not uncommon in police services. Such concerns were raised in the Garda Síochána several years ago, and the organisation has taken active steps to address weaknesses in property and evidence management. This includes updated IT systems and procedures, as well as a programme of civilianising the management of property stores. However, this inspection found that there are some existing weaknesses, such as the capacity and security of property stores and the training of PEMS managers.

Identified Good Practice

One location visited by the Inspectorate demonstrated a particularly strong understanding of the risks associated with the storage of evidence, high-value goods, dangerous substances and firearms. The Inspectorate also found evidence of formal security reviews to identify threats, action plans to mitigate the identified risks and an inspection process to verify property records.

Recommendations

In light of these findings, assessments and review of international practice, the Inspectorate makes the following recommendations.

Recommendation 15

Property and Evidence Management

The Garda Síochána should ensure that all property stores have adequate systems, processes and facilities to achieve the safe and secure management of property including:

- Effective training and security advice for property store managers.
- Secure separated storage for hazardous and high-value property.
- An approved system for managing property when the property store is not open.
- A security system for recording the details of anyone who accesses the property store.

Recommendation 16

Property and Evidence Management

The Garda Síochána should introduce a practice of recording contemporaneously property seized during a search and on completion of the search leaving the record with a person present at the search site.

Information Security

When a police ICT system becomes compromised it can have any or all of the potential consequences below including harm to:

- > National security;
- > The safety of the public;
- > Operational activity and investigations;
- > Operational tactics; and
- > The reputation of the service.

Another possible consequence is significant financial loss.

A key threat to the integrity of Garda Síochána ICT systems is the unauthorised disclosure of information by a member of the garda workforce.

The overarching goals of good information security include keeping information confidential and providing access and authority to make changes to such information by authorised persons only.

The following are the basic principles of information system security (Garfinkel, 2003):

- > System security must be balanced against utility. There is no point in guaranteeing absolute security over information systems if this results in access not being available where and when it is required;
- > Careful consideration should be given to the privileges of users in relation to the system and the separation of system duties (e.g. the person responsible for checking and verifying information should not be the person inputting the information). Access to information systems should be aligned with a person's role within the organisation;

- > Users should be assigned only the minimum privileges necessary for them to carry out their responsibilities;
- > A system should always have multiple independent defences;
- > Organisations should always plan so as to minimise the impact of any system failure. This would include taking precautions such as regular back-ups of data;
- > A number of key attributes should be recorded every time the information system is accessed and there should be a comprehensive audit trail of any activity concerning the information held on the system. This should identify: what information was accessed, when and where this took place, who accessed it and what, if any, changes were made to the information; and
- > Organisations should periodically carry out a risk assessment of their systems and test the integrity and adequacy of its security features.

ICT system's history checked for evidence of computer misuse or risk indicators of further misconduct or criminal activity.

The Merseyside Police Service ICT Acceptable Use Policy provides for the ACU and the Information Assurance Coordinator to carry dual responsibility for monitoring compliance with the policy, while the ACU is solely responsible for auditing ICT systems and investigating computer misuse in the service.

Lawful business usage monitoring, which is common in commercial entities, is an emerging practice in law enforcement agencies. However, caution is advisable because jurisprudence is still developing in this regard. The European Court of Human Rights (ECtHR) recently overturned a 2016 ruling¹⁰ by a Romanian Court concerning the dismissal of an employee for using a private messaging service on a business-issued ICT device. The activity had come to light as a result of surveillance software used by his employer to monitor computer activity in the organisation. The ECtHR found that it was unclear whether his employer had warned him that his communications were being monitored and that his right to privacy had not been 'adequately protected' because some of the communications were 'intimate in nature'. While the ECtHR made clear in the ruling that firms are not prohibited from monitoring employees' communications at work or dismissing employees for misuse, they must have sufficient safeguards against abuse of such powers.

In the Merseyside Police policy, the information security duties of users extend not just to ICT devices but also to paper records, including notebooks. Under the policy, supervisors have special responsibility for mobile devices and are

International and Comparable Practice

A review of ICT security practices in a number of UK police services revealed that ICT monitoring systems were far more sophisticated than those used by the Garda Síochána. For example, Anti-Corruption Units (ACUs) have primary responsibility for proactively monitoring IT use with the assistance of specialist software. In addition, ACUs use their strategic and tactical understanding of the corruption risks within the police service to better target their monitoring activities, and staff suspected of wrongdoing will have their

¹⁰ *Case of Bărbulescu v. Romania*, [GC], no. 61496/08, ECtHR 5 September 2017

required to account for them to the ACU on a regular basis. Before gaining access to ICT systems, users must be vetted to a level commensurate with the sensitivity of the information and systems they are accessing and any permanent location used to access ICT systems must be regularly risk and security assessed.

Key Findings and Assessment

The PULSE system, the primary Garda ICT system, is a vast repository of sensitive information. This includes intelligence relating to criminals; details of the progress of ongoing investigations; and personal details of victims, vulnerable individuals and others who have interacted with the Garda Síochána. Such information is a valuable commodity to many persons outside of the police service with harmful intent, including terrorists, organised crime gangs, those seeking to exploit vulnerable persons or those who would use such information to gain an advantage in some commercial activity.

Several new policy and procedural documents concerning information systems security were issued by the Garda Síochána in November 2019. The Garda Information Security Policy states that it focuses on maintaining the integrity of the information, which should be intact, complete and accurate, ensuring the availability of information to authorised users when it is needed for a legitimate purpose, and maintaining the confidentiality of information by restricting access to persons who are authorised.

The Garda Acceptable Usage Policy sets out the general approach to managing information security and includes the roles, responsibilities and obligations of the garda workforce in relation to the integrity, availability and confidentiality

of data and information resources. It also includes the responsibilities of the Garda ICT Section: maintaining the Information Security Management System, developing policy and procedures, assessing security risks, increasing awareness of the control environment and managing security threats and incidents. The policy does not provide any obligations that garda personnel have under data privacy and protection laws and regulations.

In general terms, users are prohibited from allowing access to garda ICT systems to non-garda personnel at any time and they must safeguard their own accounts and ICT credentials and ensure that data held on removable media is encrypted at all times. Using ICT systems for illegal purposes, sending or sharing offensive material, and using unlicensed software are strictly unacceptable. Capturing or sending business materials, in either image or text form, unless for an official purpose is also prohibited, as well as using cloud storage, personal email or messaging services. Using the ICT system for personal gain or downloading or streaming inappropriate material is similarly unacceptable.

There is a duty on users to immediately report information on data security breaches and supervisors have a duty to report any such notifications to the Executive Director of ICT. Unlike other jurisdictions where the ACU has responsibility for monitoring compliance, under the garda policy, the Executive Director is responsible for monitoring compliance and for investigating data security breaches.

There is a separate procedure document for mobile devices. This document similarly sets out the roles, responsibilities and restrictions on users and the data security rules for officially issued mobile devices.

During the course of this inspection, the Inspectorate found that in general good access controls and audit trails around information systems were in place. This includes management reports for *incidents of interest*, known as IOI reports, which are regularly produced and reviewed by local management. These provide local managers with a list of all enquiries made in the Garda PULSE system in their policing area, including the date and time of the search and the identity of the person making the search, along with details of the search, such as whether it related to a vehicle, person or location. A rationale for the search must be included when a member of the garda workforce generates a PULSE enquiry. This is a free-text entry made by the garda member. In this way, multiple searches of a particular incident or of a high-profile individual will be identified and garda members can be challenged in relation to any information security breaches.

While the process itself provides a level of scrutiny, the Inspectorate identified gaps in the IOI reporting process and the ICT audit process which could allow members of the garda workforce with access to PULSE to identify persons with vulnerabilities as regards substance misuse, domestic violence (but not sexual violence) or mental health without being flagged in the IOI process. While such searches are captured by a secondary, more comprehensive audit process in PULSE, these kinds of searches can be identified only in non-standard reports generated by a query on the Garda Information Assurance System (IAS). In addition, searches conducted by those granted 'hidden' status, such as detectives, those on drug units and those in the Security and Intelligence Branch do not appear on the IOI report.

This inspection also found that the IOI process is more concerned with compliance than with identifying inappropriate use of police systems. Focus groups with all ranks confirmed that even the most rudimentary efforts to justify the reason for an enquiry in the free-text field would be enough to avoid a challenge by a line manager. The Inspectorate was informed that an entry in the free-text field exceeding five letters, such as 'Enquiry' as the reason for the search on PULSE would generally not attract any attention, while a shorter explanation such as 'ENQ' would. Criminal misuse of the PULSE system is generally discovered as a result of separate intelligence which identified that an individual was inappropriately using the system rather than by active monitoring of system use.

Figure 4.1 provides a representation of a typical IOI report and illustrates how the top 10 reasons for enquiries made on PULSE for a specific period are monitored. Local garda managers can review the IOI report to examine the level of detail garda members provide when making enquiries on the system. Data on PULSE can be searched only by using three criteria: person, vehicle and location.

In Figure 4.1, the IOI report shows that 'Enq' and 'E' are the most commonly used enquiry terms for the period and these may well attract the attention of a supervisor. Other terms used, such as "Enquiry re previous incident" or "Information required in relation to suspect" are fully compliant with policy and would not alert local management to any possible unethical behaviour. If a member of the garda workforce identified a vulnerable person, they could hide their usage of PULSE by entering sufficient detail for their enquiry without alerting local managers.

Figure 4.1 Representation of a typical Garda Síochána IOI report

Representation of Typical IOI Inquiry Report (RPT_COMP000) - GARDA INSPECTORATE								
About this Report: This report lists all inquiries of a particular type (Person, Location or Vehicle) made between two dates by persons assigned to a particular station (or unit), district or division. The report also summarises the top 10 inquiry reasons used. This report can be used as a tool in assessing compliance with data protection guidelines.								
*The Grand Total Inquires figure includes all inquiries for the specified selection and not just the Top 10 reasons.								
Top 10 Inquiry Reasons	Person		Vehicle		Location		All IOIs	
	# Inquiries	% Total	# Inquiries	% Total	# Inquiries	% Total	# Inquiries	% Total
Enq	10	6.76%	0	0.00%	0	0.00%	10	3.80%
E	1	0.68%	7	6.48%	1	14.29%	9	3.42%
Enq address	8	5.41%	0	0.00%	0	0.00%	8	3.04%
Intel	8	5.41%	0	0.00%	0	0.00%	8	3.04%
Address	4	2.70%	0	0.00%	4	57.14%	8	3.04%
Enquiry re previous incident	7	4.73%	0	0.00%	0	0.00%	7	2.66%
Information required in relation to suspect	0	0.00%	7	6.48%	0	0.00%	7	2.66%
Enq for summons	6	4.05%	0	0.00%	0	0.00%	6	2.28%
Enq re parking offence	0	0.00%	5	4.63%	0	0.00%	5	1.90%
Court outcome	3	2.03%	0	0.00%	0	0.00%	3	1.14%
Grand Total Inquiries*	148	100.00%	108	100.00%	7	100.00%	263	100.00%

Source: Template provided by Garda Síochána; representation prepared by Garda Inspectorate using data from multiple IOI reports.

The Inspectorate found that the Garda Síochána does not have either a policy for lawful business monitoring or the capability to proactively monitor its ICT systems with the type of sophisticated technology used in other police services.

The Inspectorate was also informed that investigations into serious criminality by a member of the garda workforce did not automatically result in an audit of the garda member's PULSE search history. For example, in a case of a garda member suspected of child sexual exploitation or sexual violence outside of their work environment, their use of garda systems was not investigated to establish if there is any evidence of similar behaviour within the workplace.

As with any large organisation awareness of data and information security is an ongoing concern in the Garda Síochána. The ICT information security policies and procedures have recently been updated, and technical as well as organisational safeguards, including the newly established Data Protection Unit, are continually reviewed in response to emerging threats and trends. While ICT security would be considered robust in the Garda Síochána the inspection did reveal some corruption-related vulnerabilities. These included the inability of the Garda Síochána to proactively monitor ICT systems for indicators of misuse and failure to routinely review the usage of garda ICT systems by persons suspected of or identified as engaging in corrupt behaviour.

Recommendations

In light of these findings, assessments and review of international practice, the Inspectorate makes the following recommendations.

Recommendation 17

Information Security

The Garda Síochána should develop and publish a Lawful Business Monitoring Policy and acquire technology that enables the proactive surveillance of ICT systems to prevent and detect the misuse of information held within them.

- The Anti-Corruption Unit should be responsible for challenging, through divisional supervisory and governance structures, the use of garda ICT systems on both a random basis and where the access has raised concerns of inappropriate use.

Recommendation 18

Information Security

The Garda Síochána should assign to the Anti-Corruption Unit responsibility for identifying misuse of information and communications technology devices and systems by the garda workforce.

To facilitate this responsibility:

- The Anti-Corruption Unit should proactively monitor all garda information and communications technology devices and systems based on intelligence, analysis and organisational learning.
- The Anti-Corruption Unit should review an individual's use of garda information and communications technology systems following identified or suspected unethical behaviour or misconduct by that member of the workforce.

Chapter 5

Leadership and Supervision

Overview

A Rapid Evidence Assessment Review in 2015 by the College of Policing in the UK of what works in terms of promoting ethical behaviour and preventing wrongdoing in organisations identified strong ethical leadership as the single most important factor in influencing organisational behaviour. Reforms which combined strengthened ethical leadership with a systems-based approach were found to bring about more permanent and longer-lasting change within organisations. The Review also found that while training has been shown to change behaviours and attitudes in police officers, strong supervision and opportunities to reinforce such training in real-world situations is necessary to make such changes permanent.

A recent literature review by Her Majesty's Inspectorate of Constabulary and Fire & Rescue Services, *Police Integrity and Corruption (2015b)*, concluded that robust internal supervision and accountability for actions were central to any successful corruption control strategy. Failings in leadership and supervision have been identified as contributory factors in virtually every major enquiry into police corruption.

The Inspectorate has previously raised the critical importance of frontline supervision in three reports: *Front Line Supervision 2012*, *Changing Policing in Ireland 2015* and *Policing with Local Communities 2018*. In these reports, the Inspectorate repeatedly emphasised the importance of leadership and supervision in terms of delivering high standards of policing. In particular, the reports

highlighted the important role of sergeants and inspectors in delivering an effective 24/7 policing service.

In considering which aspects of leadership and supervision to examine, the Inspectorate selected those areas where a wide degree of discretion existed and where rigorous supervision and leadership was considered to be important in ensuring that policing activities are delivered fairly, consistently, free from the risk of coercion or corruption and in line with the Garda Code of Ethics. Discretion without strong supervision in areas such as the cancellation of fixed charge penalty notices creates a weakness in any counter-corruption architecture as it provides opportunities for undue influence and unethical decision-making.

Discontinued Court Cases

The District Court is the lowest court of the judicial system in Ireland as constituted under the Courts and Court Officers Acts and is a court of local and summary jurisdiction. Its criminal jurisdiction covers summary offences and some indictable cases of a minor nature. The majority of cases dealt with by the District Court are commenced by the Garda Síochána.

Section 8 of the Garda Síochána Act 2005 provides a general power for any member of the Garda Síochána to institute and conduct a criminal prosecution in the name of the Director of Public Prosecutions in a court of summary jurisdiction.

The Director of Public Prosecutions (DPP) has given a general direction to garda members in relation to the institution and conduct of criminal prosecutions. The most recent direction was issued by the Director on 8 November 2011 and is commonly referred to as General Direction 3. The DPP has also issued a set of guidelines and a Code of Ethics for all prosecutors, including the Garda Síochána. The General Direction sets out three separate categories of case. The DPP is responsible for instituting and conducting the first category of case. In the second category, the Director consents to summary disposal in the District Court following submission of a file by the Garda Síochána. The third category involves cases where the Director consents to summary disposal in the District Court but without the need for the Garda Síochána to submit a file. The General Direction also lays down principles which should guide the Garda Síochána in circumstances when it may be appropriate to seek advice or a direction from the DPP in relation to a case which would usually fall into a category not requiring a specific direction.

International and Comparable Practice

International practice is virtually non-existent in relation to police services independently prosecuting criminal cases. The Garda Síochána is unique in this respect. As the Commission on the Future of Policing in Ireland has reported it is now widely accepted that the investigation and prosecution processes should be separate. The Commission and the Inspectorate have both recommended that all prosecution decisions should be taken out of the hands of the Garda Síochána and given to a national prosecution service. However within Ireland, there are clear standards set by the DPP for prosecutors, which provide

valuable comparable practice against which to benchmark Garda prosecution practices.

In October 2016, the DPP issued the fourth edition of the Guidelines for Prosecutors as well as a Code of Ethics. The guidelines set out the general principles which should underlie the approach to criminal prosecutions in the State. While the guidelines and the Code are aimed at professional prosecutors, such as solicitors and barristers, they are also explicitly aimed at garda members, who are responsible for instituting the vast majority of criminal proceedings in the State.

The guidelines impose a duty on garda members, when prosecuting under the authority delegated to them by the DPP, to comply with all the duties of a prosecutor as set out in the guidelines and the Code. One such duty is the requirement to record and explain decisions to withdraw or strike out criminal proceedings. During interviews a senior member of the DPP explained how this duty is discharged within the DPP. Under their system any decision by a DPP prosecutor at court to vary the original prosecutorial decision must be justified and recorded in writing on a specific form that is returned to senior DPP management for their information.

The Code is intended to enhance and promote the standards and general principles necessary for the proper and independent prosecution of offences. This Code supplements rather than replaces other professional codes or standards such as the Garda Code of Ethics and the Civil Service Code of Standards and Behaviour as well as the standards set by the legal professional bodies (i.e. the Law Society and Bar Council). The Code underscores the importance of the independence of prosecutors, who must *“exercise their functions free of any extraneous influences, inducements, pressures, threats or interference, direct or indirect, from any quarter*

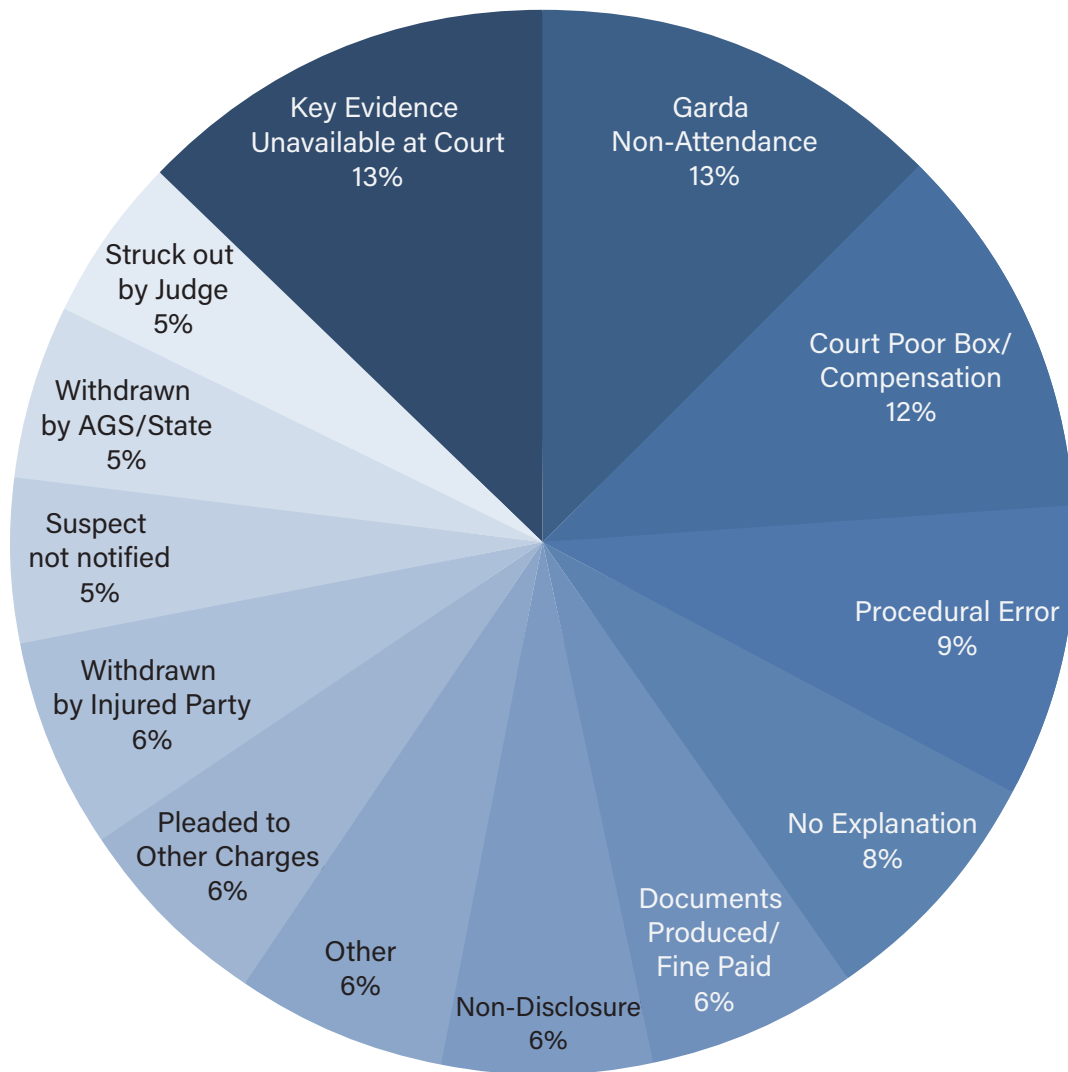
or for any reason". There is also guidance in the Code regarding what constitutes a conflict of interest and how they should be managed.

Key Findings and Assessment

During this inspection, the Inspectorate examined a representative sample of recent garda prosecution files at District Court level. In general, local practices had developed around the handling and supervision of cases in each of the garda divisions visited and the following inconsistencies and deficiencies were identified:

- > It was not unusual for cases to be discontinued at court because of non-attendance of garda members and with little if any explanation. This was found in 13% of cases examined. While some cases were referred to local management for their information, there was no consistent process for ensuring that cases were reviewed to identify why the prosecution had failed;
- > While the DPP's Guidelines for prosecutors were well known among garda members, particularly court presenters, there was limited awareness of the DPP's Code of Ethics for prosecutors;
- > Record-keeping practices varied significantly between the divisions inspected, with considerable gaps in the recording of information about why a case was discontinued at court. In many cases examined, there was no clear rationale recorded in a case file to explain why a prosecution case was discontinued;
- > There was limited oversight by supervisors such as sergeants or inspectors of cases prosecuted directly by garda members;
- > District Court outcomes are updated automatically on PULSE by the Courts Service. The relevant field in the database for recording court outcomes is free text and, as such, the accuracy of the information is dependent on the quality of the entry by the district court. There is no standard categorisation of why cases are discontinued, which significantly hampers the capacity to examine the many reasons why a prosecution has failed. Furthermore, there can be considerable delays in the updating of court outcomes and there are concerns about the quality of PULSE entries, which can be inaccurate; and
- > The absence of timely and accurate information on court proceedings coupled with weak processes for capturing garda members' decisions to discontinue prosecutions creates a significant supervision vacuum. For example, there is no criminal justice court case tracking system that could identify prosecution cases that fail and the reasons why. The discontinuing of cases without effective supervision could allow corrupt behaviour or poor practice to go unnoticed.

To establish the reasons why prosecution cases fail, the Inspectorate examined 79 discontinued cases from June to August 2019. Figure 5.1 shows the various reasons recorded for discontinuing those cases.

Figure 5.1 Reasons for discontinued cases from June to August 2019

Source: Data supplied by the Garda Síochána; analysis by the Garda Inspectorate

Analysis found that the two most common reasons provided for cases being discontinued were key evidence being unavailable at court (13%) and non-attendance of a garda member (13%). However, in 8% of files examined no explanation was recorded to explain why a prosecution had been discontinued. The types of discontinued cases included serious threat to public safety such as driving while intoxicated, and public order offences. When criminal justice controls such as a criminal conviction, disqualification from driving or the issue of penalty points are not applied, future behaviour may not be managed and the threat to public safety remains active.

In addition, the potential risk of corrupt exploitation in this process is clear and is a significant risk to the reputation of the Garda Síochána.

The level of discontinued cases arising from non-attendance of a garda member is a significant proportion of all discontinued cases.

Identified Good Practice

The sergeant who performs the role of court presenter in Monaghan has developed a robust process for reducing the number of court cases struck out because of garda non-attendance. The sergeant identified an issue with garda members not attending courts, particularly when they were prosecuting the case themselves and as a result there was no file available for a presenter to review.

The sergeant introduced a case tracking system for all cases at the district court including where individual garda members are prosecuting. The sergeant requires a tracking form for each scheduled case and checks all files on the forthcoming court list to ensure that all paperwork has been submitted. When presenting cases in court he has a list of all unit duties and if a garda member does not attend he will seek an adjournment to when the individual's unit is on a shift that coincides with the court sitting. After court he circulates an email to all garda members informing them of when their cases are scheduled, and posts a list on the station notice board.

During our examination of discontinued cases in Monaghan we found no examples of cases being discontinued because of garda non-attendance at court.

Recommendation

In light of these findings, assessments and review of international practice, the Inspectorate makes the following recommendation.

Recommendation 19

Discontinued Court Cases

The Garda Síochána should strengthen supervision of cases it prosecutes. This should include:

- Introducing suitable guidelines and procedures to improve record-keeping. In particular, there must be requirements to explain in detail a garda decision to discontinue a case and to record explanations for a case being struck out in the District Court.
- Reviewing discontinued cases should form part of the divisional Performance and Accountability Framework (PAF) review process to identify patterns or performance concerns.
- Ensuring discontinued cases that arise from the non-attendance of a garda member are reviewed by a supervisor.

Fixed Charge Penalty System

The Fixed Charge Penalty System has been in operation in Ireland since its introduction under the Road Traffic Act 2002. For much of that time senior garda members have had wide discretionary powers to cancel a Fixed Charge Penalty Notice (FCPN).

The primary objectives of the Fixed Charge Penalty System are to contribute to safer driving and reduce road traffic fatalities. A penalty notice can be issued either as a result of interception by a garda member (at the roadside) or from a static or mobile GoSafe camera. Notices predominantly relate to offences committed while driving, such as speeding or mobile phone use, but the

process can also be used to deal with a range of other traffic and public order offences. The Notice always involves a fine but with certain specified road traffic offences a fixed number of penalty points will be recorded against the driving licence of the person concerned.

There have been several reviews of the Fixed Charge Penalty System, most notably by the Garda Síochána Ombudsman Commission, the Comptroller and Auditor General and the Inspectorate. A number of these examinations were in response to allegations of inappropriate cancellation practices in the Garda Síochána. The reviews all found evidence of inadequate and inconsistent performance, poor management and lack of supervision, and deficits in accountability and oversight of the system. In 2015, the then Minister for Justice and Equality established the Independent Oversight Authority under the stewardship of the former President of the Circuit Court, Judge Matthew Deery. The Authority has reported 'substantial compliance' with the process since its establishment.

Section 87 of the Road Traffic Act 2010, as amended, provides for a statutory exemption for members of emergency services, including ambulance, fire and police, from the road traffic laws relating to the imposition of a Notice. The DPP has advised the Garda Síochána that two conditions must be met in order to satisfy the statutory exemption, namely that garda members must be driving or directing a vehicle in the performance of their duties, and that the use of the vehicle must not endanger the safety of other road users. Garda policy states that in order to ensure the personal safety of members and other road users, the statutory exemption should be relied upon only in exceptional circumstances. While the policy states that the onus of proof lies with the applicant to set out all the facts relevant to the exemption,

these should be supported by documentary evidence wherever possible.

Garda members seeking the cancellation of a Notice must submit a Category C Cancellation Request Form to a supervisor and usually through their local district superintendent, who is responsible under the policy for reviewing the request and endorsing it as appropriate. The endorsed request and any supporting documentation is sent to the Cancelling Authority in the Fixed Charge Processing Office. The cancellation of notices is now restricted to three Cancelling Authorities, who are senior members of chief superintendent and superintendent rank attached to the Garda National Traffic Bureau.

International and Comparable Practice

The situation in the UK is slightly different to the extent that the exemption, under the Road Traffic Act 1984 and Traffic Signs Regulations and General Directions 2016, relates to emergency vehicles as opposed to drivers. While there is no legal definition of what constitutes a justification for claiming the emergency vehicle exemption, the use of the exemption is closely scrutinised and police officers may only exercise the exemption from speed limits, traffic lights and traffic signs where there is a clear and justified requirement.

Devon and Cornwall Police is a good exemplar of practice in England and Wales. Scrutiny of the exemption is a two-stage process. The first step for claiming the exemption requires police officers to justify, in the prescribed format, to an independent authorising officer of at least inspector rank that the exemption was exercised legitimately. If the authorising officer has any doubts as to the justification, the case must be referred to the Crown Prosecution

Service for independent and objective consideration.

In the Metropolitan Police Service, police drivers who exceed the posted speed limit by certain specified limits (i.e. 70 mph in 30 mph zone, 90 mph in 40 mph zone or 110 mph in 50 mph zone) will in addition have their standard of driving during the incident reviewed by the Police Driving Standards Unit. This unit may recommend a supervision intervention or other sanction against the police driver including a requirement to be reassessed for driving duties.

Key Findings and Assessment

In Judge Deery's 2018 report, the Oversight Authority noted that statutory exemption applications continued to be made by garda members without an explanation justifying the breach of the road traffic laws in terms of exceptional circumstances (Deery, 2018). This issue was also highlighted in the 2017 report.

The Garda Professional Standards Unit (GPSU) conducts periodic reviews, which includes cancellations on the basis of the statutory exemption. The Inspectorate has examined the GPSU review for the period January to December 2018. This review identified that when considering an application for an exemption, garda managers did not routinely apply the exceptional circumstances test and in particular they did not consider whether there was a necessity to exceed the speed limit. A number of other inconsistencies in record management were also identified.

The Inspectorate examined a sample of statutory exemption files in the Fixed Charge Penalty Office for the period August 2018 to August 2019. During this period there were 459 requests for the statutory exemption of FCPNs by garda members using official

vehicles or private vehicles. Like the GPSU, the Inspectorate found a lack of detail in the applications and that assessments of local managers did not challenge the exemption claims and lacked rigour.

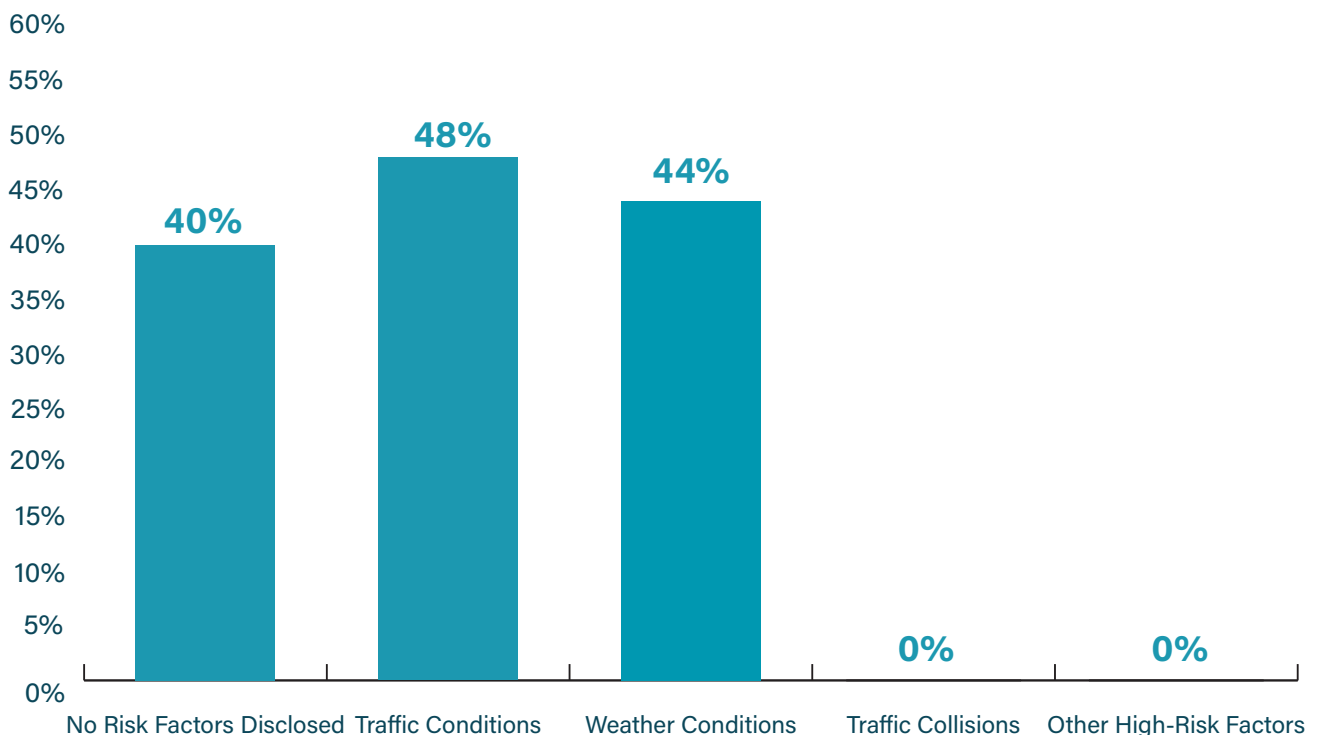
During the examination of the applications, the Inspectorate noted the following:

- > The documentary evidence accompanying applications was, for the most part, made up of self-declarations with no independent assessment of facts by supervisors or by the superintendent;
- > Applications seldom included a complete assessment of those factors that could place another road user in danger. Risks such as those posed by the weather, road or traffic conditions, and high-risk factors such as the presence of schools or the historic frequency of collisions were not routinely explained in each application. When these types of issue were included, they tended to consist of comments such as 'good' or 'clear';
- > There was only one example of an FCPN issued at the road side by a garda member to a garda member. All of the other FCPNs examined were issued by static or mobile GoSafe van cameras (GoSafe cameras are placed in areas at higher risk of traffic collisions);
- > The collision risk profile of the detected location is generally not taken into consideration in the cancellation decision;
- > The DPP makes decisions regarding the application of the statutory exemption in cases of FCPNs relating to the use of private vehicles by garda members. However, currently only details relevant to the statutory exemption are considered;

- > For detections involving private vehicles, documentary evidence of insurance cover, driving licence or National Car Test was not a factor in cancellation decisions;
- > Driving experience and training were generally not considered in the cases examined and it was not routine practice to explain whether the driver had qualified to the standard required under garda policy to exceed speed limits (CBD2);
- > There was often a lack of evidence to confirm that the driver was responding to an incident and PULSE identification numbers or copies of PULSE records were not included in many of the files examined;
- > Vehicle-tracking data is not used to better inform cancellation decisions in terms of demonstrating driving behaviour before and after detection; and
- > In one file examined, the district superintendent identified they had a familial relationship with the garda driver and properly referred the case to another superintendent for consideration.

The Inspectorate reviewed 25 FCPN cases that had been cancelled as a result of the statutory exemption being applied and examined the risk factors disclosed in the application for cancellation. Figure 5.2 shows the categories of risk factor and the proportion of cases in which that category was disclosed.

Figure 5.2 Frequency of Risk factors disclosed when considering the safety of other road users



Source: Data supplied by the Garda Síochána; analysis by the Garda Inspectorate

In 40% of the files reviewed no reference was made to any road safety factors. Usually there was a simple self-declaration by the driver with concurrence from their superintendent that no other road users were placed in danger. Applicants or their supervisors discussed traffic and weather conditions in only 48% and 44% of cases respectively. There was also a complete absence of consideration of other high-risk factors or local collision history as well as objective or independent evidence to show that other road users were not endangered. The findings from this inspection suggest that garda members claiming the statutory exemption have a sense of impunity and fail to justify their actions or provide any evidence to support their application for statutory exemption.

Identified Good Practice

The Fixed Charge Penalty Office now maintains a database tracking the cancellation of Notices. The database captures the name of individuals who have sought statutory exemption. When a member of the Garda workforce makes three requests for exemption a report will be forwarded to their senior manager to enable a management review.

Case Study A - Fixed Charge Penalty System

The following is an example of an activation of a speed camera by an on duty garda member and the subsequent application process to have the FCPN cancelled.

In June 2017, a GoSafe van detected a garda vehicle travelling at 115kph in a 100kph zone.

- Following referral to the garda unit to which the vehicle had been allocated, a garda member was identified as driving the vehicle accompanied by another member, who applied for the statutory exemption.
- The application for exemption stated that the use of excess speed had been the result of the crew's observations of a commercial vehicle driving at high speed. The driver of the garda vehicle stated they had reported the incident to the regional control room, but neither the driver nor the passenger obtained the vehicle's registration details.
- The application was supported by the member's superintendent.
- The Cancellation Authority requested a record of the incident from the regional control room and checked to see if the commercial vehicle had also been captured by the detection van. There was no record of the incident nor was an activation captured for the other vehicle.

- Local management were asked to reconsider the application for cancellation and replied that the account given was 'bona fides'.

A second review by a senior manager was requested by the Cancellation Authority as they believed the account lacked credibility. This review subsequently reported in December 2018 that:

- The original garda member was now denying driving the vehicle at the time of detection and stated that their declaration had been made in error. This garda member said that the incident with the commercial vehicle had occurred on the approximate date at the same location and they had reported it to their unit's office not to the regional control room as originally stated. The vehicle they were driving was not identified;
- A second member of the unit who was returning from training was then identified as the driver of the speeding garda vehicle at the time of the GoSafe activation;
- The vehicle log book which should have recorded who was driving the vehicle on the date of the incident had not been completed;
- The local superintendent accepted that more action should have been taken to confirm the facts in the original cancellation request;
- A second application for cancellation was submitted by the

newly designated driver who was returning from training. While this application, endorsed by a superintendent contained no operational justification for the excess speed, it was still deemed sufficient to confirm that they were on duty;

- Senior garda managers decided that there was no requirement to commence a criminal or discipline investigation in relation to any of the garda members concerned.

This case study shows the importance of conducting a rigorous examination of an application for an exemption.

Recommendations

In light of these findings, assessments and review of international practice, the Inspectorate makes the following recommendations.

Recommendation 20

Fixed Charge Penalty System

The Department of Transport should undertake a review of the current statutory exemption relating to the driving of vehicles by members of the emergency services.

Recommendation 21**Fixed Charge Penalty System**

The Garda Síochána must ensure that the process for cancelling a Fixed Charge Penalty Notice on the basis of the statutory exemption consider all of the relevant conditions, including those set out in regulation and policy, and be properly documented. Such an approach should ensure that:

- The exceptional circumstances test is applied more rigorously in the decision-making process. The necessity to travel in excess of the speed limit, and the proportionality of this action, should be considered and balanced against the rationale for breaching road traffic laws.
- All risk factors, mitigating factors and evidence are taken into consideration, including: weather and road conditions, driving competence, and factors involving high risk such as proximity to schools. Vehicle data could also be utilised to confirm driving performance, and in the case of private vehicles, confirmation of driving licence, insurance and NCT should be required.

Non-Public Duty

Section 30 of the Garda Síochána Act 2005 permits the Garda Commissioner to provide policing services, as set out in Section 7 of the Act, for certain events taking place on private property or to which the public will have access. Examples of the types of event which are set out in the Act include: sporting fixtures, concerts, festivals, exhibitions,

conferences, film productions and appearances by persons likely to attract large crowds. They also include police services related to the escort of persons or property in transit through the State. The Commissioner may charge for such policing services subject to regulations made under Section 122(1) and the authorised charging rates are outlined in a HQ Directive. This Directive sets the hourly rate that event organisers are to be charged for garda members, sergeants and inspectors and vary depending on the day the duty is performed. As such, costs are at their lowest during mid-week and rise for weekend duties with the public holiday rate being the most expensive. For example, the hourly rate charged for a garda member on mid-week duty is €56.68, €72.24 on a Sunday and €99.36 on a public holiday.

International and Comparable Practice

The ability to charge for policing services in the UK is generally determined by statutory provisions. The responsibility for agreeing and recovering policing costs rests with the Chief Constable, while responsibility for policy lies with Police and Crime Commissioners.

The first set of guidelines for charging for police services in the UK was issued by the Association of Chief Police Officers in 2005. These guidelines were revised and adapted, usually in response to litigation. In 2019, these were replaced with National Policing Guidelines on Charging for Police Services issued by the National Police Chiefs' Council.

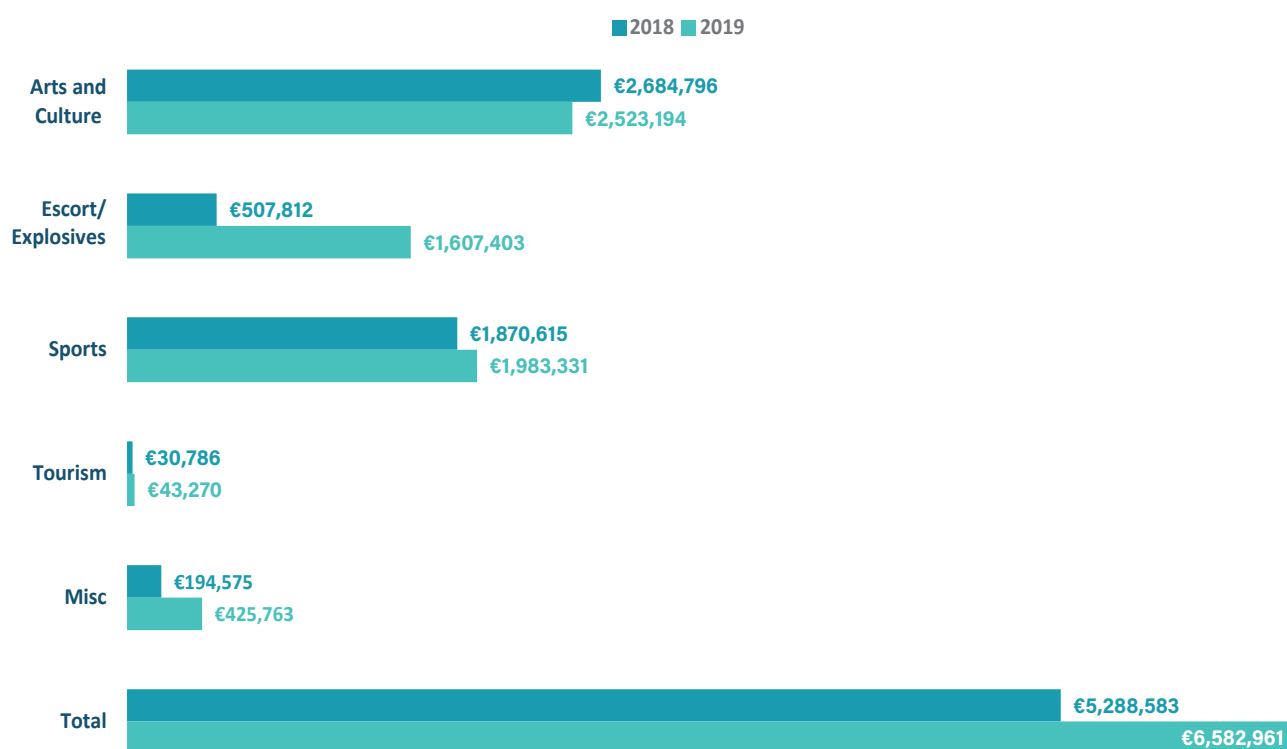
The guidelines outline what duties police services can charge for and ethical guidance on the circumstances in which a charge should be made. There are simple decision trees to help police managers decide if an event meets the criteria for cost recovery.

The guidelines also contain a costing model which assists police services in identifying and allocating the correct costs, including basic pay, allowances, overtime payments, ancillary costs and overhead costs. The national guidelines and individual police service policies are publicly available for event organisers to read and there is, in general, a transparent and 'no surprises' approach to police cost recovery.

Key Findings and Assessment

The Garda Síochána provided the Inspectorate with the total amount charged for non-public duty in 2018 and 2019 broken down into five main categories, namely arts and culture, escort/explosives, sports, tourism and miscellaneous. Figure 5.3 shows a comparison of the total amounts charged by the Garda Síochána for non-public duty for 2018 and 2019. It demonstrates that non-public duty is charged for a broad range of policing activities.

Figure 5.3 Total amount charged by the Garda Síochána for non-public duty in 2018 and 2019, by category of event



Source: Data supplied by the Garda Síochána; analysis by the Garda Inspectorate

This inspection found that while non-public duty in the Garda Síochána should be sanctioned in advance by the Finance Directorate, policing plans for non-public duty events or operations are drawn up by a district superintendent and there is wide discretion available to them in identifying costs for recovery. Special accounting arrangements are in place for capturing the costs and receipts from the event or operation,

which are recorded against a specific non-public duty code number for each event. The Finance Directorate is responsible for the billing and collection arrangements for all non-public duty events.

Difficulties with non-public duty were identified in a review of the practice in 2015 conducted by the Garda Internal Audit Unit. This review identified difficulties in

distinguishing where the Garda Síochána's duty to the public ends and where the liability of event organisers begins, mainly due to the absence of clear guidelines for garda managers. The review also found limited assurance that the Garda Síochána had recouped all policing costs possible under the existing arrangements because of a cumbersome and not-well-understood method for charging organisers and promoters. This led to an inconsistent approach and wide local variation in the way non-public duty events were policed and charged. The review recommended that a policy be developed to provide guidance to local managers.

This inspection has also identified several deficiencies in relation to non-public duty including the following:

- > Despite a recommendation in the Internal Audit report of 2015 a policy is still not in place and guidelines are only in draft form;
- > The absence of a transparent policy and guidelines for garda managers, organisers and promoters creates a risk that decisions around charges for policing services can easily be perceived as treating some organisations more favourably than others;
- > There are examples of events being charged at rates substantially different to the rates set out in the HQ Directive, and sometimes even within the same event different rates have been charged. This conflicts with the HQ Directive;
- > Local managers have extended the use of non-public duty into areas not originally envisioned in the primary legislation (e.g. tourism and escorts of explosives);
- > The policing of non-public duty events usually takes place on overtime and there is evidence that some events have been policed in such a way so as to maximise the recourse to overtime for the members policing the event;
- > Overtime payments relating to non-public duty do not count towards the identification of high earners and therefore such earnings are obscured from management oversight and control;
- > Costs recorded as non-public duty do not impact on local budgets even if the policing costs are not fully recovered from the event organiser;
- > Examination of non-public duty records shows that in 2019 there were 78 occasions when a company or event organiser was not charged for garda services recorded as non-public duty. A number of reasons were offered for this deficit, for example, because the event did not proceed due to inclement weather and there was therefore no policing cost. However, failures of local managers to submit invoices, the use of garda members on scheduled duty, and local decisions not to charge for an event were also reported as reasons for the non-recovery of policing costs;
- > Further examination of the 78 occasions revealed that in 42 cases there was no garda overtime recorded for the event. In 36 cases however overtime costs totalling €592,136 were recorded as having been expended but not recovered from the organiser; and
- > The current method of calculating garda policing costs does not consider wider expenditure such as training, vehicles, equipment or other ancillary costs.

Local arrangements and *ad hoc* practices are common for the policing of non-public duty. These create the potential for conflicts of interest to arise between those planning and managing the policing aspect of an event and those promoting or organising it. In the absence of a policy and guidelines and with an inconsistent approach to charging for events, this creates a perception that favourable treatment is provided to some private organisations over others.

Case Study B - Non-Public Duty

The following is an example of discretionary decision-making by a local manager in the charging for non-public duty services.

The Garda Síochána provided members under non-public duty arrangements to a commercial event on 23 separate occasions throughout a calendar year for a total of 757 hours. The operations included weekends and public holidays. The Inspectorate was informed that a “discounted” flat rate of €40 per hour per garda member was charged for garda services, cumulating in a total policing charge of €30,280. No explanation was provided for authorising a discounted rate. Even allowing for a charge at the minimum rate for garda members midweek (€58.68) as outlined in the HQ Directive, this equates to an expected charge for policing services of €44,420 and represents a potential loss of €14,140 in cost recovery to the Garda Síochána.

The case study demonstrates how the current policy vacuum, can result in local managers exercising considerable latitude and discretion when deciding what costs should be recovered for a non-public duty event.

Recommendation

In light of these findings, assessments and review of international practice, the Inspectorate makes the following recommendation.

Recommendation 22

Non-Public Duty

The Garda Síochána should develop, publish and implement policy and guidance on charging for non-public duty. Such guidance should minimise the opportunity for inconsistency and maximise transparency for garda managers and event organisers. In support of the policy:

- The Executive Director Finance and Services should have responsibility for ensuring a consistent approach to the charging and recovery of non-public duty costs.
- All non-public duty policing plans should be approved at a regional level by the Regional Assistant Commissioner.

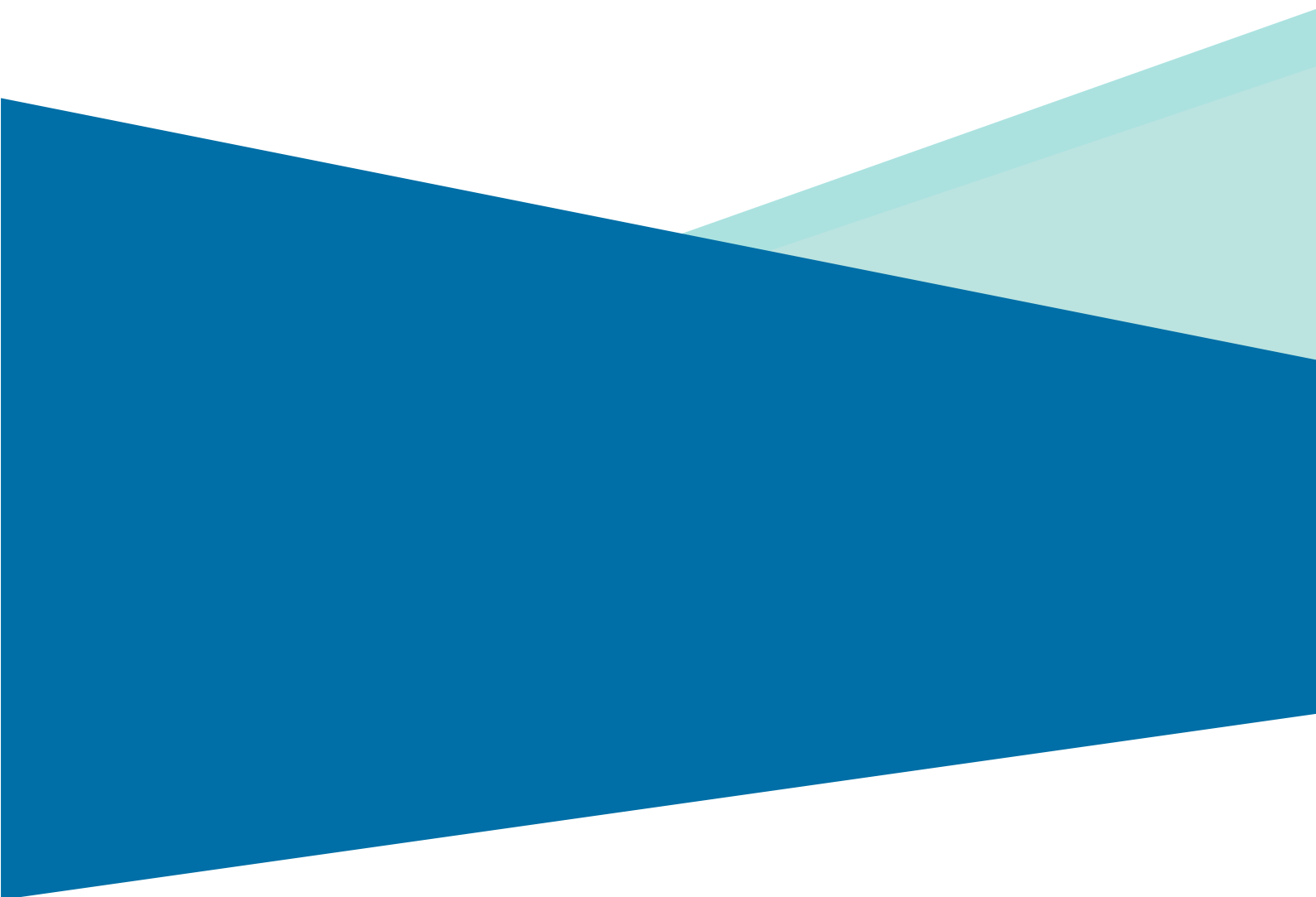
IV

Part IV

Identifying and Investigating Corruption

Part IV examines the identification and investigation of corruption and assesses the optimum operational structure for a counter-corruption unit within the Garda Síochána. It also examines a number of important counter-corruption strategies, including; identifying the Abuse of Power for Sexual Gain, reporting wrong doing and the monitoring of ethical declarations by the garda workforce.





Chapter 6

Operational Structure

Overview

All police services must do more than simply react to corruption as it occurs. Police services must instead take a more proactive and holistic approach to protecting the organisation against the threat of corruption and minimising its impact. The early identification and thorough investigation of corruption requires strong leadership, effective processes and sufficient dedicated resources to intervene expeditiously and limit the potential for further harm. In order to be consistent and effective, the oversight of corruption threats and the concomitant organisational response needs to be coordinated at the service level and to operate within a clearly defined framework. The operating model for the planned Garda Síochána Anti-Corruption Unit (ACU), along with its investigative capacity and capability, must therefore be capable of delivering this coordinated approach.

Anti-Corruption Unit Operating Model

Sharing counter-corruption responsibilities across multiple functional and operational areas hinders the organisation's response to the issue and limits strategic understanding of the corruption threat. This occurs when knowledge and understanding of the risk are too widely dispersed and different recording and reporting procedures prevent a clear analysis of the problem. Sharing responsibility weakens the corporate response and accountability, as well promoting inconsistent practices. The absence of a single leader and a dedicated

anti-corruption unit responsible and accountable for countering corruption in all its guises will limit the effectiveness of any response to tackle it.

International and Comparable Practice

During the course of the inspection, the Inspectorate engaged with a number of international police services. All of the police services engaged with have a dedicated professional standards department that includes a distinct Anti- or Counter-Corruption Unit. The Unit may be located separately for operational and security purposes. The professional standards department has overall responsibility for vetting, liaison with independent complaints bodies, internal investigation of discipline, and coordination of discipline cases. Less serious misconduct matters may be dealt with by local managers, more serious or complex misconduct cases by the professional standards department, and ACUs have specific responsibility for preventing, identifying and investigating all criminal and corruption-related matters.

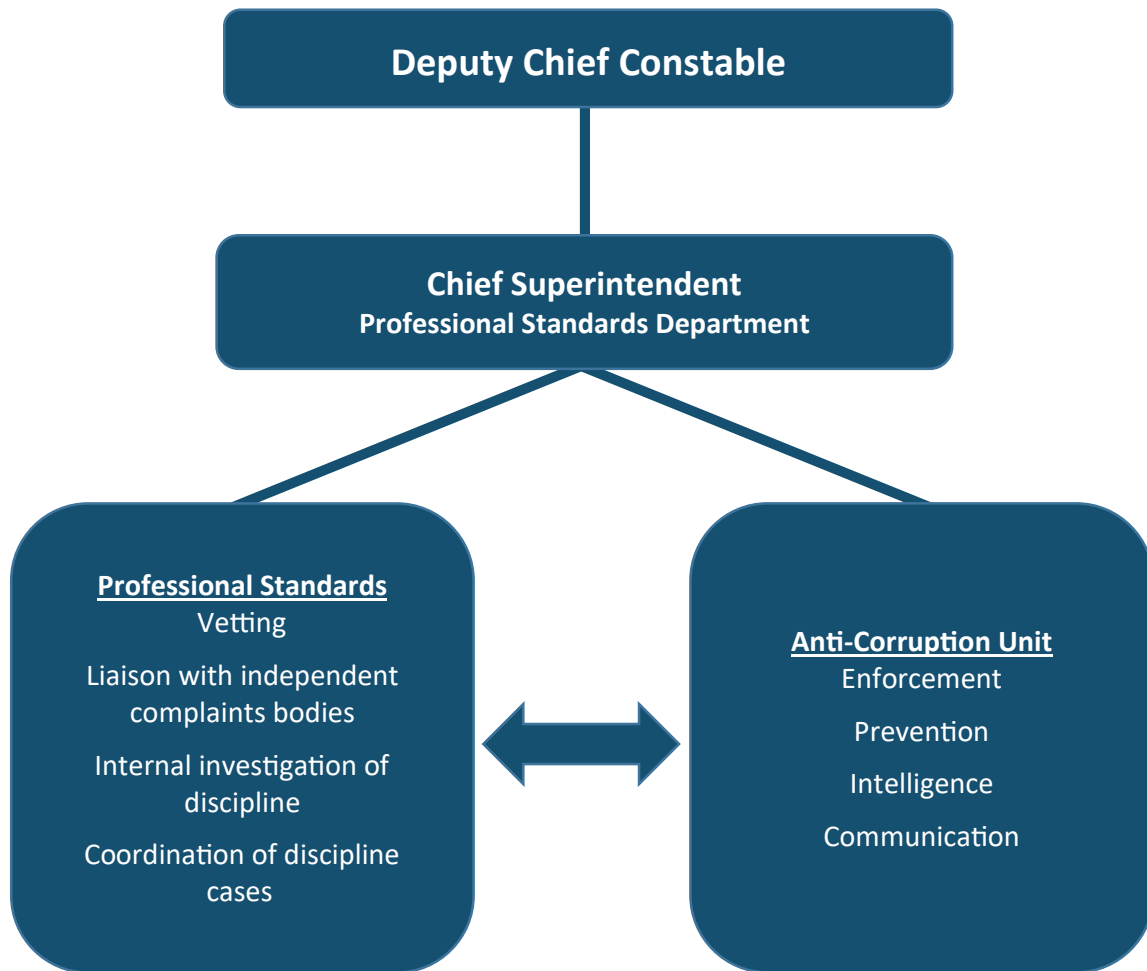
Professional standards departments are usually led by a chief superintendent who reports directly to a deputy chief constable on corruption-related issues and has responsibility for the ethical health of the service.

In 2015, Her Majesty's Inspectorate of Constabulary & Fire and Rescue Services (HMICFRS) endorsed this structure in

its inspection report entitled *Integrity Matters*. This report examined the capacity of police services in England and Wales to build integrity into their organisations and tackle corruption within the ranks of their workforces.

Figure 6.1 outlines a typical organisational structure for professional standards departments and ACUs as identified by the HMICFRS in UK policing.

Figure 6.1 Typical organisational structure for UK professional standards departments and ACUs



Source: Created by the Garda Inspectorate following engagement with UK police services

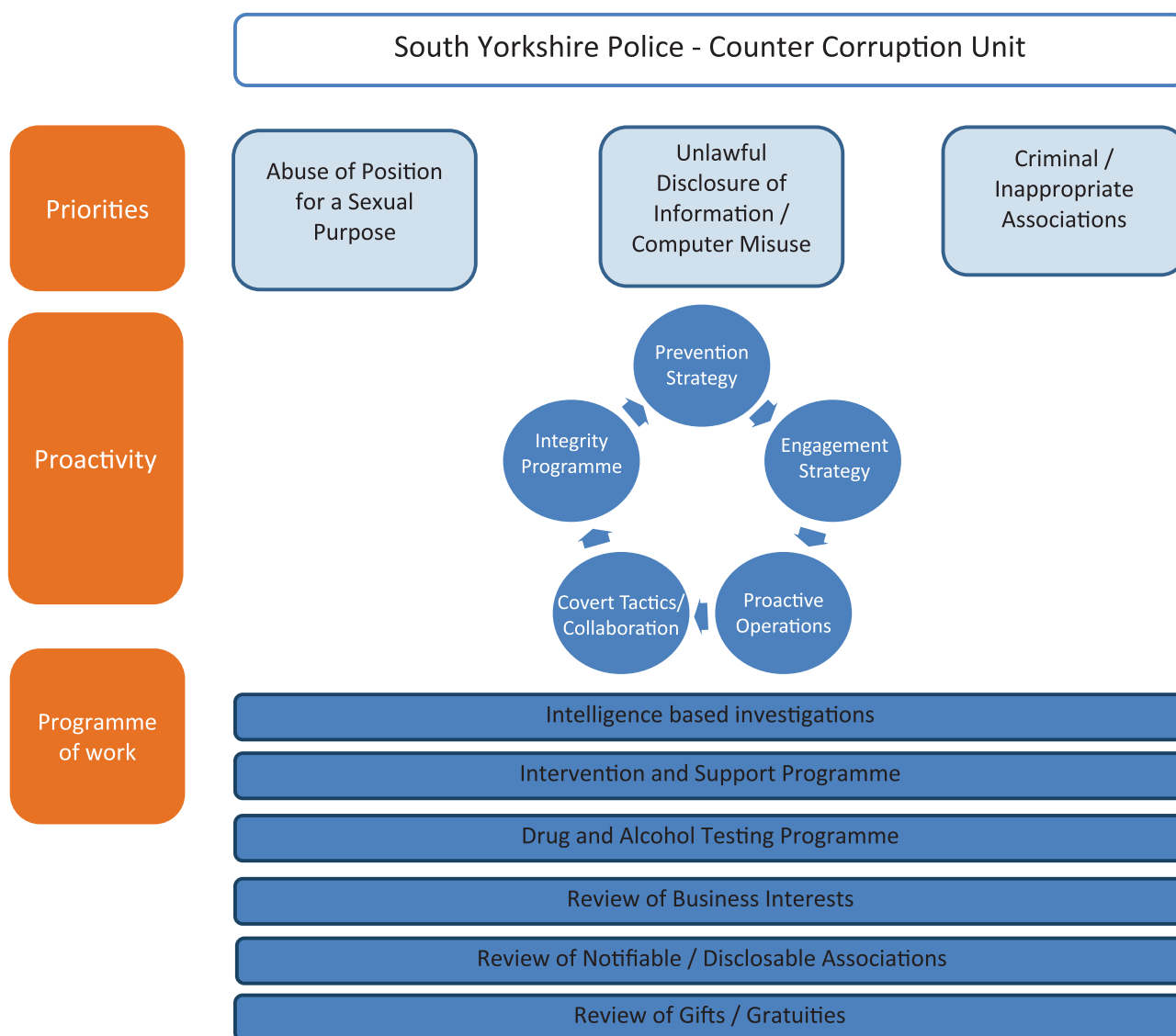
This structure provides clear accountability and senior management oversight. It also emphasises both the gravity with which corruption is viewed by the organisation and the operational autonomy of the ACU.

In other jurisdictions ACUs have visibility of all information relating to professional integrity and are responsible for all policies designed to address vulnerabilities to corruption in relation to both the organisation and its staff. They also have an important role in developing key counter-

corruption messages as part of their internal communication strategy.

As shown in Figure 6.2 the South Yorkshire Police Service ACU has a well-defined counter-corruption operating model. Priorities identified through the service’s Strategic Threat and Risk Assessment drive proactive activity such as covert operations and influence ongoing programmes such as drug and alcohol testing.

Figure 6.2 South Yorkshire Police Counter-Corruption Unit Operating Model



Source: South Yorkshire Police

This model has the advantage of bringing a wide range of counter-corruption functions including prevention, intelligence, investigation and communication under one umbrella. This allows organisational risks to be more effectively and dynamically identified and managed. This approach also ensures there is clarity within the police service regarding the ACU’s responsibilities and role with regard to countering corruption threats.

Key Findings and Assessment

In 2019, the Garda Commissioner announced that the Garda Síochána was reviewing its strategy for tackling corruption within

the organisation. During this inspection, the Inspectorate reviewed the plan for the proposed new internal counter-corruption structures and received several detailed briefings from the change management team and its lead chief superintendent. This provided a valuable insight into the vision for tackling internal corruption within the Garda Síochána. The new structures were due to be implemented in early 2020, but at the time of finalising this report, they were not yet fully in place.

Currently, strategic responsibility for discipline and counter corruption rests with the Assistant Commissioner for Governance

and Accountability. At the time of completing the inspection, there is still no dedicated unit within the Garda Síochána with overall responsibility for the prevention, detection and investigation of internal corruption.

Many of the functions and policies relating to counter corruption are shared across operational and corporate service functions and this restricts the Garda Síochána's ability to fully understand the nature and scale of the corruption threat within the organisation. The Inspectorate believes that this hampers efforts to identify corruption and address the underlying causes. It has also resulted in an inconsistent approach to criminal and discipline investigations.

Within the Governance and Accountability Department, the Garda Síochána Internal Affairs (IA) Unit has no dedicated investigatory capacity and is only responsible for oversight of investigations under the discipline regulations and for liaising with the Garda Síochána Ombudsman Commission (GSOC) in relation to its investigations. In addition, IA has no responsibility for counter-corruption prevention measures or management of intelligence.

All discipline investigations are currently led by a chief superintendent appointed under the discipline regulations, who is usually also based in the functional area where the alleged behaviour occurred. During this inspection, concerns that such investigations lacked independence were raised. The Inspectorate noted that such a perception may hinder the garda workforce from reporting wrongdoing, because of a lack of confidence that the issue would be dealt with impartially.

While it would be good practice for IA to be aware of all ongoing discipline and criminal investigations, this inspection found that they are not always informed about covert criminal investigations conducted by national units. On occasions, IA has only become aware of an investigation when it becomes public knowledge as a result of some form of overt operation. This is an unsatisfactory situation and could result in a situation where IA is unaware of the fact that two different garda units are conducting simultaneous investigations into the same subject.

The proposed garda counter-corruption structures will include the formation of an Internal ACU,¹¹ led by a chief superintendent who will report directly to the Assistant Commissioner for Governance and Accountability. The key functions of the unit will include: integrity building and communications, intelligence gathering, analysis and coordination, support for people who report corruption, and internal vetting. The plans also indicate that the unit will conduct investigations into suspected corruption and review and monitor compliance with a range of counter-corruption policies and procedures. However, none of these key functions had transferred to the ACU at the time of completing this inspection.

Recommendation

In light of these findings, assessments and review of international practice, the Inspectorate makes the following recommendation.

¹¹ The Garda Síochána currently has a unit called the ACU, which is part of Garda National Economic Crime Bureau. Its role is not to focus on internal garda corruption but rather it conducts criminal investigations into serious allegations of bribery and corruption in Irish society.

Recommendation 23**Anti-Corruption Unit Operating Model**

The Garda Síochána should assign overall organisational responsibility for the prevention, detection and investigation of corruption to the Anti-Corruption Unit. To support this responsibility the Anti-Corruption Unit should have full visibility of all ongoing criminal and discipline investigations into members of the garda workforce.¹²

Intelligence Function

An effective intelligence function is an essential element in uncovering corruption activity, precursor behaviours and organisational vulnerabilities. Within an ACU, an intelligence unit assesses and manages information received from multiple sources. The intelligence unit's role is to develop this information into an intelligence lead, to a level that allows the organisation to either exploit it through investigation, intervention or prevention; to passively monitor it for future corroboration; or to discard it as inaccurate. The development of intelligence leads in this way requires enrichment from other sources of information. This may be through checkable facts such as financial transactions or records of computer access. Alternatively, covert policing tactics such as surveillance or interception may be used when it can be justified as a necessary and proportionate intrusion.

Most police services use strategic intelligence analysis to identify existing and emerging threats at the organisational level. In corruption terms, these might include

trends in Abuse of Power for Sexual Gain (APSG) across the service, the volume of unauthorised disclosure of police information or information on the intentions of organised crime groups to thwart law enforcement activity. Analysis of strategic intelligence allows threats to be properly understood and actions prioritised so that senior leaders can put in place the necessary strategies to mitigate the identified risks.

At a tactical level, analysis can identify intelligence leads that might indicate specific corrupt activities and an intelligence unit can develop plans to test the veracity of such intelligence or conduct further work to develop the information. Examples include intelligence that an employee is accessing information without good cause, information that a specific crime group intended to corrupt an unknown employee, a suspicion of an unethical relationship between an employee and a member of the public, or a garda employee alleged to have used illegal drugs. A single report of alleged corruption should not automatically result in a criminal or discipline investigation as it may be inaccurate, misleading, malicious or too general to identify an individual victim or location. Once a lead is identified, there are a number of actions that the intelligence unit can take, including assessing the lead against other existing intelligence, other information or internal registers.

An ACU can refer a case for local management or for welfare intervention or can seek more information through the proactive use of covert tactics, such as, a covert human intelligence source (CHIS), confidential external agency reports, communication data, lawful intercept, surveillance and ICT monitoring. These tactics may be managed within an ACU intelligence unit or may draw

¹² This recommendation is made without prejudice to the powers and duties of the Garda Síochána Ombudsman Commission to carry out independent investigations.

on criminal intelligence, human resource departments or even external organisations such as other state or law enforcement agencies as appropriate.

International and Comparable Practice

The collection, assessment, management, development and dissemination of intelligence is arguably the most important function within the ACU. Without a proactive intelligence capability, a full picture of corruption in the organisation may be slow to emerge and only after significant harm has already occurred. Within UK policing it is expected that counter-corruption units will be proactive in seeking out corruption within a police service. They should have a separate intelligence system and independent surveillance, CHIS handling and investigation capacity.

All of the ACUs in other jurisdictions benchmarked for the purposes of this inspection have separate intelligence units with the capacity and capability to deliver the full range of intelligence functions either through their own staff or by utilising other trusted resources. These ACUs had access to collection tools such as all criminal intelligence relating to suspected staff wrongdoing and financial intelligence including Suspicious Transaction Reports.¹³ They also had digital media investigators and full-spectrum social media monitoring. The staff are trained to collect intelligence through CHIS handling, surveillance and undercover policing and had the ability to

access communication data generated by private devices. Police ICT systems can also be proactively monitored using auditing software for indications of misuse.

ACUs also receive all reports and information on internal corruption supplied by the workforce, the public, stakeholders and other state agencies. This includes information generated by confidential means such as protected disclosures, integrity lines, anonymised emails and phone apps. In addition, each ACU has protocols in place for exchanging relevant information with other police services and law enforcement agencies, as well as with independent complaints and oversight bodies, for example, the Independent Office for Police Conduct (IOPC).¹⁴

Internal records are a key source of information and ACUs would be expected to have unfettered access to all ethical declarations and registers (Gifts and Gratuities, Notifiable Associations, Conflicts of Interest, Professional Boundaries, etc.), and visibility of all complaints and investigations into staff, whether by internal or external investigators.

The ACUs engaged with by the Inspectorate manage intelligence via structured intelligence-handling models, which ensure that each intelligence lead is properly recorded, assessed and investigated on a standalone intelligence system. Intelligence leads are formally reviewed at weekly management meetings and all agreed investigative actions or decisions recorded

¹³ In Ireland, Suspicious Transaction Reports are made by financial institutions and other designated persons and bodies to either the Garda Síochána or the Revenue Commissioner in connection with suspicious financial activity. Provisions for reporting such activity are prescribed under the Criminal Justice (Money Laundering and Terrorist Financing) Act 2010.

¹⁴ The Independent Office for Police Conduct is the lead public body responsible for handling complaints against the police in England and Wales. It conducts independent investigations of serious allegations of misconduct, including deaths following police contact. In addition to investigations, it also sets standards with regard to complaint handling by police forces.

accordingly. ACUs can enrich their intelligence leads through collection tools, including, where necessary tasking other departments' criminal intelligence units to carry out financial checks or auditing ICT use. A lead would remain open and regularly reviewed until the ACU management team has decided to close the action off. If further action is necessary, the ACU can initiate a management intervention or refer the intelligence for a criminal or discipline investigation.

All the ACU staff that met with the Inspectorate were experienced detectives who have had specific training in the management of intelligence and corruption investigations. The College of Policing in the UK has developed a training course for corruption investigators and managers.

Key Findings and Assessment

To be effective, the Garda Síochána intelligence function must operate at both the Strategic and Tactical levels and this structure must apply equally to the proposed ACU. This inspection found that the Garda Síochána key intelligence functions did not exist within a counter-corruption framework. Significant impediments to an effective counter-corruption intelligence system include the following:

- > Information that could indicate serious corruption or wrongdoing is not held in a single area within the Garda Síochána;
- > There are no dedicated resources focused on analysing and developing corruption information;
- > Strategic and tactical understanding of corruption threats is limited and operational capacity and capability is inadequate; and

- > There is no counter-corruption intelligence-collection plan that seeks to quantify corrupt behaviours and develop a wider understanding of the corruption threat.

At present, criminal intelligence relating to potential corrupt activity is collected as part of ongoing criminal operations and is managed by the Security and Intelligence Branch. This can be passed to criminal investigators should a crime be identified.

Financial Intelligence and Suspicious Transaction Reports relating to the garda workforce are managed by the Garda National Bureau of Economic Crime. Information relating to child sexual abuse or child safety received from Tusla is held by the Garda National Protective Services Bureau. In addition, specific details of corruption investigations are held by the Garda National Bureau of Criminal Investigation. There is no centralised intelligence database capturing all of these sources of information in one location to support more effective analysis. Currently, each department collects and maintains its own investigation records and sometimes these records are in paper format only.

This inspection also found that there are no dedicated garda counter-corruption intelligence resources capable of collating, assessing and managing intelligence leads or cross-checking them against other databases, personal information or ICT activity. For example, the Inspectorate was informed that intelligence concerning Suspicious Financial Transactions involving the garda workforce would be resolved through enquiries with local management without cross-checking against discipline records, ICT activity and other sources of information. It is also the case that IA would not be consulted and this creates a considerable gap in the intelligence picture. In addition, the Garda Síochána

does not have the necessary centralised systems that allow initial intelligence leads to be enriched through existing information or a structured collection plan. At present, key information is shared across a number of different branches, and systems making a holistic understanding difficult and unnecessarily complex. This creates a risk that threats may be missed or underestimated.

Beyond the liaison role of IA with GSOC, there is no unit within the Governance and Accountability Department responsible for strategic liaison with external bodies in relation to corruption. It is not uncommon for other state agencies which target criminal behaviour or other bodies which deal directly with victims to identify possible misconduct by the garda workforce or those seeking to corrupt a member of the workforce. This includes agencies such as Customs and Excise, the Irish Prison Service, the Irish Naturalisation and Immigration Service and other sources such as social protection authorities, financial institutions and voluntary organisations. Similarly, given the transnational nature of criminal law, enforcement agencies in other jurisdictions may also identify corruption-related activity in Ireland.

This inspection found that the Garda Síochána has no intelligence-sharing or information-sharing protocols or agreements relating to counter corruption in place with relevant agencies or other bodies within or outside the State. This would include the Revenue Commissioners, the Police Service of Northern Ireland or the National Crime Agency in the UK.

The Garda Síochána informed the Inspectorate that the ACU will have an intelligence function to support the following activities:

- > The preparation of an Anti-Corruption Strategic Threat and Risk Assessment;
- > The gathering, assessment and co-ordination of all corruption-related intelligence and information;
- > The conducting of preliminary enquiries to validate or corroborate intelligence;
- > The monitoring of service-wide ICT systems;
- > The establishment of facilities to receive workforce reports of wrongdoing; and
- > The monitoring of all counter-corruption policies.

While the plans examined by the Inspectorate identify the importance of developing Memorandums of Understanding with the Security and Intelligence Branch, it is unclear as to whether the ACU will be able to task covert human intelligence sources to meet the future needs of the ACU and its investigators.

Within the new Garda Síochána Operating Model, there are plans to develop regional intelligence and tasking units. The Inspectorate believes that the Garda ACU should have a similar capability to underpin its critically important role in developing intelligence-led operations against internal corruption.

Recommendations

In light of these findings, assessments and review of international practice, the Inspectorate makes the following recommendations.

Recommendation 24**Intelligence Sharing**

The Garda Síochána should develop formal arrangements for the mutual sharing of intelligence between the Garda Síochána Ombudsman Commission, law enforcement agencies and the Anti-Corruption Unit.

Recommendation 25**The Intelligence Function**

The Garda Síochána should provide sufficient resources to the Anti-Corruption Unit to create a dedicated intelligence team with responsibility for developing strategic and tactical understanding of corruption threats within the Garda Síochána. Specific functions should include:

- Tasking and coordinating the collection of all anti-corruption intelligence.
- Assessing, developing, monitoring and managing all reports of internal corruption.
- Disseminating credible leads for investigation or intervention.
- Maintaining a standalone intelligence database and case management system where information and decisions can be recorded.

Investigating Corruption

Investigations into corruption are very challenging. For example, investigators need a high degree of competence to deal with police personnel who are aware of law enforcement techniques and who will be alert to signs of investigatory activity. Corruption investigations must also demonstrate impartiality. This is important to maintain community confidence in policing, particularly in cases involving a public complaint or where an independent external investigation is required by law. It is also important to maintain the confidence of the police workforce that such investigations will be conducted fairly, without bias or favour, and that they will not be influenced by past associations.

Internal Investigation**International and Comparable Practice**

Merseyside Police, South Yorkshire Police, and the National Crime Agency all have the ability to conduct independent internal investigations of alleged discipline or criminal breaches. Discipline matters are investigated by the professional standards department or by the ACU depending on the severity and nature of the alleged behaviour. For example, discipline cases involving dishonesty are investigated by the ACU, while cases of failure of duty, with no corruption element, are dealt with by the professional standards department. All criminal matters, such as sexual violence or supply of illegal drugs, that are linked to corruption are investigated by ACUs.

Key Findings and Assessment

When a garda member is suspected of wrongdoing an internal investigation can follow a number of different routes depending on the severity of the alleged behaviour. When it amounts to a minor breach of the discipline regulations, it can be resolved by way of supervisory advice, caution or warning. The details of such actions will not be recorded on the personnel file of the garda member concerned.

When a less serious breach of the discipline regulations is suspected, a chief superintendent appoints a deciding officer (not below the rank of superintendent) to investigate and interview the garda member concerned. Where the member is found to have breached the discipline regulations, the deciding officer may impose a penalty ranging from advice to a temporary reduction in pay not exceeding two weeks.

When a serious breach of discipline is suspected, a chief superintendent will appoint an investigating officer (not below the rank of inspector) to investigate the matter. Once completed, the investigating officer makes a recommendation regarding whether the facts disclosed warrant the establishment of a Board of Inquiry, and if required, such a Board will be convened in accordance with the procedural rules. Where a Board of Inquiry is established, it may make a recommendation to the Garda Commissioner (the final arbitrator in such discipline matters) to impose a penalty ranging from a reduction in pay of up to four weeks to dismissal.

Data supplied by the Garda Síochána for the period 2016 to 2018 shows that the most prevalent findings for breach of discipline regulations were neglect of duty and falsehood or prevarication; these amounted to approximately 89% of the total number

of discipline breaches found to have been committed by members.

Similarly, criminal investigations involving a member of the garda workforce will be dealt with differently depending on the nature of the alleged behaviour. Generally, investigations are overseen by the divisional officer, the chief superintendent where the incident has occurred. The divisional officer will appoint a superintendent to lead the investigation. If the member under investigation is assigned within the same division, an investigating superintendent will be appointed from another division. Such investigations are conducted in accordance with the usual rules of evidence and criminal procedures. Cases involving a sexual motivation or child protection concern or those involving domestic abuse may be referred to the Garda National Protective Services Bureau for investigation. More serious criminal allegations, such as corruption, may be referred to the Garda National Bureau of Criminal Investigation for an independent investigation.

It is important to note that there is no specific training provided to those investigating corruption or wrongdoing and there are no national investigatory standards in place. It is also important to highlight that at present, Internal Affairs has neither a disciplinary nor criminal investigatory capacity and its role is limited to coordination and oversight of ongoing investigations.

Concerns were raised with the Inspectorate by garda members at various ranks and by the garda staff associations about a lack of confidence in the local arrangements for disciplinary and criminal investigation of the garda workforce. These concerns included previous interactions between the investigator and the member under investigation, examples being career-long friendships or workplace conflicts.

Another issue raised was that the absence of an independent investigator and an independent investigation unit increased the perception that some cases are not dealt with impartially and professionally.

At some future point, the Garda Síochána intends to assign responsibility for conducting criminal and discipline investigations to the ACU. However, the current approach will remain in place for a minimum of 12 months from the establishment of the ACU, after which the situation will be reviewed. Despite this commitment, the Inspectorate is concerned about delay and also whether the ACU will have sufficient capacity to investigate all such cases.

In the interim, the absence of an independent internal investigation unit may undermine confidence in the new ACU among the garda workforce and other stakeholders by perpetuating the perception that little has changed. As it will take time to establish a fully functioning independent ACU investigation team, the current process for conducting investigations remains a significant gap in the counter-corruption architecture of the Garda Síochána.

There is also a continued risk that the ACU's ability to capture and analyse all relevant information or intelligence on corruption will be compromised as existing structures effectively bypass the ACU. This could result in important intelligence continuing to be held in silos at both local and national levels.

As a result, the Inspectorate believes that the ACU needs to be embedded into investigations at a much earlier stage than the proposed 12 months schedule and that this could be managed through a phased approach. For example, in the interim, the ACU should have full visibility of all criminal investigations conducted by national and local units and play an active role in specific cases. This should include

more serious cases, such as abuse of power for sexual gain and other sexual offences. An ACU should also have a role in cases of unauthorised disclosure of information to ensure that ICT systems are protected. Assigning responsibility for conducting investigations to the ACU could take place incrementally as the investigatory capacity of the unit develops.

Recommendation

In light of these findings, assessments and review of international practice, the Inspectorate makes the following recommendation.

Recommendation 26

Internal Investigation

The Garda Síochána should provide sufficient resources to the Anti-Corruption Unit to reflect the current assessment of risk and to ensure that the unit is capable of conducting independent discipline and criminal investigations. Those engaged in counter-corruption investigations should be experienced detectives and have specific counter-corruption training.

External Investigation

International and Comparable Practice

Following an independent review of complaints handling, investigations and misconduct issues in relation to policing in Scotland a preliminary report was published in June 2019. This review found that independence and impartiality in the investigation of police complaints tended to be tied to the seriousness and substance of the complaint (Angiolini, 2019). In certain

circumstances, there was a legal requirement for independence in the investigation. In particular, this legal requirement for impartiality includes circumstances where an individual's rights under Article 2 (Right to life), Article 3 (Prohibition of torture and inhuman or degrading treatment) or Article 5 (Right to liberty) of the European Convention on Human Rights (ECHR) have been engaged.

The Independent Office for Police Conduct (IOPC) in England and Wales oversees the police complaints system and investigates the more serious matters. This includes deaths following police contact. It also sets the standards by which the police themselves should handle the resolution of complaints. The IOPC has published guidelines on when a matter must be referred to it by a police service. These are contained in published statutory guidelines and reflect a similar human rights imperative for independent investigations as is highlighted in the Scottish review. As well as requiring a police service to refer cases where a death or serious injury has occurred, the IOPC has also issued statutory guidance describing when a police service must refer other prescribed matters for notification. The most recent guidance, in February 2020, includes an obligation to refer all cases of serious sexual offences and serious corruption, including abuse of position for a sexual purpose or for the purpose of pursuing an improper emotional relationship. The guidance also includes criminal offences or behaviour liable to lead to misconduct proceedings, particularly if there are aggravating factors such as discrimination on the grounds of a person's race, sex, religion or other status identified in the guidance.

During this inspection, the Inspectorate met with both the IOPC and senior police officers from police services in England. There was consensus that the IOPC guidelines were

helpful and had brought consistency and clarity to the circumstances in which referrals must be made for independent investigation. It is important to note that because of the complexities of some cases and the need for specialist skills not all referrals will lead to an independent investigation by the IOPC. However, the fact that the IOPC has oversight of all relevant investigations was considered essential for maintaining public confidence.

Key Findings and Assessment

The Garda Síochána Ombudsman Commission is the independent statutory body responsible for oversight of complaints concerning garda conduct in the State. The number of complaints is fairly consistent with approximately two thousand formal complaints each year, concerning more than five thousand separate allegations, with many complaints containing multiple allegations. When a complaint is assessed by GSOC as admissible, and a decision is taken to open an investigation, it can be dealt with in the following ways.

- > Unsupervised discipline investigations are conducted by garda superintendents in line with the Garda Discipline Regulations. In 2019, there were 405 cases of this type.
- > Supervised discipline investigations are also conducted by garda superintendents but are supervised by GSOC investigators, who meet with the garda superintendents to agree an investigation plan. In 2019, there were 105 investigations of this type.
- > Non-criminal investigations which may involve discipline and/or systemic failings by the Garda Síochána. These are considered serious enough to warrant an independent investigation. In 2019, there were 148 investigations of this type.

- > Criminal investigations, which are carried out by GSOC investigators in line with the usual rules of evidence and criminal procedures. In 2019, there were 485 investigations of this type.

Beyond its responsibility for dealing with complaints, GSOC has additional statutory responsibility for dealing with certain obligations of the State under international law and in particular under the European Convention on Human Rights (ECHR). Article 2 of ECHR states that “*everyone’s right to life must be protected by law*” (ECHR, 2013a). In this regard, the European Court of Human Rights has interpreted Article 2 as containing a procedural obligation on states to carry out an independent investigation of a death following police contact.

This obligation is reflected in Irish law in Section 102(1) of the Garda Síochána Act 2005, which obliges the Garda Commissioner to refer any matter concerning the conduct of a garda member that may have resulted in the death of, or serious harm to, a person to GSOC for investigation. In addition, Section 102(2) of the Act permits GSOC to investigate any matter that appears to indicate that the conduct of a member may have resulted in death or serious harm in circumstances where a referral was not made by the Garda Commissioner. Serious harm is currently defined as meaning any injury which creates a substantial risk of death, causes serious disfigurement or causes substantial loss or impairment of mobility of the body as a whole or of the function of any particular bodily member or organ. The statutory provisions provide for an independent investigation and in cases where a death follows police contact, GSOC fulfils the requirement for effective investigation under the ECHR. The most common way for such investigations to be initiated is following a

referral by the Garda Commissioner, and in 2019 GSOC opened 40 cases of this type.

The 2005 Act also allows GSOC to investigate matters in relation to the conduct of a garda member when it is in the public interest to do so, even if a complaint has not been received and opened. In 2019, there were 44 cases of this type.

For a number of years, GSOC has raised concerns about the effectiveness of garda oversight and the definition of serious harm. Oversight legislation requires the referral of all cases involving serious harm for independent investigation by GSOC in line with the jurisprudence concerning Article 3 of the ECHR. However, the definition in the legislation does not specifically encompass sexual offences as a case of serious harm. In 2017, GSOC highlighted its role regarding the obligation on the State under Article 2 concerning the death of persons in garda custody. GSOC expressed the view that this obligation also extends to serious harm and that the definition of serious harm needs to be extended to include sexual offences.

Article 3 states simply that “*No one shall be subject to torture or to inhuman or degrading treatment or punishment*” (ECHR, 2013b). There is now a well-established line of case law (most recently the case of *DSD v Commissioner of Police of the Metropolis* 2016¹⁵) from the European Court of Human Rights concerning an obligation for independent investigation of allegations of torture and inhuman or degrading treatment. While the Court recognised that there is a distinction between torture and inhuman and degrading treatment in terms of a sliding scale of seriousness, a minimum threshold has not been established and it depends on the circumstances of the case. The Court also held that the nature, scope and rigour of the

¹⁵ *DSD v Commissioner of Police for the Metropolis* [2016] QB 161, [2015] EWCA Civ 646

duty to investigate is identical for Articles 2 and 3, particularly the requirements for an independent and transparent investigation in cases involving state actors.

In 2018, the Commission on the Future of Policing in Ireland published its report outlining a new vision for reforming policing. The first principle set out in the Commission's report states that "*Human Rights are the Foundation and Purpose of Policing.*" This is accompanied by a recommendation that "*An Garda Síochána should develop a comprehensive strategy for human rights compliance and promotion.*" The Commission also made a number of key recommendations in relation to an independent body superseding GSOC that could impact on the investigation of corruption within the Garda Síochána. This includes a requirement for the Garda Síochána to refer a much wider range of incidents to the independent complaints body, and a recommendation that new legislation should make it explicit that the Garda Commissioner is empowered, in the public interest, to bring matters to the attention of the new body which in his or her opinion warrant investigation.

The Inspectorate believes that in order to satisfy the State's obligations under international law to carry out independent investigations, at a minimum, referrals under Section 102(1) from the Garda Commissioner should extend to cases where a member of the garda workforce is suspected of sexual violence or APSG against a member of the public or another garda employee.

Recommendation

In light of these findings, assessments and review of international practice, the Inspectorate makes the following recommendation.

Recommendation 27

External Investigation

The Department of Justice should implement the necessary statutory framework, in line with the State's obligations under the European Convention on Human Rights relating to effective independent investigation, to ensure that all instances of conduct linked to sexual violence or abuse of power for sexual gain arising from the actions of a member of the garda workforce acting in their professional capacity which could result in a breach of an individual's rights under Article 2 or 3 of the Convention are referred for independent investigation.

Chapter 7

Identifying Corruption

Overview

One of the main priorities of a Garda Síochána counter-corruption strategy should be to limit the inclination of its workforce to engage in corrupt behaviours. Critically, the Garda Síochána must prevent the normalisation of unethical behaviour. When such behaviour goes unchallenged for any length of time it will damage positive aspects of the organisation's culture and dilute its values. Prolonged tolerance of wrongdoing or an inadequate response to corrupt behaviour will undermine both public confidence in the Garda Síochána and the belief of the organisation's workforce in procedural fairness. In policing, corruption can result in multiple outcomes, including but not limited to sexual victimisation, financial losses, misuse of sensitive information and failed criminal prosecutions.

Both international and local experience has demonstrated that effective internal controls and compliance monitoring can identify unethical behaviours at an early stage and prevent them from evolving into systemic or critical failures that can undermine the integrity of the entire organisation. The development of internal systems and processes that will identify emerging corruption risks will therefore be a key function for the future Garda Síochána Anti-Corruption Unit.

Identifying the Abuse of Power for Sexual Gain

As highlighted in Chapter 6, recent national strategic threat and risk assessments of corruption in the UK have identified Abuse of Power for Sexual Gain (APSG) as one of

the more significant corruption risks for policing.

International case studies show that some victims may not realise that they have been manipulated into a sexual relationship. Instead they believe incorrectly that they are taking part in a consensual relationship, when in fact they have been unethically targeted because of a personal vulnerability identified through their contact with the police.

Based on international comparisons, incidents within the Garda Síochána are likely to be rare; however, without the necessary structures and intelligence systems in place it is difficult for the organisation to determine the scale of this unique threat and to devise effective control strategies.

International and Comparable Practice

The UK has developed a self-assessment tool for police services to assist them in assessing their preparedness to tackle APSG (Independent Police Complaints Commission, 2012). In terms of intelligence, the assessment explores a number of areas, including if the police service:

- > Has the capability to monitor usage of information systems by individual officers, apparently targeting particular vulnerable groups;
- > Maintains adequate procedures for reporting concerns by colleagues and supervisors (including confidential reporting);

- > Ensures outside individuals or agencies, such as social services and organisations from the voluntary sector, can easily report concerns about individual police officers; and
- > Has effective relationships with local voluntary sector organisations, such as women's centres and those offering support to people living with mental illness or learning disability, or with substance misuse problems.

The ACUs engaged with by the Inspectorate ensure that these types of questions are fully

addressed in their intelligence function and they use monitoring and auditing software specially attuned to detect inappropriate use of information systems. This monitoring is accompanied by briefings to supervisors to highlight behaviours that are deemed suspicious and workshops with relevant agencies and victim support groups to enable them to identify when police behaviours are indicative of an abuse of power.

Figure 7.1 shows possible warning signs of APSG used by the Police Service of Northern Ireland in its internal and public policy documents.

Figure 7.1 Police Service of Northern Ireland possible warning signs of abuse of position for sexual gain or emotional gain

Possible warning signs:

- The perception of an officer as a 'saviour' or 'hero figure'. This might manifest itself as gushing praise
- Victim has a 'favourite officer' or frequently requests a certain officer
- Unexpected visits / welfare checks by the officer
- Domestic abuse investigation is steered towards low level / quick resolution
- Physical contact
- Flirtatious behaviour
- Nicknames / pet names
- Unnecessary communication i.e. through social media / phone / email
- Kisses on end of messages ('x') or other sexualised comments
- Contact or visits off duty
- Presents / gifts / letters
- Continued contact after an incident or case is concluded
- Victim will often not see that there is anything wrong with the relationship and how it started.

People who are particularly vulnerable to such abuse include those suffering mental ill health, those with learning difficulties, juveniles, those who are drug or alcohol dependent, victims of abuse and victims of an alarming or traumatic experience.

Source: Police Service of Northern Ireland, Corporate Policy Service Instruction SI3217, Maintaining a Professional Boundary between Police and Members of the Public

The wide publication of such warning signs is a key means of alerting supervisors, the workforce and the public to possible inappropriate relationships. All of the ACUs visited by the Inspectorate that reported raising such awareness (internally and externally) and offering confidential reporting channels had uncovered cases that would otherwise have remained undetected. Importantly, as new corruption behaviours were identified and understood, the ACUs refreshed their intelligence focus and communication messages.

In this way, a police service must constantly seek out new sources of information and intelligence, engage with its own workforce and the wider public and be alert to the requirement to adapt or refocus.

Key Findings and Assessment

APSG is a particularly challenging form of corruption for the Garda Síochána to uncover. It can begin when a victim or member of the public requests garda assistance, and the development of an inappropriate relationship can be masked within the subsequent police response. In some cases, the person themselves may not recognise the abuse of power because they consider the relationship to be consensual.

This inspection has found that within the Garda Síochána there is no coordinated strategy to identify behaviours that might indicate cases of APSG. This has resulted in gaps in the sources of intelligence on sexual misconduct that the Garda Síochána should be routinely accessing:

- > intelligence from members of the public and support organisations who are aware of inappropriate behaviours and who would report concerns confidentially;

- > intelligence from individuals within the Garda workforce who understand ethical boundaries and who have concerns about a colleague; and
- > intelligence from the proactive monitoring of ICT systems to identify employees who may be seeking to identify vulnerable persons through police information systems.

This inspection found that there are some strong inhibitors that may prevent victims from coming forward to report inappropriate relationships with a member of the garda workforce.

In a written submission to the Inspectorate, the Dublin Rape Crisis Centre said that it:

“[d]oes not have statistics on whether investigating gardaí took advantage of those who contact us for support or assistance. However, our staff highlighted that those who are going through the investigation process are overwhelmingly anxious not to annoy or upset the Garda. They believe that any other approach could risk damaging the progress of their case. Victims tend not to complain or if they complain to us, they do not want it to get back to the Gardaí. This demonstrates the power imbalance between the victim of sexual offences and AGS. Anecdotally, we hear from very vulnerable victims, such as those living in prostitution that they are liable to be asked for sexual favours. We also hear that those who might be inclined to complain about the investigation might be at risk of prosecution for making a false complaint in a way that strikes them as malicious and personal.”

This inspection found that awareness of the risks of APSG and other inappropriate behaviour varied significantly across the Garda Síochána. Many of the supervisors and staff interviewed expressed surprise

at the suggestion of the problem. Others, however, were able to provide examples where colleagues had crossed professional boundaries with members of the public. It was reported that responses to such actions ranged from unofficial interventions to criminal and discipline investigations. However, there was generally little awareness of precursor indicators of inappropriate behaviour or how to differentiate such behaviour from the actions of conscientious garda members who are trying to do their best for victims and vulnerable individuals.

This inspection also found a gap in confidential reporting systems for members of the public, external organisations and the garda workforce. It is essential that the Garda Síochána develop mechanisms to facilitate the reporting of behaviour that causes people concern.

There is also an absence of monitoring of garda ICT systems to identify misuse, particularly of those who are targeting vulnerable members of the community. The use of police information by employees to identify individuals for sexual exploitation is an internationally recognised risk. Those predisposed to commit APSG have used police ICT systems to seek out vulnerable individuals who have interacted with the police, often people who have contacted the police for help. There is no simple definition of vulnerability but it can include victims of crime, asylum seekers, those with drug or alcohol addictions, people with a disability or those who are socially isolated. As such, the Garda Síochána should be proactively monitoring and auditing ICT systems to identify those who are trying to sexually exploit persons they have met in a professional capacity.

Recommendation

In light of these findings, assessments and review of international practice, the Inspectorate makes the following recommendation.

Recommendation 28

Identifying the Abuse of Power for Sexual Gain

The Garda Síochána should ensure that the Anti-Corruption Unit develop and implement an external and internal communications strategy on abuse of power for sexual gain to raise awareness and encourage reporting of suspicious behaviour.

Internal Reports of Wrongdoing

The importance of providing staff with an opportunity to report wrongdoing is well understood internationally. The OECD in its 2016 report on whistle-blower protection stated that:

“Whistle-blower protection is integral to fostering transparency, promoting integrity, and detecting misconduct. Past cases demonstrate that corruption, fraud, and wrongdoing, as well as health and safety violations, are much more likely to occur in organisations that are closed and secretive. In many cases, employees will be aware of the wrongdoing, but feel unable to say anything for fear of reprisals, concern about acting against the organisation’s culture, or lack of confidence that the matter will be taken seriously. The negative implications of this are far-reaching for both organisations and society as a whole.”

Transparency International Ireland in its 2017 *Speak Up* report acknowledges that whistle-blowing is one of the most effective

ways of stopping wrongdoing. The report highlights that many of the well-publicised cases of corruption, fraud and sexual abuse of children in Ireland have been exposed by colleagues who reported their concerns about other staff members to their employers, regulators or the media.

While one of the most important sources of intelligence relating to police corruption is knowledge within the workforce, creating a culture where staff feel comfortable to speak up and report wrongdoing is a challenge. This is frequently referred to as the 'blue wall of silence'.

International and Comparable Practice

Internationally, police services use a variety of different systems to encourage the reporting of wrongdoing by members of staff. The following are some good examples identified during this inspection:

- > In 2019, Police Scotland published up-to-date guidance on how to report concerns or to whistle-blow. In February 2019, a contract was awarded to a company that will provide an independent whistle-blowing advice line on behalf of Police Scotland. Staff also have access to specific report forms. Police Scotland's publication of new whistle-blowing guidance was accompanied by a communication programme and an e-learning package;
- > In England and Wales commercial organisations and the charity Crime Stoppers are contracted by police services to provide confidential anonymous reporting. Subject to the consent of the person making the disclosure, reports are shared with a senior police officer as intelligence and a referral for contact is made to the ACU;

- > In South Yorkshire and Merseyside, the ACUs can receive confidential anonymous messages directly. Merseyside Police ACU uses a confidential reporting app which allows anonymous reports to be made from mobiles, desktop computers and laptops; and
- > All reports received feed into the ACUs' intelligence systems and the person making the report has the option to request direct contact.

Key Findings and Assessment

In Ireland, whistle-blowing is regulated by the Protected Disclosures Act 2014 (hereafter referred to as 'the Act'), which offers protection to workers who wish to draw attention to activity perceived as wrongdoing. Employees of the Garda Síochána who wish to make a complaint about alleged wrongdoing in the service may make a protected disclosure under the Act. Such disclosures may be made to the Garda Commissioner as employer, to GSOC as a designated body under the Act for disclosures within the Garda Síochána, or to the Minister for Justice as the responsible Minister.

The most up-to-date figures on protected disclosures made available to the Inspectorate show that within the Garda Síochána between January and December 2018 a total of 29 disclosures were made under the Act. Of those, two were made directly to the Garda Commissioner, 24 to GSOC and three to the Minister for Justice and Equality. Under the Act, it is possible that the same individual could have made a protected disclosure to more than one of the possible recipients, and therefore there may be some duplication in the number of disclosures made.

Following a review of protected disclosures by the Policing Authority in 2016, the Garda

Síochána published a revised Protected Disclosures Policy. This policy aims to encourage workers to feel confident and safe about raising concerns as well as providing avenues for workers to make disclosures. It also contains a commitment to protect workers from penalisation or any threat of retaliation for making a disclosure and provides an undertaking that any worker who makes a disclosure will be fully supported. This policy makes it clear that each and every worker has the right and the responsibility to raise concerns, if necessary in confidence, and that they can be assured that those concerns will be listened to and addressed.

The Garda Síochána has committed through this policy to providing a mechanism for reporting wrongdoing in confidence, protecting the identity of those who wish to make a disclosure, and investigating the alleged wrongdoing. Additionally, the Garda Síochána has committed to protecting those who report wrongdoing from penalisation for having made a disclosure. The policy also outlines that there will be appropriately trained Protected Disclosure Managers, who will oversee all matters related to protected disclosures.

In the Garda Síochána, protected disclosures are managed internally by Legal Services. Three confidential recipients have been appointed, a male and a female chief superintendent as well as a female principal officer. The Inspectorate searched for ways to contact confidential recipients via the Garda Portal, the primary online channel for internal communication within the organisation. This search revealed an outdated list of recipients who were retired, had been promoted or were no longer involved in the process. Such an omission would not inspire confidence in staff seeking to make a disclosure.

As part of this inspection, the Inspectorate conducted a number of focus groups with

the garda workforce to test understanding of and confidence in the protected disclosure process. This established that there is poor understanding of the process and people said that they had little confidence in it. It was frequently highlighted that the Garda Síochána is “too small an organisation to protect anonymity” and that your identity would be uncovered if you made a disclosure. However, individuals who had made a protected disclosure were complimentary about the professionalism of the confidential recipients and the support they had received at the highest levels of the Garda Síochána.

During 2017, the Garda Síochána recognised the risk that an ineffective protected disclosures process could have on the reputation of the organisation and included it in its corporate risk register as an area of high risk. While organisational culture and lack of staff awareness were included as causes of the risk, there was no record of any action plan to improve confidence in the protected disclosure process.

The Disclosures Tribunals arose out of a recommendation that a Commission of Investigation be established to ascertain the truth or falsity of allegations made in two protected disclosures. In the subsequent tribunal’s Third Interim Report, published 11 October 2018, a number of findings and recommendations were made by Mr Justice Peter Charleton including a clear call for those inside the organisation to place their public duties before misguided loyalties when he stated that they should:

“Treat their obligation to the public as superior to any false sense that individual policemen and policewomen should stick up for each other. This obligation applies to the organisation as a whole. An Garda Síochána must become a place where incompetence is not covered up, where laziness is called to account and where people respect their senior officers.”

In 2016, Transparency International Ireland launched its Integrity at Work (IAW) programme, which now operates widely across the justice sector. The aim of the programme is to create cultural change by promoting a supportive environment for workers to report wrongdoing. This is achieved through training, best practice exchange, online resources and specialist guidance for those seeking advice on making a protected disclosure.

To participate in the programme an organisation is required to sign the IAW Pledge. In doing so the organisation:

“... recognises the importance of developing an ethical workplace and the valuable contribution of those who raise concerns about wrongdoing. We commit to not penalising, or permitting penalisation against, a worker who reports risks or incidents of wrongdoing and to responding to or acting upon those concerns.”

The Pledge includes a number of commitments by the organisation including:

- > Promoting the reporting of wrongdoing or the risk of harm to a responsible person inside the organisation or to external bodies as appropriate;
- > Ensuring that managers and responsible persons are aware of the organisation’s commitments under the Pledge and related policies and procedures, and are adequately trained to handle a report; and
- > Publicising the commitment to the Integrity at Work programme with their workers and other relevant stakeholders.

Membership of the programme provides organisations with a suite of tools to help them. Importantly, this includes access for

their workforce to free specialist legal advice through the Speak Up Helpline and the Transparency Legal Advice Centre.

While the pledge and an IAW membership agreement were jointly signed by the Garda Commissioner and Transparency International Ireland on 4 October 2017, this inspection found limited awareness of the IAW programme at all levels of the organisation. For example, during visits, no posters promoting IAW or the Pledge were on display and the Inspectorate was unable to find any references on the Garda Portal. On the garda Corporate Risk Register, professional conduct and ethical behaviour are included as high-risk areas. While an action plan was created in 2017 to mitigate this risk by promoting the IAW programme, there are no details about how this was to be achieved and no progress is recorded in the risk register.

Although, the Garda Síochána currently has no anonymous telephone lines or email facilities for the garda workforce to anonymously report concerns, there is a plan to address this gap. This will include the creation of a Gateway Unit within the ACU which will assess and triage information received from an ‘integrity’ line, internal calls, emails and locally generated reports. While the plan also includes a communication strategy to raise awareness of integrity issues with internal and external stakeholders, there is no specific strategy for promoting protected disclosures and there is no timescale for the launch of the ‘integrity’ line.

Recommendations

In light of these findings, assessments and review of international practice, the Inspectorate makes the following recommendations.

Recommendation 29

Reporting Wrongdoing

The Garda Síochána should develop, publish and implement a strategy to encourage the reporting of wrongdoing. This includes using and promoting:

- Protected Disclosures.
- The Integrity at Work Programme.
- Confidential lines and systems for anonymous reporting.

Recommendation 30

Reporting Wrongdoing

The Garda Síochána should ensure that the Anti-Corruption Unit has visibility of all reports of wrongdoing including garda-managed protected disclosures to ensure a holistic understanding of the risk within the organisation.

Monitoring Ethical Declarations

As previously highlighted, this inspection has found a significant deficit in ethical, integrity and counter-corruption policies in the Garda Síochána. The provision of clear and transparent guidance to staff means there can be no confusion surrounding what standards and behaviours the organisation considers acceptable, and lets the public know what they should expect from their police service. Making ethical declarations in line with organisational policies is an important affirmation by the workforce of their acceptance of and compliance with their duty to demonstrate impartiality.

Just as important however is the police service's responsibility to independently and proactively review ethical declarations in order to identify and manage potential conflicts of interest that can arise through relationships, financial and business activities, secondary interests or spare-time activities.

Such declarations are a vital source of information that can be used to help develop reports of wrongdoing or intelligence leads. The absence of an appropriate declaration can also be an early indicator of unethical standards.

Having a single body responsible for monitoring ethical declarations by collating, analysing and challenging them is therefore an essential tactic for identifying corruption.

International and Comparable Practice

The Standards in Public Office Commission (undated) in Ireland has published a guide to best practice for ethical compliance. The guide lists 'Ten Actions Bodies May Take to Support Compliance'. The following are the recommended best practice actions which are of direct relevance to the Garda Síochána:

- > Clear oversight procedures should be established;
- > Disclosures should be effectively reviewed to identify possible non-compliance or conflict of interest risks;
- > The person to whom statements are submitted should review them to determine if there is evidence of non-compliance or a risk of a conflict of interest;
- > Statements should be cross-checked against previous returns under the Ethics Acts, returns made under legislation, and other relevant information; and
- > Conflicts of interest should be managed proactively.

In its national overview entitled *Police legitimacy 2016*, HMICFRS identified some of the common policies that police services can use to enhance professional integrity and reduce the inclination of their workforce to act corruptly. In particular, the report stressed that:

“Monitoring and assessing adherence to policies to prevent corruption is an important way to identify potential threats to force integrity. Police officers and staff wanting to take on secondary employment or other types of business interest (e.g. buy-to-let properties) must have this approved by the force in advance. The force must be satisfied that the interest will not threaten the integrity of either the individual or the force”.

In the UK National Crime Agency and South Yorkshire and Merseyside Police Services, responsibility for monitoring ethical, integrity and counter-corruption policies, including those mandatory ethical declarations, is a key functions of the ACU.

This is primarily because these policies form an important part of the control strategy to reduce the risks from the threats identified in their organisational Strategic Threat and Risk Assessment. This also provides some flexibility to vary policies to respond to changing threats. The information contained within such declarations, or the absence of a declaration in certain circumstances, provides a valuable source of intelligence that could lead to the identification of corrupt behaviour or other matters that threaten the integrity of the police service itself. For example, if a police officer declares an association with a convicted criminal, their use of police information systems can be proactively monitored to ensure there is no inappropriate disclosure of sensitive information. In addition, the police officer’s role can be reviewed to check for any potential conflict of interest or their vetting reviewed to ensure that their current role remains appropriate.

All of the ACUs visited by the Inspectorate have the important role of overseeing all relevant registers, policies and declarations in connection with professional boundaries; notifiable associations; business and secondary interests; post-employment activity; conflict of interest; gifts, gratuities and sponsorship, and substance misuse and vetting.

Key Findings and Assessment

As discussed previously, there is currently a deficit of counter-corruption policies in the Garda Síochána prescribing key ethical declarations. The absence of policies relating to conflict of interest, professional boundaries and notifiable associations is a gap in the Garda Síochána’s ability to probe the integrity of its workforce and confirm adherence to professional standards and behaviours. This is further exacerbated by the limited adherence to important policies

which are already in place, such as the gifts, hospitality and sponsorship policy. Ethical declarations enrich intelligence and help to better identify corruption risks.

This inspection found that even where mandatory ethical declarations were in place, such as the Standards in Public Office, Prohibited Spare-Time Activity and Conflicts of Interest for Selection Processes declarations, they are not reviewed at an organisational level. At present, no responsibility is assigned for cross-checking declarations and other information held to identify issues of non-compliance, potential conflicts of interest or threats to an individual's integrity. As such, there is an absence of strategic triangulation of risk in order to identify potential ethical or integrity failures.

The Garda Síochána informed the Inspectorate that the proposed counter-corruption strategy will recognise the importance of policies that address the threat of corruption. A number of policy gaps highlighted in this report are already the subject of policy development. This includes policies relating to substance misuse, business interests, professional boundaries, notifiable associations and conflicts of interest. While the ACU will lead on the development of these policies and retain responsibility for their implementation, there is no current intention to assign responsibility to the ACU for reviewing and challenging ethical declarations, conflicts of interest or non-cooperation.

Recommendation

In light of these findings, assessments and review of international practice, the Inspectorate makes the following recommendation.

Recommendation 31

Monitoring Ethical Declarations

The Garda Síochána should assign responsibility to the Anti-Corruption Unit for monitoring all counter-corruption polices and registers, including those containing ethical declarations. This should include:

- Gifts, Hospitality and Sponsorship.
- Notifiable Associations.
- Conflicts of Interest.
- Business Interests and Secondary Employment.
- Ethics in Public Office.
- Post-Employment Activity.

V

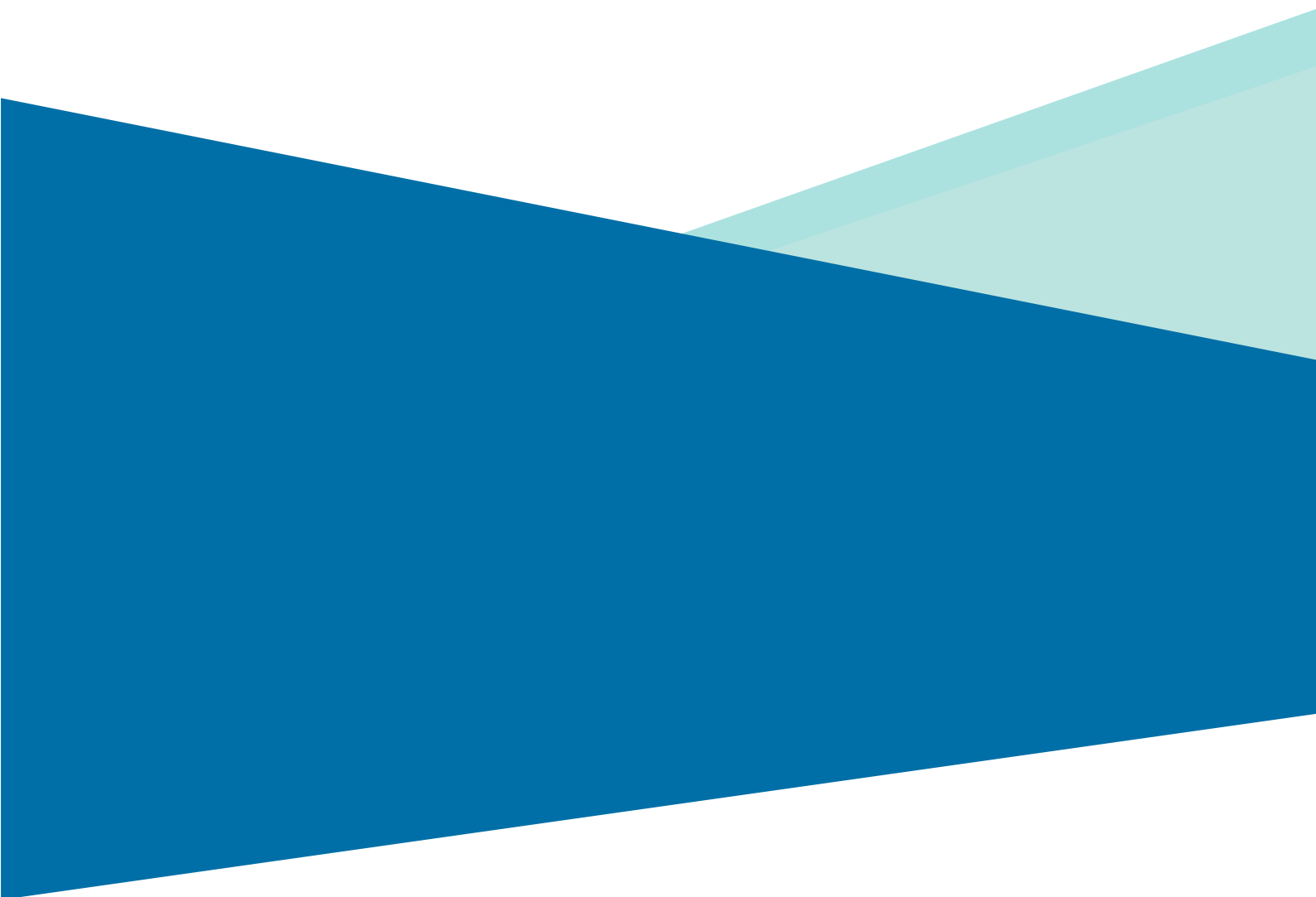
Part V

Reducing the Impact of Corruption

Part V looks at the support processes that need to be in place for the garda workforce across a range of personal and organisational factors that make individuals susceptible to being corrupted. It also develops the theme of how organisational learning, particularly the lessons learned from threat assessments and criminal or discipline investigations, can build greater resilience in the Garda Síochána.



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Chapter 8

Organisational Support, Intervention and Learning

Overview

In common with any policing organisation it is extremely rare, although not impossible, for someone with corrupt intentions to join the Garda Síochána. It is far more likely that external or personal factors for existing staff such as debt, substance addiction or inappropriate associations, or internal factors such as weak supervision or a permissive culture, leave members of the Garda Síochána susceptible to corruption. This may be because of a culture where the garda workforce believe their behaviour is condoned by the organisation or by their peers, or because they fail to recognise the harm their behaviour causes to them personally or to the organisation. Invariably such a situation will slowly erode the ethical standards in the Garda Síochána and create the kinds of vulnerability that corruptors will seek to exploit to their own advantage.

No police service can rely solely on the identification and investigation of individual corruption cases as the principal strategy for countering corruption. Such an isolated approach will deal only with a relatively small number of cases and will not significantly impact on the wider and long-term health of the organisation. As such, the approach must be more strategic and preventative in nature, and responsive to emerging threats. The Garda Síochána, like other law enforcement organisations, needs to prevent staff slipping into corruption by tackling underlying environmental causal factors such as personal vulnerability, unethical cultures and organisational blindness.

The police response to external corruption threats must be as adroit as those who seek to exploit organisational vulnerabilities using new technologies or adapting to emerging opportunities. Police leaders, investigators and other members of the workforce all need to be alert to the changing nature of corruption threats, including activity indicative of corruption, and to the ultimate consequences of such threats.

Support and Intervention

In international literature, several factors have been identified as having the potential to affect people's behaviour and put organisational integrity at risk.

- > **Inappropriate relationships:** This covers a broad range of relationships, including friends or family with links to crime, associations through social settings such as pubs or gyms, and contacts with journalists or private investigators. Relationships can also occur online, for example, through membership of social media groups whose values may be incompatible with those in policing.
- > **Personal vulnerability:** These are circumstances that weaken an individual's resilience and can result in a corruptor gaining an advantage. This can arise through unmanageable debt, alcohol misuse or domestic instability.

- > **Behavioural vulnerability:** This arises when an individual secretly engages in an activity which, if exposed, could have significant adverse implications for them. Unlike personal vulnerabilities, it is the threat of compromise that creates the opportunity to corrupt. This could include their use of illegal drugs, sex workers or child pornography.
- > **Workplace disengagement:** Loyalty to the organisation and acceptance of its ethical standards is a key inhibitor of unethical behaviour. In contrast, those who feel they have been treated poorly by their employer are more inclined to rationalise corrupt behaviour. Disengagement can be observed through sickness patterns, poor performance, public complaints or internal discipline.

The emergence of any of these factors does not automatically imply that a person is corrupt; however, it does indicate a raised risk that a person could become compromised. This is even more the case where multiple factors are present. For example, an individual with unmanageable debt who associates with members of an organised crime gang socially is at greater risk than someone who frequents a gym used by criminals but who has no exploitable weakness. However, for members of the police workforce with roles that are of particular interest to criminals, such as intelligence, procurement or border controls, this level of risk may be unacceptable.

While effective and transparent policies and guidelines are important mitigating factors, they must be underpinned by welfare, early intervention and support programmes. This safeguards vulnerable individuals, prevents them from becoming corrupted, and helps them to remain as valuable members of the workforce.

International and Comparable Practice

In the UK, national guidance to police services recognises the importance of welfare arrangements for preventing a personal vulnerability from developing into a corruption risk.

The South Yorkshire Police Intervention and Support Programme was developed to identify members of the workforce who exhibit common precursors to corrupt behaviour. The intention of the programme is to identify emerging risks, and to provide appropriate interventions and support to minimise those risks. This safeguards both the individual member of staff and the organisation. The Professional Standards Department is responsible for managing the programme and determining the level of potential risk. Interventions are tiered based on an assessment of the risk posed, and can range from monitoring and interviewing individuals and agreeing action plans, to formal discipline or criminal investigations. The Anti-Corruption Unit has also developed a welfare programme that supports members of the workforce who are under investigation or who have become victims of or witnesses to police wrongdoing.

The United States National Police Foundation (NPF) is a research organisation which supports policing through innovation and research and promotes the use of early intervention systems (EIS) by law enforcement agencies. Such systems allow police services to identify possible behavioural and performance issues among individuals or groups within police units or departments. These include excessive or aggressive use of force, excessive sick leave or absenteeism, off-duty employment, external and internal complaints or failure to appear in court. The NPF (2019) has found that with early identification, police

management can help to reduce misconduct or under-performance issues.

Key Findings and Assessment

Within the Garda Síochána, there is currently no counter-corruption strategy focused on reducing risk through intervention and support programmes. The department principally responsible for helping with workforce welfare is the Employee Assistance Service (EAS). The EAS consists of a superintendent, a sergeant and a higher executive officer in Dublin and 14 welfare officers distributed nationally. Two of the welfare officers are garda staff and the remainder are sworn members. The welfare officers are loosely aligned to garda divisions but there is some variation to allow for easier access and reduced travel. The service is supported by a peer-to-peer support network and is well regarded by members of the workforce who met with the Inspectorate during this inspection.

During interviews with staff in the EAS, the Inspectorate was informed that members of the garda workforce who self-refer because of alcohol addiction can be facilitated with a support programme. This is a 28-day residential programme followed by two years of aftercare supports funded by private medical insurance. A senior line manager is informed of the individual's involvement in the programme.

There is a low instance of self-referral for illegal substance misuse and the EAS believes that the garda workforce know that most of the welfare officers are garda members and as such may well feel compelled to report this as a crime. While there is no supported programme for the use of illegal substances, there are programmes for individuals who are addicted to prescription drugs.

During this inspection, the issues of unmanageable debts and gambling addictions were regularly raised as significant welfare concerns. The EAS can refer a member of the garda workforce to Gambling Anonymous, which has a support programme, or the Garda Benevolent Society, which has a financial adviser who can help with debt management. Despite available support for debt management, the Inspectorate was informed that members of the workforce often delay seeking assistance until they are on the brink of losing assets to creditors.

The EAS is planning wellness information days in each garda district. Apart from providing general health advice, the wellness days will involve briefing and training sessions to raise awareness of the warning signs of vulnerability to corruption, the support that is available, and other wellbeing options such as nutrition and health advice.

The EAS fulfils a valuable support function and its future activities and wellness programmes for all staff should be viewed as an essential element in an overall counter-corruption strategy and should be informed by strategic understanding of ongoing corruption risks. The proposed district wellness information days should be extended to all departments in the Garda Síochána.

The Garda Síochána provides additional support through the Inspire Counselling Service, which provides a 24/7 service with access to trained counsellors. Each member of the workforce can also receive up to eight personal sessions with a counsellor, with additional sessions authorised by the Chief Medical Officer.

Working in areas such as in the investigation of sexual offences or child abuse can significantly impact on the welfare of

individual staff members. Some police services have seen an increased frequency of sexually motivated misconduct among staff who are involved in investigating sexual crime and this represents an additional risk factor for appointment to such positions. The Garda Síochána is in the process of developing a policy to address the impact on those who are dealing with these types of offences. The proposed policy is solely focused on members of the Garda National Protective Services Unit and the Garda National Cyber Crime Bureau, and does not include those working in Divisional Protective Services Units. This policy will make it mandatory for garda members and staff newly appointed to such units to be psychologically assessed for their suitability for such work. It would also provide for follow-up assessments in each quarter of the first year. All other staff will receive two mandatory annual assessments and have access to 12 voluntary counselling sessions. When staff leave these units there will be an exit interview and three subsequent counselling sessions. If implemented, this will be an important welfare and support programme and could help to identify important organisational learning.

The organisation's ability to identify and support those members of the workforce who may be vulnerable to the corrupting influence of external actors would be enhanced by the conducting of comparative analysis of data on sickness, complaints or internal disciplinary issues with other information and intelligence.

Recommendation

In light of these findings, assessments and review of international practice, the Inspectorate makes the following recommendation.

Recommendation 32

Support and Intervention

The Garda Síochána should develop, publish and implement a structured early intervention and support programme with the objective of identifying and supporting members of the workforce who may be vulnerable to corruption.

Capturing Organisational Learning

A police service's ability to learn from its own mistakes and the experiences of others is an extremely important aspect of how it continues to promote public confidence and trust. Continuous improvement requires a strong commitment to learning. In the absence of new learning, a police service and individuals within it simply repeat old established patterns.

Understanding how the threats posed by criminal corruptors change and evolve also provides an important opportunity for organisational learning. There is a well-established link between organised crime and corruption. Due to their role, the police are directly exposed to serious and organised crime and as a result are often targets for those seeking to influence or corrupt members of the police workforce. This threat adapts to the 'business models' of serious and organised crime groups, which evolve to take account of new markets for criminal commodities and vulnerabilities in law enforcement agencies.

The 2017 EU Serious and Organised Crime Threat Assessment pointed out that drug markets were the largest criminal markets in the EU with more than one-third of criminal groups actively involved in the production,

trafficking or distribution of illicit drugs. The organised crime groups involved in this market rely heavily on corruption, particularly in relation to border controls, to facilitate their activities.

A recent UK National Strategic Assessment by the National Crime Agency (2020) also pointed to the problem of corruption at the UK border, with information being a highly valuable commodity for organised crime groups. The assessment also highlighted how corruption is increasingly facilitated through online services. In particular, it is managed through the use of cryptocurrencies and alternative banking platforms, which allow crime groups to conceal the transfer of funds. The use of such techniques makes it more difficult to detect financial flows and to identify corruption.

These examples illustrate the ever-changing threat of corruption from serious and organised crime groups and the critical importance of capturing organisational learning to help law enforcement agencies adapt to emerging methods and targets of these groups.

In policing, it is important to value knowledge in order to absorb it and put it to effective use. It is also critical to create an environment where new ideas can be expressed freely. Capturing learning should be refocused as a bottom-up process, but in particular police managers and leaders must be open to new ideas and perspectives. Finally, learning needs to become business as usual and not seen as a special task.

International and Comparable Practice

The use of risk or threat assessments to identify learning opportunities has emerged as a significant issue during the fifth round of evaluations by GRECO, particularly the strand focused on law enforcement.

In Estonia, the GRECO evaluation team recognised as a particular strength how the authorities combined their risk and threat assessment with targeted awareness-raising and training activities. This was highlighted as a particularly good example of proactive internal communication policies (2018a). In Sweden, the evaluators noted that the threat and risk assessment had identified the danger of organisational blindness within law enforcement, in terms of a lack of awareness of the various forms of corruption, as a potential risk (2019).

Regular strategic corruption threat or risk assessments provide valuable opportunities for state institutions to learn from cross-agency experiences, to raise awareness and to focus attention on emerging and significant risks. In their 2015 *Integrity Matters* report, Her Majesty's Inspectorate of Constabulary & Fire and Rescue Services noted the importance of police organisations learning the lessons of investigations into police complaints and misconduct. The report highlighted that the majority of police services collated the lessons they had learned, either from their own experience in dealing with corruption or the experience of other police services or criminal justice agencies, and regularly circulated those lessons to staff.

The joint UN Office of Drug Control and International Olympic Council report *Reporting Mechanisms in Sport* highlighted how looking for patterns in old or closed cases can be an important learning tool for organisations. This also extended to cases where investigators failed to establish wrongdoing. In particular, such an approach can prevent wrongdoing by alerting persons in authority to the need for change in an organisation's policies or rules. It can also help to improve reporting mechanisms and raise awareness about different types of wrongdoing.

The Independent Office for Police Conduct (IOPC) in England and Wales issues statutory guidance to every police service in relation to the operation of the police complaints system. The most recent 2020 guidance places a strong emphasis on how reflecting on the evidence from complaints and other incidents can be used to drive improvements in policing. Specifically they state:

A service that values learning:

- > Embraces a culture of continuous improvement and reflection, actively looking for opportunities to develop and improve practice before a weakness, failing or gap is identified;
- > Encourages innovation, and is open to exploring new and different ways of working;
- > Learns from experience, retains a corporate memory of what worked and what did not, is open to learning from others and shares their experience with others; and
- > Identifies and shares best practice, actively seeks feedback from service users and staff at all levels to help improve practice, and tells people how their input was used.

To complement their guidance, the IOPC has published a comprehensive learning strategy to improve policing by identifying and sharing learning from their work. The IOPC views the police complaints system as essential to support a culture of learning and continuous improvement in policing. Since 2007, the IOPC has regularly published its *Learning the Lessons* magazine in partnership with several policing-related agencies and organisations, including the UK College of Policing, HMICFRS, Home Office, National Police Chiefs Council, Police Federation and Police Superintendents Association. Each

edition includes a series of short anonymised case studies from IOPC investigations designed to support learning for policy makers, police managers and police officers and staff. These frequently touch on themes relevant to counter corruption, including abuse of position, professional boundaries, conflict of interest and neglect of duty. The IOPC also publishes a detailed report to accompany each case study which examines the circumstances and issues in greater depth. As such, lessons learned can be widely disseminated among policy makers and within a police service to increase understanding of the corruption risk and associated policies to prevent it.

Key Findings and Assessment

As highlighted in Chapter 1, the Garda Síochána has not conducted a Strategic Assessment of corruption.

This inspection has also found very little evidence that the Garda Síochána has effective practices, processes and procedures in place to capture learning in order to prevent and detect cases of corruption. It is also the case that lessons learned from dealing with corruption cases or from the experience of others is not distilled and communicated to the wider garda workforce.

The Garda Síochána Ombudsman Commission has published 14 annual reports since it was first established in 2007. While these reports contain detailed information about Garda complaints they also detail anonymised case studies from GSOC investigations. These provide a valuable resource for raising awareness among garda supervisors and the workforce about integrity related issues.

The Garda Síochána Act 2005 also permits GSOC to make systemic recommendations to the Garda Commissioner concerning Garda

policy, practices and procedures. GSOC's 2019 Annual Report highlighted that:

“GSOC investigators sometimes encounter practices or issues during the course of their investigations which GSOC believes need to be brought to the attention of Garda management. The practices or issues outlined here relate to systemic or management issues rather than to the behaviour of individuals. The Ombudsman Commission believes that highlighting systemic or management issues when they arise, and making recommendations to avoid the recurrence of similar incidents, is an important element of oversight.”

In the context of counter corruption a particularly relevant investigation related to the planning, management and record-keeping of Garda Operations. In that case, GSOC recommended that the Garda Síochána issue a standardised search log and instruction requiring garda members to document every search in a comprehensive and consistent way. As discussed previously in this report there is still an inherent vulnerability in current garda practice regarding the lack of a contemporaneous record of property seized during a search. A willingness to be open to learning from this type of investigation could have reduced this vulnerability.

During the course of this inspection, the Inspectorate identified that there was no formal or structured process for capturing learning opportunities from outside the Garda Síochána. Such a process would provide a valuable opportunity to improve service delivery and reduce vulnerabilities within the organisation. This contrasts starkly with the situation in other jurisdictions where the value of learning from the police complaints bodies is recognised as being essential to improving policing and where agencies collaborate in mutual learning.

The value for the Garda Síochána of learning lessons from local or national corruption or wrongdoing cases cannot be overestimated. For example, conducting formal debriefs following investigations of misconduct or complaints would help to identify the factors which leave the Garda Síochána and individuals vulnerable to influence or corruption.

In identifying learning, the Garda Síochána should formally debrief its own investigations, take into account the outcomes of GSOC investigations and consider findings by other regulatory bodies such as the Office of the Data Protection Commissioner.

Recommendation

In light of these findings, assessments and review of international practice, the Inspectorate makes the following recommendation.

Recommendation 33

Capturing Organisational Learning

The Garda Síochána should conduct formal reviews of cases of corruption and serious wrongdoing to understand those factors that can lead to a corruption risk and develop appropriate strategies to prevent a recurrence.

Communicating Organisational Learning

Communicating organisational learning across a police service benefits counter-corruption efforts and enhances resilience by allowing policy, procedures and supervision to be strengthened where heightened corruption activity affects a particular area or function. The commitment to learning from past mistakes emphasises the value a police service places on serving the needs of the public. Communicating learning provides a vital platform for clearly and unambiguously informing the workforce of what behaviours create a risk of corruption and emphasising that they will not be tolerated. This can eliminate misunderstanding or naivety, raise awareness of the consequences of unethical behaviours and encourage internal reports of wrongdoing within the police workforce.

International and Comparable Practice

Police services in Scotland, South Yorkshire, Northern Ireland and Merseyside use multiple mechanisms to ensure organisational learning is cascaded. This includes the delivery of workshops led by ACUs focused on identified counter-corruption risks and the use of anonymised real-life cases studies to highlight corruption risks. These are presented to new members of the workforce and to participants in courses for promotion or for specialist roles. The workshops raise awareness of important issues among supervisors, inexperienced workers or those in specialist roles that may be more vulnerable to corruption.

Her Majesty's Inspectorate of Constabulary in Scotland (HMICS) in its *Counter Corruption Unit Assurance Review* (2016) described the aim of the Police Scotland integrity programme as being to:

"... work in partnership with Divisions/ Departments and staff to identify and mitigate known and emerging risks that can lead to the compromise of individual and organisational integrity."

The programme focuses on preventing opportunities for corruption by helping the workforce to understand their individual responsibilities in respect of:

- > Notifiable associations;
- > Data protection;
- > Online presence;
- > Abuse of power/predatory sexual behaviour;
- > Gifts, gratuities, hospitality and sponsorship; and
- > Secondary employment or business interests.

The HMICS review concluded that those who participated in the programme had a better awareness of the potential areas of vulnerability that exist for individuals and the organisation as a whole.

Beyond the classroom environment, Police Scotland uses e-learning to deliver corruption-prevention courses and Merseyside Police uses 60-second video presentations or structured presentations such as the 7@7 initiative, which delivers important messages to staff when they are briefed for duty at 7am and 7pm.

Due to the sensitive nature of some information that arises from ongoing disciplinary or criminal investigations, the Head of the Professional Standards Department in South Yorkshire holds regular meetings with nominated service champions, from every department. Champions receive

a briefing regarding the current trends and risks relating to corruption. These can range from organisational-level issues such as ICT security to local concerns such as a high incidence of use of force in a specific team. Champions can use this information to monitor local activity and ensure that internal control systems are resilient.

Effective communication of the outcomes of positive substance misuse tests, discipline investigations and criminal cases can create a valuable opportunity for any police

service to learn from past mistakes. The visible consequences of failures to adhere to the expected professional standards can reinforce the ethical commitment of the police service to the workforce and the public. It is common practice for UK police services to publish discipline findings internally, and in the case of gross misconduct, on their external web sites. Figure 8.1 provides an example of an external publication by South Yorkshire Police.

Figure 8.1 Extract from South Yorkshire Police Published Misconduct Outcomes 2020

Date 2020	Officer /Staff member	Allegation Type	Allegation Details	Outcome	Source
January 2020 Misconduct Meeting	Staff	Authority, Respect and Courtesy	An allegation was made that a member of staff had produced a badge/card and instructed a driver to pull over, before informing the driver that they were an off-duty police officer and gave them a warning for dangerous driving	An independent Chief Inspector found the case to be proven and the outcome was a Written Warning.	Public Complaint
February 2020 Misconduct Hearing	An officer	Discreditable Conduct / Orders and Instructions / Honesty and Integrity	An officer was found to have entered the property store on a number of occasions and removed items from the destruction bin, stating that he had intended to use the items for training purposes, although no recent training had occurred. In addition, after the officer was suspended he returned to the police station, despite knowing that his suspension expressly forbid this.	The panel, chaired by a legally qualified chair, decided that both aspects of the conduct were proven, that there was no policing purpose to remove the items on three occasions and that this amounted to gross misconduct. The officer was dismissed without notice.	Internal Conduct
February 2020 Misconduct Hearing	Staff Member	Honesty and Integrity and Discreditable Conduct Code of Ethics- Policing Principles- Honesty- Integrity	A member of staff was accused of removing Xbox games from an address, following which they took them to their own home address. The items did not belong to the staff member and they were taken to their home address without a legitimate policing purpose and with the intention of keeping them. The staff member failed to record the recovery of the Xbox Games and failed to book the items into the police property store. The member of staff resigned the day before the misconduct hearing.	A Misconduct Panel found the matters were proven and amounted to Gross Misconduct and that the staff member would have been dismissed if still serving. The staff member has been placed on the Barred List with the College of Police.	Internal Conduct

Source: Information from the South Yorkshire Police website

This highly visible record of gross misconduct outcomes means that everyone in the relevant police service has a clear understanding of the organisation's commitment to ethical behaviour and the likely serious consequences of failure to adhere to these standards.

Key Findings and Assessment

This inspection found that there is currently no structured process within the Garda Síochána for communicating organisational learning linked to counter-corruption cases or serious wrongdoing. This creates a risk that individual members will continue to repeat mistakes and the Garda Síochána will react too slowly to emerging threats. Specifically the Inspectorate found:

- > No department had specific responsibility for analysing completed discipline and criminal investigations or other important data such as the fraud register with a view to preventing further occurrences. This means that important learning is unavailable to investigators, policy leads and supervisors;
- > Within the Garda College ethical dilemmas and the Code of Ethics form part of training for new recruits and reserves. A separate lesson entitled “Where it all went wrong” focuses on lessons learned from high-profile tribunals of enquiry involving the Garda Síochána. However, it is not supplemented with inputs by either Garda Internal Affairs or GSOC, which would allow the training to be enhanced with real-life case studies. A number of garda staff who met with the Inspectorate reported that on joining they had no induction training prior to commencing work in divisions or departments. In addition, there are no corruption training or briefing materials that specifically address identified organisational vulnerabilities, improve the awareness of supervisors, or support the resilience of those in posts at higher risk of corruption;
- > During focus groups and interviews, the Inspectorate found that there was limited knowledge of disciplinary outcomes beyond the immediate area where staff were based; and
- > Currently, the findings of discipline panels are not openly disseminated within the organisation to highlight the consequences of unethical behaviour to the garda workforce.

The need to improve internal communication of organisational learning has been identified as a key priority in the implementation plan for the Garda Síochána ACU. This includes the development of a comprehensive communication strategy aimed at preventing corruption through training, briefing and online learning. There are also plans to develop materials for online learning and establish Regional Integrity Champions.

To tackle corruption effectively, the Garda Síochána needs to learn from past mistakes and to communicate this learning widely. To be effective, information must be clear, accessible and sufficiently detailed, so that the workforce can understand the issues concerned and avoid repeating previous mistakes.

The Garda Síochána’s proposals reflect international practice as benchmarked by the Inspectorate; however, full implementation is required if the benefits are to be fully realised.

Identified Good Practice

The Garda Síochána has an e-learning platform known as the Learning Management System. This system was recently used successfully to provide organisation-wide training to address weaknesses in the management of cases involving juveniles and is being developed into an interactive learning tool that supports blended learning and behavioural change in the organisation. Such systems provide valuable opportunities for sharing learning quickly and effectively across an organisation. During focus groups for this inspection, the training for managing juvenile cases was commended as valuable, and as helping to deliver significant organisational change.

Recommendation

In light of these findings, assessments and review of international practice, the Inspectorate makes the following recommendation.

Recommendation 34

Communicating Organisational Learning

The Garda Síochána should implement a counter-corruption communications strategy, which should include:

- Ensuring lessons learned and suitable real-life case studies form the basis of future training and briefing packages.
- Disseminating organisational learning drawn from international trends and internally focused investigations including those conducted by the Garda Síochána Ombudsman Commission and other regulatory bodies.
- Publishing the findings of disciplinary hearings internally.



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Glossary

ACU	Anti-Corruption Unit
APP	Authorised Professional Practice
APSG	Abuse of Power for Sexual Gain
COI	Conflict/s of Interest
COSO	Committee of Sponsoring Organisations
DPP	Director of Public Prosecutions
ECHR	European Convention on Human Rights
ECRIS	European Criminal Records Information System
ECtHR	European Court of Human Rights
EIPO	Ethics in Public Office Acts
FCPN	Fixed Charge Penalty Notice
GNBCI	Garda National Bureau of Criminal Investigation
GNPSB	Garda National Protective Services Bureau
GPSU	Garda Professional Standards Unit
GRECO	Group of States against Corruption
GSOC	Garda Síochána Ombudsman Commission
HMICFRS	Her Majesty's Inspectorate of Constabulary and Fire & Rescue Services
IAS	Information Assurance System
ICB	Irish Credit Bureau
ICT	Information and Communication Technology
IOI	Incident of Interest
IOPC	Independent Office for Police Conduct
IPCC	Independent Police Complaints Commission
ISMS	Information Security Management System
MRP	Modernisation and Renewal Programme
NAMA	National Asset Management Agency
NCA	National Crime Agency
NCT	National Car Test

NGO	Non-Governmental Organisation
NPCC	National Police Chiefs' Council
OSCE	Organisation for Security and Co-operation in Europe
PACE	Police and Criminal Evidence Act
PAF	Performance and Accountability Framework
PEMS	Property and Evidence Management System
PSNI	Police Service of Northern Ireland
SIPO	Standards in Public Office
UN	United Nations
WHO	World Health Organisation

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In addition, the Inspectorate is grateful for the input of the following key official stakeholders who contributed to this inspection.

- > Anti-Fraud and Anti-Corruption Structures Review Group
- > COSC
- > Courts Service
- > Criminal Assets Bureau
- > Data Protection Commission
- > Department of Justice and Equality
- > Department of Public Expenditure and Reform
- > Director of Public Prosecutions
- > Garda Síochána Ombudsman Commission
- > Irish Human Rights and Equality Commission
- > Irish Prison Service
- > Office of Government Procurement
- > Office of the Comptroller and Auditor General
- > Ombudsman for Children
- > Private Security Authority
- > Standards in Public Office Commission
- > Tusla

The Inspectorate also consulted and met with voluntary groups, non-governmental organisations' and international organisations. The Inspectorate is grateful to the following for their input.

- > Barnardos
- > Dublin Simon Community
- > Focus Ireland
- > Group of States Against Corruption (GRECO)
- > Irish Council for Civil Liberties (ICCL)
- > Irish Criminal Justice and Disability Network
- > Irish Society for the Prevention of Cruelty to Children (ISPCC)
- > Organisation for Economic Co-operation and Development (OECD)
- > Organization for Security and Co-operation in Europe (OSCE)
- > Pavee Point
- > Rape Crisis Centre
- > Community Action Network
- > Ruhama
- > Transparency Ireland
- > UGLY MUGS
- > United Nations (UN)
- > Women's Aid

To understand comparative local policing practice in other jurisdictions, the Inspectorate engaged the organisations listed below. The Inspectorate would like to thank them for their input.

- > Bundeskriminalamt (German Federal Criminal Police Office)
- > German Ministry of Interior
- > Her Majesty's Inspectorate of Constabulary and Fire and Rescue Services (England and Wales)
- > Independent Office for Police Conduct
- > Merseyside Police Anti-Corruption Unit
- > National Crime Agency
- > National Police Chiefs' Council Counter Corruption Advisory Group
- > New Zealand Police
- > South Yorkshire Police Anti-Corruption Unit

APPENDIX 1: Inspection Methodology

The inspection involved an in-depth examination of every aspect of the Garda Síochána efforts to counter the risk of corruption within the organisation. The inspection had a number of key phases, including: planning, desktop literature review, field work, information requests, international visits, material review and report writing. Some of the key steps in the methodology included the following:

Planning and Literature Review Phase

- > The inspection team identified key garda functional areas and personnel to assist the inspection, and scheduled interviews. The team also identified other relevant stakeholders and invited them to meet or to make written submissions. The inspection team made a number of requests to the Garda Liaison Officer for documents and information relevant to the inspection.
- > The inspection team carried out a thorough review of corruption-related literature, including research and policy papers, reports similar to this one undertaken by other inspectorate bodies, policing standards and professional practices set by international security and human rights or other international organisations, and other relevant publicly available information.

Field Work Phase

- > Extensive interviews with key garda personnel were conducted at the strategic level as well as reviews of related information and policies. Those

interviewed included staff from: senior management, human resources and people development, legal services, training, data protection, finance and procurement, special operations and national units, professional standards, crime and security, internal affairs, internal audit, vetting, audit and risk committee and employee assistance. Extensive engagement also took place with the Garda Síochána Anti-Corruption Unit implementation team.

- > Field interviews were conducted in garda divisions and with garda member focus groups to confirm the information and explanations received during the strategic phase of the inspection. Field visits took place in the following locations: Cavan/Monaghan Division, Clare Division, DMR East Division, Waterford Division, Garda College Templemore and Fixed Charge Penalty Office in Thurles.
- > Interviews were conducted and submissions reviewed from key stakeholders, including human rights experts and organisations, the Garda Síochána Ombudsman Commission and other state agencies, community advocacy and support groups and services, and garda representative organisations and trade unions.

International Visit Phase

- > In September and October 2019 the inspection team visited Merseyside Police and South Yorkshire Police to explore international practices in relation to countering the threat of internal corruption.

- > In addition to the international visits the inspection team had valuable discussions with the National Crime Agency and the Independent Office of Police Conduct in the UK, the German Ministry of Interior, the Federal Criminal Police Office (Bundeskriminalamt) in Germany, and the New Zealand Police. Similarly, the inspection team communicated with several international bodies: the OECD, the OSCE, the UN and the Council of Europe to explore international practices in relation to countering the threat of internal corruption from an international perspective.

Review and Reporting Phase

Following the active phases of the inspection outlined above, the inspection team reviewed all materials and evidence obtained in order to draw out the key findings for the report.

APPENDIX 2: Report Recommendations

Part I | Chapter 1

<p>Recommendation 1</p> <p>Strategic Threat and Risk Assessment</p>	<p>The Department of Justice should develop a strategic understanding of the risk of internal corruption across the criminal justice sector with the objective of developing an overarching strategy and multi-agency approach to the management of the corruption threats.</p>
<p>Recommendation 2</p> <p>Strategy and Governance in the Garda Síochána</p>	<p>The Garda Síochána should develop and implement a governance process for identifying and mitigating the threats, risks and potential harms associated with internal corruption. This process must include:</p> <ul style="list-style-type: none"> • The appointment of a senior police leader with responsibility for counter corruption. • The development of a strategic assessment of corruption threats. • The setting out of a counter-corruption control strategy that establishes priorities for action.

Part II | Chapter 2

<p>Recommendation 3</p> <p>Professional Boundaries</p>	<p>The Garda Síochána should develop, publish and implement an overarching policy and guidelines on professional boundaries for the garda workforce.</p>
<p>Recommendation 4</p> <p>Abuse of Power for Sexual Gain</p>	<p>The Garda Síochána should develop, publish and implement a strategy and policy to mitigate the threat of Abuse of Power for Sexual Gain.</p> <p>This policy should highlight the dangers of relationships where a position of power can be abused for emotional or sexual purposes and provide guidance for the garda workforce and supervisors on the key indicators of such relationships and the appropriate organisational response to the issue.</p>
<p>Recommendation 5</p> <p>Notifiable Associations</p>	<p>The Garda Síochána should develop, publish and implement a policy and guidelines on notifiable associations which all members of the garda workforce are obliged to report.</p>

<p>Recommendation 6</p> <p>Covert Human Intelligence Sources</p>	<p>The Garda Síochána should revise its Covert Human Intelligence Sources Management Policy to prohibit the acceptance of gifts or hospitality from a Covert Human Intelligence Source. This should reinforce the obligations in other related garda policies dealing with professional boundaries, relationships and associations with an emphasis on the management of Covert Human Intelligence Sources. In particular, the revised policy should impose an obligation on garda members to disclose all relationships with a current or former Covert Human Intelligence Source.</p>
<p>Recommendation 7</p> <p>Substance Misuse</p>	<p>The Garda Síochána should develop, publish and implement a substance misuse and testing policy and procedure. As a first step, all new entrants should undergo mandatory pre-employment testing as a condition of their employment.</p>

Part II | Chapter 3

<p>Recommendation 8</p> <p>Conflict of Interest</p>	<p>The Garda Síochána should develop, publish and implement a policy and guidelines on the declaration, recording and management of conflicts of interest.</p>
<p>Recommendation 9</p> <p>Gifts, Hospitality and Sponsorship</p>	<p>The Garda Síochána should raise awareness of the garda policy on gifts, hospitality and sponsorship both within and outside of the organisation and take steps to ensure full compliance with the policy among the garda workforce. In particular:</p> <ul style="list-style-type: none"> • The Anti-Corruption Unit should take responsibility for monitoring organisational compliance with the policy. • Failure to submit a monthly register of gifts, hospitality and sponsorship should be subject to challenge by the Anti-Corruption Unit. • Gifts, hospitality and sponsorship received should be triangulated against other sources, such as procurement contracts and Standards in Public Office declarations. • The Anti-Corruption Unit should audit the registers and challenge the responsible manager and recipient in relation to selected entries.

	<ul style="list-style-type: none"> • The gifts, hospitality and sponsorship registers should be published by the Anti-Corruption Unit at regular intervals including when no gifts, hospitality or sponsorship have been recorded for the period. • Gifts, hospitality and sponsorship offered to or received by ranks from superintendent and assistant principal and above should be published in such a way that the person concerned can be clearly identified. This should extend to inspectors who regularly exercise the functions of a superintendent. All other gifts should be published against the relevant division/department. • Gifts, hospitality and sponsorship should not be accepted from organisations that could be subject to a non-public duty charge, those with a commercial relationship with the Garda Síochána, or those subject to statutory oversight by the Garda Síochána.
<p>Recommendation 10</p> <p>Business and Other Interests</p>	<p>The Garda Síochána should develop, publish and implement a policy and guidelines relating to the holding of business and secondary interests by the garda workforce including:</p> <ul style="list-style-type: none"> • A requirement for members of the garda workforce to declare all personal commercial interests and those involving family and friends to the Garda Commissioner. • The replacement of the prohibited spare-time activities guidelines with an objective and transparent principles-based approach to secondary employment.
<p>Recommendation 11</p> <p>Business and Other Interests</p>	<p>The Garda Síochána should ensure there is clarity regarding completion of the Ethics in Public Office declarations.</p> <ul style="list-style-type: none"> • Declarations should be completed upon appointment to positions designated under the Ethics Acts. • Those regularly designated to temporarily perform in a higher rank as assistant principal or superintendent should be required to complete the declaration of interests. • There should be guidance regarding the requirement to complete a nil return.

Recommendation 12 Post-Employment Activities	<p>The Department of Justice should carry out a review of post-employment activities of the garda workforce, and develop suitable rules and processes to reduce the risk of conflict of interest arising after a member of the garda workforce leaves the organisation.</p>
Recommendation 13 Integrity Health Check	<p>The Garda Síochána should undertake periodic integrity health checks of the garda workforce. These should occur if not on an annual basis at the very minimum at critical career points such as on promotion or selection for specialist or designated positions.</p>

Part III | Chapter 4

Recommendation 14 Vetting	<p>The Garda Síochána should develop a single policy and approach for vetting the garda workforce and those contracted to provide services.</p> <ul style="list-style-type: none"> • The level of vetting should be tiered to take account of access to police systems and identified threats. • Vetting should include pre-employment and regular in-service reviews. For example, appointments to designated or vulnerable posts or promotion should attract re-vetting and staff in designated or vulnerable posts should be subject to additional vetting and provided with ethical training and supports. • All in-service vetting should be conducted by a vetting section within the Anti-Corruption Unit. • The policy should allow for a vetting review of anyone in the garda workforce at the discretion of the Head of the Anti-Corruption Unit. • Recruitment vetting should in addition to existing checks consider: the European Criminal Records Information System, credit checks, financial intelligence, social media, convictions by other state bodies, military records, and other police disciplinary records if appropriate. • All contractors providing a service to the Garda Síochána should have personal vetting at an appropriate level.
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	<ul style="list-style-type: none"> • The Anti-Corruption Unit should be responsible for assessing all information relating to an individual where a risk has been identified during vetting, and should provide a recommendation to the Garda Commissioner on the appropriate action to take.
<p>Recommendation 15</p> <p>Property and Evidence Management</p>	<p>The Garda Síochána should ensure that all property stores have adequate systems, processes and facilities to achieve the safe and secure management of property including:</p> <ul style="list-style-type: none"> • Effective training and security advice for property store managers. • Secure separated storage for hazardous and high-value property. • An approved system for managing property when the property store is not open. • A security system for recording the details of anyone who accesses the property store.
<p>Recommendation 16</p> <p>Property and Evidence Management</p>	<p>The Garda Síochána should introduce a practice of recording contemporaneously property seized during a search and on completion of the search leaving the record with a person present at the search site.</p>
<p>Recommendation 17</p> <p>Information Security</p>	<p>The Garda Síochána should develop and publish a Lawful Business Monitoring Policy and acquire technology that enables the proactive surveillance of ICT systems to prevent and detect the misuse of information held within them.</p>
<p>Recommendation 18</p> <p>Information Security</p>	<p>The Garda Síochána should assign to the Anti-Corruption Unit responsibility for identifying misuse of information and communications technology devices and systems by the garda workforce.</p> <p>To facilitate this responsibility:</p> <ul style="list-style-type: none"> • The Anti-Corruption Unit should proactively monitor all garda information and communications technology devices and systems based on intelligence, analysis and organisational learning. • The Anti-Corruption Unit should review an individual's use of garda information and communications technology systems following identified or suspected unethical behaviour or misconduct by that member of the workforce.

- The Anti-Corruption Unit should be responsible for challenging, through divisional supervisory and governance structures, the use of garda ICT systems on both a random basis and where the access has raised concerns of inappropriate use.

Part III | Chapter 5

Recommendation 19

Discontinued Court Cases

The Garda Síochána should strengthen supervision of cases it prosecutes. This should include:

- Introducing suitable guidelines and procedures to improve record-keeping. In particular, there must be requirements to explain in detail a garda decision to discontinue a case and to record explanations for a case being struck out in the District Court.
- Reviewing discontinued cases should form part of the divisional Performance and Accountability Framework review process to identify patterns or performance concerns.
- Ensuring discontinued cases that arise from the non-attendance of a garda member are reviewed by a supervisor.

Recommendation 20

Fixed Charge Penalty System

The Department of Transport should undertake a review of the current statutory exemption relating to the driving of vehicles by members of the emergency services.

Recommendation 21

Fixed Charge Penalty System

The Garda Síochána must ensure that the process for cancelling a Fixed Charge Penalty Notice on the basis of the statutory exemption consider all of the relevant conditions, including those set out in regulation and policy, and be properly documented. Such an approach should ensure that:

- The exceptional circumstances test is applied more rigorously in the decision-making process. The necessity to travel in excess of the speed limit, and the proportionality of this action, should be considered and balanced against the rationale for breaching road traffic laws.

	<ul style="list-style-type: none"> All risk factors, mitigating factors and evidence are taken into consideration, including: weather and road conditions, driving competence, and factors involving high risk such as proximity to schools. Vehicle data could also be utilised to confirm driving performance, and in the case of private vehicles, confirmation of driving licence, insurance and NCT should be required.
Recommendation 22 Non-Public Duty	<p>The Garda Síochána should develop, publish and implement policy and guidance on charging for non-public duty. Such guidance should minimise the opportunity for inconsistency and maximise transparency for garda managers and event organisers. In support of the policy:</p> <ul style="list-style-type: none"> The Executive Director Finance and Services should have responsibility for ensuring a consistent approach to the charging and recovery of non-public duty costs. All non-public duty policing plans should be approved at a regional level by the Regional Assistant Commissioner.

Part IV | Chapter 6

Recommendation 23 Anti-Corruption Unit Operating Model	<p>The Garda Síochána should assign overall organisational responsibility for the prevention, detection and investigation of corruption to the Anti-Corruption Unit. To support this responsibility the Anti-Corruption Unit should have full visibility of all ongoing criminal and discipline investigations into members of the garda workforce.</p>
Recommendation 24 Intelligence Sharing	<p>The Garda Síochána should develop formal arrangements for the mutual sharing of intelligence between the Garda Síochána Ombudsman Commission, law enforcement agencies and the Anti-Corruption Unit.</p>
Recommendation 25 The Intelligence Function	<p>The Garda Síochána should provide sufficient resources to the Anti-Corruption Unit to create a dedicated intelligence team with responsibility for developing strategic and tactical understanding of corruption threats within the Garda Síochána. Specific functions should include:</p> <ul style="list-style-type: none"> Tasking and coordinating the collection of all anti-corruption intelligence. Assessing, developing, monitoring and managing all reports of internal corruption.

	<ul style="list-style-type: none"> • Disseminating credible leads for investigation or intervention. • Maintaining a standalone intelligence database and case management system where information and decisions can be recorded.
Recommendation 26 Internal Investigation	<p>The Garda Síochána should provide sufficient resources to the Anti-Corruption Unit to reflect the current assessment of risk and to ensure that the unit is capable of conducting independent discipline and criminal investigations. Those engaged in counter-corruption investigations should be experienced detectives and have specific counter-corruption training.</p>
Recommendation 27 External Investigation	<p>The Department of Justice should implement the necessary statutory framework, in line with the State’s obligations under the European Convention on Human Rights relating to effective independent investigation, to ensure that all instances of conduct linked to sexual violence or abuse of power for sexual gain arising from the actions of a member of the garda workforce acting in their professional capacity which could result in a breach of an individual’s rights under Article 2 or 3 of the Convention are referred for independent investigation.</p>

Part IV | Chapter 7

Recommendation 28 Identifying the Abuse of Power for Sexual Gain	<p>The Garda Síochána should ensure that the Anti-Corruption Unit develop and implement an external and internal communications strategy on abuse of power for sexual gain to raise awareness and encourage reporting of suspicious behaviour.</p>
Recommendation 29 Reporting Wrongdoing	<p>The Garda Síochána should develop, publish and implement a strategy to encourage the reporting of wrongdoing. This includes using and promoting:</p> <ul style="list-style-type: none"> • Protected Disclosures. • The Integrity at Work Programme. • Confidential lines and systems for anonymous reporting.

Recommendation 30 Reporting Wrongdoing	<p>The Garda Síochána should ensure that the Anti-Corruption Unit has visibility of all reports of wrongdoing including garda-managed protected disclosures to ensure a holistic understanding of the risk within the organisation.</p>
Recommendation 31 Monitoring Ethical Declarations	<p>The Garda Síochána should assign responsibility to the Anti-Corruption Unit for monitoring all counter-corruption polices and registers, including those containing ethical declarations. This should include:</p> <ul style="list-style-type: none"> • Gifts, Hospitality and Sponsorship. • Notifiable Associations. • Conflicts of Interest. • Business Interests and Secondary Employment. • Ethics in Public Office. • Post-Employment Activity.

Part V | Chapter 8

Recommendation 32 Support and Intervention	<p>The Garda Síochána should develop, publish and implement a structured early intervention and support programme with the objective of identifying and supporting members of the workforce who may be vulnerable to corruption.</p>
Recommendation 33 Capturing Organisational Learning	<p>The Garda Síochána should conduct formal reviews of cases of corruption and serious wrongdoing to understand those factors that can lead to a corruption risk and develop appropriate strategies to prevent a recurrence.</p>
Recommendation 34 Communicating Organisational Learning	<p>The Garda Síochána should implement a counter-corruption communications strategy, which should include:</p> <ul style="list-style-type: none"> • Ensuring lessons learned and suitable real-life case studies form the basis of future training and briefing packages. • Disseminating organisational learning drawn from international trends and internally focused investigations including those conducted by the Garda Síochána Ombudsman Commission and other regulatory bodies. • Publishing the findings of disciplinary hearings internally.

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