



An Roinn Dlí agus Cirt
Department of Justice

Policing, Security and Community Safety Bill 2022

Regulatory Impact Analysis

November 2022

Summary of Regulatory Impact Analysis (RIA)

Department/Office:
Department of Justice

Title of Legislation:
Policing, Security and Community Safety Bill 2022

Stage: Publication of Bill

Date: November 2022

Related Publications:

- General Scheme of the Policing, Security and Community Safety Bill
- Policing, Security and Community Safety Bill 2022

Available to view or download at:

<http://www.gov.ie/justice> (when published)

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Policy options considered:

(A) Governance and oversight framework for policing:

(1) Do nothing

(2) Provide for a new coherent governance and oversight framework for policing in line with COFPI's package of recommendations replacing the Garda Síochána Act 2005

(3) Provide for more limited change – merge the Garda Síochána Inspectorate and Policing Authority in one body, establish an executive board of AGS with some external membership, and reform GSOC's structures and processes amending the Garda Síochána Act 2005

Preferred option: Option 2

(B) Community Safety:

(1) Do nothing

(2) Provide for the specific measures identified by COFPI to support the whole of government approach to community safety

(3) Provide for a new strategic framework at national and local level to support the whole of government approach to community safety recommended by COFPI

Preferred option: Option 3

Options			
(A) Governance and oversight framework for policing			
	COSTS	BENEFITS	IMPACTS
(1)	<p>No direct financial costs to the Exchequer</p> <p>Future intangible costs arising from continuation of inadequate governance and oversight framework for policing as identified by COFPI</p>	<p>No direct financial costs to the Exchequer</p> <p>Existing institutions continue to perform functions in stable environment without the disruption and challenge of planning for transition to a new institutional framework</p>	<p>Continuation of inadequate governance and oversight framework with adverse impacts for the delivery of policing services, clear and effective accountability, safety of communities, and public confidence in An Garda Síochána</p>
(2)	<p>Garda Síochána Board</p> <p>Remuneration for chairperson and 8 members - €149,592 (Category 1 fees of €29,888 per annum for Chairperson & €14,963 per annum for ordinary members)</p> <p>Estimated expenses for chairperson/members - €20,000 per annum</p> <p>Small secretariat including:</p> <p>Secretary who is to be a senior member of garda staff at principal officer grade - to cost €150,048 per annum</p> <p>Number and grade of other secretariat staffing to be determined</p>	<p>All parts of the framework have clearly defined roles with necessary powers supporting effective accountability</p> <p>Improved governance within An Garda Síochána aligned with best practice</p> <p>An Garda Síochána empowered to take ownership of future strategies and plans and drive reform</p> <p>Better management of resources/reduced waste</p> <p>Shortened decision making in relation to executive functions of An Garda Síochána</p> <p>Appropriate framework for relationship between An Garda Síochána and Minister/ Department in place</p>	<p>Better run police service</p> <p>Improved delivery of policing services</p> <p>Clear and effective accountability for policing</p> <p>Safer communities</p> <p>Public confidence in An Garda Síochána maintained</p>

<p>Start-up costs including initial costs for appointment of chair designate /secretary for 2023 - €100,000</p> <p>Non-pay running costs of secretariat estimated at €50,000 per annum after start-up</p> <p>Policing and Community Safety Authority:</p> <p>Preparatory costs to support transition provided in Budget 2023 - €260,000 (€200,000 start-up costs provided for the Policing Authority & €60,000 for the Garda Síochána Inspectorate)</p> <p>Operating cost of body - the combined budgets of the Policing Authority and Garda Inspectorate provide a baseline of €5.53M</p> <p>Office of the Police Ombudsman:</p> <p>Extra €2.75M provided in Budget 2023 to support transition</p> <p>Operating cost of body for 2023 is €16.2M (an increase of €2.75m on 2022). Expanded remit and a more complex caseload will</p>	<p>Department enabled to step back from involvement in day to day matters in An Garda Síochána</p> <p>Strengthened independent external oversight</p> <p>Reduction in number of oversight bodies by 1</p> <p>Public scrutiny maintained</p> <p>Independence of GSOC reinforced</p> <p>Governance of GSOC streamlined</p> <p>GSOC processes streamlined and simplified to support more expeditious and transparency while respecting fair procedures and natural justice</p>	
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	require additional personnel and other resources which will be informed by independent business analysis		
(3)	Similar to (2) with the exception of those associated with the Garda Board. Limited costs would arise from the establishment of an executive board with some external members including remuneration and expenses	<p>Reduction of 1 in the number of oversight bodies</p> <p>Additional information available to Policing Authority to inform the performance of its oversight function</p> <p>Public scrutiny maintained</p> <p>Independence of GSOC reinforced</p> <p>Governance of GSOC streamlined</p> <p>GSOC processes streamlined and simplified to support more expeditious and transparency While respecting fair procedures and natural justice</p>	<p>Potential impact on trust and confidence in the inspection function</p> <p>Improved public confidence in the system for the handling of complaints and the investigation of allegations of wrongdoing by members of garda personnel</p> <p>Overall continuation of inadequate governance and oversight framework with adverse impacts for the delivery of policing services, effective accountability, safer communities and public confidence in An Garda Síochána</p>
(B) Community Safety			
	COSTS	BENEFITS	IMPACTS
(1)	No direct financial costs to the Exchequer	No direct financial costs to the Exchequer	Continuation of a system where Department of Justice and An Garda Síochána are responsible for harm prevention and not well placed to provide an adequate response to such harm

(2)	<p>Limited direct costs relating to resourcing the expanded remit of the new oversight body</p>	<p>Prevention of harm recognised as an objective of An Garda Síochána reflecting reality of policing</p> <p>Statutory obligation placed on public service bodies to cooperate with An Garda Síochána</p> <p>Increased focus on fostering and monitoring inter-agency collaboration and creating a broad understanding that it is a shared responsibility</p>	<p>Legal obligation to support inter-agency cooperation and increased focus on it by oversight body and Cabinet Committee creates limited momentum for greater inter-agency collaboration to improve community safety</p>
(3)	<p>National Office for Community Safety: initial projections for the budget is €1.67M per annum. €100,000 for start-up costs received in Budget 2023</p> <p>36 Local Community Safety Partnerships across the country: initial projections for the budget is estimated at €5.4M per annum. However, as these will replace Joint Policing Committees there will be a degree of counterbalance. The budget projections for the Partnerships may change on the basis of the outcome of the Pilot Local Community Safety Partnership evaluations</p>	<p>Prevention of harm recognised as an objective of An Garda Síochána reflecting reality of policing</p> <p>Statutory obligation placed on public service bodies to cooperate with An Garda Síochána and each other</p> <p>National strategy in place to ensure coherence of actions by agencies</p> <p>National-led structures in place to drive commitment to inter-agency collaboration by public service bodies and monitor and assess progress</p> <p>Local structures in place to support a partnership approach, strong community</p>	<p>Improved multi-agency approach to community safety, including more integrated service delivery, less duplication and more effective and targeted use of resources</p> <p>Community identification and prioritisation of the local safety issues that matter to them, and accountability of services in delivering on those priorities</p> <p>Increased confidence of communities in local service providers</p> <p>Increased sense of safety in communities</p>

		engagement and accountability on the part of stakeholders More efficient use of resources across agencies to target community needs	
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1. Background and policy context

The Garda Síochána Act 2005 sets out the functions of An Garda Síochána and the governance and oversight arrangements that apply to the organisation and its personnel. It has been amended on a number of occasions, most notably in 2015, to provide for the establishment of the Policing Authority to oversee the performance by An Garda Síochána of its functions in relation to policing services. The Authority sits alongside two other oversight bodies – the Garda Síochána Ombudsman Commission (GSOC) and the Garda Síochána Inspectorate. The Garda Commissioner is accountable to the Minister and Government and also to the Committee of Public Accounts as accounting officer.

In May 2017, the Government established the Commission on the Future of Policing in Ireland (COFPI) to conduct a fundamental review to encompass all functions carried out by An Garda Síochána (concerning community safety, state security and immigration) and the full range of bodies that have a role in providing oversight and accountability for their activities: the Policing Authority, the Garda Inspectorate, GSOC, joint policing committees, the Department of Justice and Government having regard to the need for democratic accountability.

As acknowledged in the terms of reference the Commission was established against a backdrop of a decade of continuing public controversy in relation to An Garda Síochána. In particular there was a concern that despite wide ranging measures taken to address the causes of those controversies, including the establishment of a new oversight framework in the Policing Authority and the ongoing implementation of a reform programme within An Garda Síochána, concerns remained in relation to the accountability of the police service, its leadership and management capacity and its culture and ethos, and their potential to undermine public confidence in policing and the legitimacy of An Garda Síochána. There was also a concern that the challenging context in which all police services operate necessitated a wide ranging and fundamental review. The terms of reference invited the Commission to bring forward proposals for the future of policing addressing:

- the structures and management arrangements required for the most effective delivery of policing (including all functions currently carried out by An Garda Síochána – community safety, state security and immigration);
- the appropriate composition, recruitment and training of personnel;
- the culture and ethos of policing;
- the appropriate structures for governance, oversight and accountability to ensure, *inter alia* that policing operates within a clear framework of governance and accountability to the law and the community, that is supported by coherent structures;

- the legislative framework for policing, to ensure that it is adequate to meet the challenges of modern policing.

The Commission comprised of national and international experts in diverse fields. It was tasked with consulting widely in the course of its work. Those consultations included a call for submissions, public meetings, visits to garda stations, a survey of garda personnel, and engagement with senior government leaders, politicians representing all parties, officials from numerous State bodies including the policing oversight bodies, academics in Ireland and abroad, officials from other jurisdictions, garda members of all ranks, and garda staff.

Its deliberations also included the report prepared by the Policing Authority under section 62O of the Garda Síochána Act 2005 which required the Authority within 2 years of its establishment to submit a report to the Minister on the effectiveness of the Authority and the adequacy of the functions assigned to it by the Act. The Minister referred the report and its recommendations to the sitting Commission to consider and take into account in its work. The reports of the Effectiveness and Renewal Group (the ERG) in relation to the Department of Justice, a group of independent experts also informed the work of the Commission.

The Commission submitted its report to Government in September 2018. Its central finding was that the systems in place in An Garda Síochána itself but also the wider national framework for policing, security and community safety needed to be significantly strengthened. The Commission warned that the system as constituted is “set up to fail” and unless it was transformed as proposed by the Commission changes in personnel and increases in size would not turn the situation around and controversies would continue to engulf the police service and escalate to the most senior levels of Government. The Commission’s vision for the future of policing involved far reaching change across the whole of Government and within An Garda Síochána. It envisaged a new framework for policing, security and community safety and made 50 key recommendations. In summary, the Commission recommended:

- a new approach to policing and community safety that would ensure that Gardaí were more visible in communities and an emphasis on working in partnership with communities and preventing harm and protecting vulnerable people in cooperation with relevant state agencies;
- measures to deliver a professional, modern, and effective police service fit for the 21st century that is well-managed, efficient and cost effective, properly trained and equipped, has ethics at its core and is clearly accountable to the people;
- a multi-agency framework for national security headed by a national security co-ordinator to provide long-term threat analysis;
- a new coherent framework for independent oversight of policing and community safety with a clear mandate for effective scrutiny, which will promote professional

standards of policing and ensure fully independent investigations of allegations of wrongdoing by garda personnel.

Following the publication of the report the Minister undertook consultations with key stakeholders including other Departments of State, An Garda Síochána, and the policing oversight bodies as part of the deliberative process to consider the recommendations and to develop a high level implementation plan for submission to Government within 3 months. The Government approved the plan - A Policing Service for our Future - in December 2018. In that context the Government approved the preparation of the General Scheme of the Policing and Community Safety Bill which would repeal the Garda Síochána Act 2005 (as amended) in full to give effect to the COFPI recommendations regarding a coherent governance and oversight framework for policing and to make community safety a whole of government responsibility.

Having regard to the Programme for Government commitments to rapidly implement the COFPI Report (while ensuring that there remains a strong and independent public external accountability mechanism for the Garda Commissioner and the senior leadership team) and to introduce a new Policing and Community Safety Bill, the General Scheme of the Bill was approved by Government on 27 April 2021 and referred for priority drafting and for pre-legislative scrutiny.

The December 2018 Government Decision also approved, in principle, the establishment of an Independent Examiner of Security Legislation, subject to an examination of the functions of such a role and the detail of the statutory powers that would be required for the role. Following completion of that work, provision for the establishment of the Independent Examiner of Security Legislation was included in the Bill as it will complement the stronger independent external oversight regime proposed for policing. Accordingly, “security” has been included in the title of the Bill to better indicate its content. The security aspect of the legislation is outside the scope of this regulatory impact analysis.

In developing the Bill other reports including the reports of the Disclosures Tribunal, the reports of the Policing Authority and the Garda Inspectorate and the legislative review undertaken by GSOC were examined and taken into account.

2. Objectives of the Bill

The Bill provides for a new framework for policing, security and community safety aimed at improving the performance and accountability of the policing and security services to the benefit of the safety of communities.

The Bill when enacted will repeal the Garda Síochána Act 2005 (as amended) in its entirety.

The main objectives of the Bill include:

- to recognise the prevention of harm to individuals, particularly those who are vulnerable or at risk, as an explicit objective of An Garda Síochána;
- to provide a new coherent governance and oversight framework for policing that will strengthen both the management of An Garda Síochána and independent external oversight supporting clear and effective accountability and ultimately better policing;
- to make community safety a whole of government responsibility by -
 - providing a new framework at national and local level to enhance community safety including through the establishment of Local Community Safety Partnerships, and
 - placing an obligation on Departments of State and public service bodies to cooperate with An Garda Síochána and each other in relation to enhancing community safety.

The governance of An Garda Síochána will be strengthened through empowering the Garda Commissioner, as the “true CEO”, to lead the organisation and drive reform. The Commissioner will be supported, and held to account for his or her performance, by a non-executive board, a corporate governance standard in the public and private sector. The additional functions of the Commissioner will, similar to the CEOs of other public sector bodies, include workforce planning, human resources and industrial relations, and finance. The Commissioner’s operational independence is made explicit. The Board of An Garda Síochána will be accountable to the Minister for its performance. The Commissioner will continue to be required to keep the Minister and the Secretary General of the Department informed of significant matters and to account to the Minister and Government for policing and security matters. The Commissioner will continue as the Accounting Officer and be accountable to the Committee of Public Accounts and required to attend before other Oireachtas Committees.

Independent external oversight will be strengthened through the new Policing and Community Safety Authority (PCSA) and the renamed and reorganised GSOC – the Office of the Police Ombudsman.

The PCSA will merge the broad-ranging oversight functions of the existing Policing Authority and the inspection functions of the Garda Inspectorate superseding both bodies. It will oversee and assess in an independent and transparent manner the performance of An Garda Síochána in relation to policing services but with the benefit of an in-house empowered inspection function. It will (as is the case with the Policing

Authority) be required to hold meetings in public with the Garda Commissioner and the senior leadership team. It will not undertake executive functions in relation to An Garda Síochána.

The three person GSOC will be replaced with an Ombudsman /Deputy Ombudsman model so that it will have a clear and publicly identifiable head. It will also become a vote holding body to reinforce its independence. It will have an expanded remit in terms of garda personnel and the range of allegations of wrongdoing by garda personnel that come within its jurisdiction to investigate. The system for the handling and investigation of allegations of wrongdoing will also be substantially reformed to support a streamlined, simplified approach with appropriate safeguards that will be to the benefit of complainants, An Garda Síochána and the wider public.

The totality of the changes contained in the Bill - the new governance and oversight framework for An Garda Síochána, the complimentary strengthening of oversight of the wider national security area through the establishment of the Independent Examiner of Security Legislation, and the national and local structures proposed to drive interagency cooperation and community engagement to ensure that people are safe and feel safe in their communities - will see the policing and security landscape transformed in the coming years.

The framework contained in the Bill is consistent with the constitutional requirement that the Government retains ultimate control in relation to matters of fundamental importance to the exercise of executive powers in these matters while allowing for the delegation of appropriate policing matters.

3. Description and evaluation of Policy Options

(A) Governance and oversight framework for policing

The following options were considered:

- (1) Do nothing
- (2) Provide for a new coherent governance and oversight framework for policing in line with COFPI's package of recommendations replacing the Garda Síochána Act 2005
- (3) Make limited changes to the existing framework - merge the Garda Inspectorate and Policing Authority in one body, establish an executive board of An Garda Síochána with some external membership, and reform GSOC's structures and processes amending the Garda Síochána Act 2005

(1) Do nothing

The Commission endorsed the view of the First Report of the ERG in relation to the Minister's Department that the existing arrangements emerged "reactively and rapidly" in response to crises. It found that they are "confused", with "a lack of clarity" and "some overlap between the respective roles of the various bodies." It further found that there is a lack of distinction between the roles of some of these oversight bodies and the responsibility of An Garda Síochána for its own governance. It noted that, like police chiefs elsewhere, the Garda Commissioner combines an operational role as chief of police and a management role as chief executive and that the current arrangements do not give the Commissioner the powers needed to run the organisation effectively – without those levers of control he or she cannot be held to account effectively. It made it clear that it considered the conflation of governance/executive functions and oversight in the Policing Authority to be problematic and counterproductive as it compromises the independence of external oversight. In combination, the Commission concluded that these issues mean that the system, notwithstanding the good work done by all involved, is "set up to fail" with responsibility resting nowhere to the detriment of clear and effective accountability for policing.

In relation to the pace of reform within An Garda Síochána notwithstanding many reports, it found that the organisation needs much improved internal governance and management systems both for implementing change and for taking ownership of its future direction.

The Commission found that the Department of Justice is involved in many aspects of management of An Garda Síochána that go beyond accountability and made clear that it should not be involved in day-to-day management and that a lack of management capacity on the part of the garda organisation should no longer be a reason for the Department to provide such support.

In relation to the regime for dealing with complaints the Commission found that the regime as a whole was clearly unsatisfactory from all perspectives (garda members, complainants and GSOC itself) and requires an urgent overhaul. It noted limitations on its jurisdiction, constraints on its investigative process which makes it cumbersome and inefficient, and resource constraints which result in serious complaints being referred to An Garda Síochána for investigation impacting GSOC's independence. It noted that a comprehensive review of the legislative process was already underway in the Department of Justice on foot of proposals from GSOC.

Doing nothing is clearly not tenable having regard to the previously recognised challenges in relation to the complaints regime. This recognised need for reform is strengthened by the seriousness of the findings around the broader governance and oversight framework which were arrived at following an independent objective assessment by a diverse group of experts who consulted widely. While maintaining the

status quo would have no direct cost implications and would have the benefit of allowing the existing bodies to continue to perform their statutory functions without the uncertainty and challenge that transitioning to a new system would involve the continuation of an incoherent governance and oversight system carries unquantifiable future costs and risks impacting the delivery of policing services, effective accountability, the safety of communities and public confidence in An Garda Síochána.

(2) Provide for a new coherent governance and oversight framework for policing in line with COFPI's package of recommendations replacing the Garda Síochána Act 2005

To address the serious deficiencies outlined above the Commission designed a new framework based on clearly delineating between management of An Garda Síochána, independent external oversight and the role of the Minister/Department to ensure all elements of the system have clear and distinct roles supporting strong internal governance, and clear and effective oversight and accountability as follows:

- democratic accountability which is the responsibility of the Minister and the Government;
- external oversight which is the responsibility of appointed bodies each with their defined duty to monitor, inspect or investigate to support accountability - to be provided by two bodies - a new truly independent oversight body to supersede the Policing Authority and the Garda Inspectorate to provide robust, public scrutiny of policing performance with some expanded functions in relation to promoting community safety and a renamed and reformed GSOC with an expanded remit;
- internal governance and day to day management of An Garda Síochána which is the responsibility of the police themselves — an empowered Garda Commissioner supported and held to account by a non-executive board.

The Commission endorsed the First Report of the ERG which recommended that the role of the Minister's Department (in addition to taking the lead on securing resources in the context of the annual Estimates process and its role in relation to appointments to leadership positions) should be threefold:

- transparent and timely communication of information required in the public interest,
- structural oversight of An Garda Síochána and oversight bodies (with a properly costed budget in a multi annual format being central to the Department's discharge of its oversight role in relation to An Garda Síochána), and
- the development of policing and security policy.

It linked its view on this point to its recommendations aimed at ensuring that the Commissioner has the necessary tools to manage the organisation as a CEO supported by a stronger governance apparatus.

In relation to the reform of GSOC, as referred to above, the Commission made a number of additional recommendations noting that the regime as a whole was clearly unsatisfactory from all perspectives – garda members, complainants and GSOC itself. It noted that a comprehensive review of the legislative process was already underway in the Department of Justice on foot of proposals from GSOC. It made a range of recommendations including that:

- GSOC's independence should be reinforced (in addition to renaming it) by the body assuming the accounting officer role in respect of its budget;
- garda staff should come within its remit;
- it should investigate all complaints itself (other than minor service level type complaints that should be sent to An Garda Síochána for resolution);
- it should have an expanded remit to deal with allegations of wrongdoing that are not the subject of a complaint from the public;
- its processes should be clear and simple to enhance both swiftness and transparency;
- the Department should consider the appropriate structures including the need for the three person commission model to lead the reformed body.

Following further consideration by the Department a single Ombudsman supported by a Deputy Ombudsman with a chief executive officer to undertake the accounting officer role was identified as the preferred structure. This model was considered to offer the benefits of a clear and publicly identifiable head, a streamlined and easily understood governance structure, and to enable persons with the appropriate skillset to be recruited for the roles of Ombudsman and Deputy and the role of CEO/accounting officer.

The implementation of a new framework as recommended by COFPI is the preferred option and is the framework reflected in the Bill – see section 2.

Costs

The implementation of this option as reflected in the Bill would give rise to some one-off and ongoing costs. What follows is an indication of those costs pending the conclusion of detailed work to design the structures of the new and reformed bodies and quantify their precise resource requirements to discharge their statutory mandates.

Board of An Garda Síochána: The costs arising from the establishment of the Board would include those associated with the remuneration and expenses of the members and the costs associated with the provision of a small secretariat by the Garda Commissioner (including pay and non-pay expenditure e.g. office expenses). In line with Department of Public Expenditure and Reform guidelines for the board of this type, the projected costs for the remuneration of a chairperson and 8 person Board is €149,592 per annum (€29,888 for the chairperson and €14,963 for each ordinary member) with estimated allowances for expenses of €20,000 per annum. The Secretary is to be a senior member of garda staff at principal officer level whose cost is estimated at €150,048. The number and grade of the staff of the secretariat is to be determined as a part of the planning for the establishment of the Board. Non-pay running costs of the secretariat are estimated at €50,000 per annum after start-up. Start-up costs including initial costs for the appointment of a chair designate /secretary for 2023 of €100,000 have been allocated. This work is aligned to the Department's Implementation Programme for the Bill and is the subject of a dedicated project work-stream involving representatives from An Garda Síochána and the Department.

The above does not include the general costs of running open selection processes to identify suitable persons for appointment.

Policing and Community Safety Authority: The new body is in essence a merging of the core functions of the Policing Authority and the Garda Síochána Inspectorate. In this regard, a baseline cost is the total of both bodies' current budget which is approximately €5.53M per year (the Policing Authority's budget for 2023 is €4.1M and the Garda Inspectorate's budget for 2023 is €1.4M). Provision is made for the staff of the Policing Authority and the staff of the Garda inspectorate to transfer to the new body.

A sum of €260,000 (€200,000 for the Policing Authority and €60,000 for the Garda Inspectorate) was provided between both bodies for preparations through Estimates 2023. A detailed analysis exercise is to be conducted to design an operating model and structures which will enable the effective implementation of the specific functions of the new body and the identification of the precise resource requirements. A request for tender for this exercise is being finalised. This work is aligned to the Department's Implementation Programme for the Bill and is the subject of a dedicated project work-stream involving representatives from the Policing Authority, the Garda Inspectorate and the Department.

Office of the Police Ombudsman: GSOC is to continue in being but is to be renamed and operate within a reorganised leadership structure with an expanded remit and a more complex caseload. The move away from the three person commission may include some cost savings. However, it is anticipated that current costs will rise to reflect the body's enhanced remit and that once off costs relating to its renaming and reorganisation will also arise. GSOC's annual budget for 2023 is €16.2 million and as of

the end of July 2022 it had 153 staff (excluding the 3 Commissioners). It expects to have 167 staff by the end of this year.

An independent business analysis provider has been contracted to prepare and furnish a report assessing the projected size and make-up of its future caseload and recommending an operational business model to meet the new body's future needs across all areas of its operations and containing a roadmap for implementation including estimated costs. A draft report is expected to be completed in November 2022. This work is aligned to the Department's Implementation Programme for the Bill and is the subject of a dedicated project work-stream involving representatives from GSOC and the Department.

The additional funds of €2.75M provided in Estimates 2023 includes provision for the recruitment of a CEO designate and Ombudsman designate together with other preparatory costs.

These costs need to be considered against the longer term savings to be achieved by implementing the new system of governance and oversight – a better run Garda organisation with sound management processes with clear ownership of delivery of reform will manage resources better and reduce waste; the implementation of strategic reforms will improve longer term delivery of policing and deliver substantive benefits in return for any additional investment.

Benefits

This option has the obvious benefit of streamlining what might be described as the cumbersome nature of the existing oversight system by folding the Policing Authority and the Garda Inspectorate into a single oversight body - the PCSA - reducing the number of bodies by one and the shortening of decision making around some executive functions (e.g. workforce planning) with the PCSA focused exclusively on independent oversight. The benefits go well beyond this however, by ensuring that each element of the framework has clearly defined functions, and critically, the necessary powers to discharge their responsibilities and be held to account for the performance of their functions. The option is a comprehensive solution that aims to improve the governance of An Garda Síochána from within while strengthening external oversight – previous attempts have tended to focus only on improving the performance and accountability of the garda organisation through external oversight mechanisms.

The introduction of a board of An Garda Síochána is novel in the policing space. The proposed board is to be distinguished from an external oversight body or a regulatory body – it is a non-executive corporate board similar in many respects to the boards of other public service bodies and is recognised as the best practice standard for the governance of large bodies. An Garda Síochána, as one of the most critical public services in the State and a large body with an annual budget of in excess of €2 Billion

and a workforce of in excess of 18,000 personnel (and growing), requires a strong and efficient governance structure to support the Garda Commissioner and the senior leadership team in running the organisation. It is integral to the proposed framework, bringing a number of specific benefits including:

- providing reassurance of strong internal governance;
- ensuring strong forward planning, with risks identified at an early stage and mitigated;
- bringing in specific outside expertise (such as in digital, human resources, change management, data, innovation and leadership) and an external and independent perspective supporting the Commissioner's capacity to plan and manage the garda organisation;
- providing robust but constructive internal challenge strengthening capacity to interrogate decision making;
- supporting and assisting with horizon scanning and providing systemic capability to future proof plans;
- overseeing the development of major corporate strategies, annual costed service plans, and governance standards and controls;
- providing a more appropriate framework for the relationship between An Garda Síochána and the Minister as recognised by the ERG;
- creating the level of trust to enable the Department to pull back from involvement in day-to-day management.

In examining this option potential downsides were considered including whether it would dilute independent oversight. In this regard the minority report of the Commission which did not support the establishment of a board as part of the solution to addressing the serious deficiencies identified was considered. It favoured the strengthening of the Policing Authority as an alternative.

Good corporate governance is recognised as being the responsibility of the management/boards across all sectors and is one means of supporting effective accountability of the people within an organisation and of the organisation itself. While policing is unique in view of the extraordinary powers accorded to police officers, that uniqueness does not require different or lesser governance structures to other large bodies, rather it is recognised by providing robust external independent oversight arrangements. As noted by COFPI the Garda Commissioner is performing two roles – that of chief of police and CEO – and (irrespective of the office holder at any given time) would benefit from the support and challenge that a suitably skilled corporate board can provide to the person charged with running a large organisation. A board such as that proposed has a stake in the success of the organisation and would be expected to work constructively with the management through a combination of challenging them and supporting them. An external oversight body that is charged with scrutinising and critiquing performance including in public is not well placed to provide this type of

supportive governance to the management of an organisation and enable them to take ownership of their own future strategies and plans and be held to account for delivery. The addition of the Board enables an appropriate realignment of responsibilities with the Board focused on ensuring strong and efficient governance within An Garda Síochána and the PCSA focused on providing robust external scrutiny drawing on its enhanced inspection powers and public engagement mandate. Important considerations in the development of the legislation to counter any risk of dilution of oversight were identified including: that the body have a clear public scrutiny mandate, that the Garda Commissioner continue to have a strong statutory obligation to assist and cooperate with the body and to report to it and provide it with information; that the body's remit be sufficiently broad-ranging to enable it to carry out similar work to that which the Policing Authority has done successfully in relation to, for example, shining a light on the cancellation of 999 calls and the recording of homicide data.

A further possible downside considered was a concern that the reassignment of certain executive functions to the Garda Commissioner (under the supervision of the Board) would be viewed as regressive. Of particular note in this regard is the appointment of senior officers. The selection and appointment of senior officers was transferred to the Policing Authority to remove the perception of political interference – such officers were appointed by Government following a competitive merit-based process undertaken by the Garda Commissioner in accordance with regulations. The Policing Authority is recognised as having done a good job undertaking the competitions in a timely and efficient manner. However, it has the effect as identified by COFPI of creating a confused framework blurring executive responsibilities with independent oversight and also results in a body whose purpose is independent oversight of policing devoting resources to running competitions that could be done by the specialist Public Appointments Service. It is considered that the involvement of the Public Appointments Service in undertaking future selection competitions on behalf of the Garda Commissioner addresses any concern.

Impacts

Overall it is considered that this option has the potential to result in a better run police service that has ownership of delivery of its strategies and plans, more effective accountability at an organisation and individual level and, in the longer term, improved delivery of policing services with related benefits in terms of public confidence and safer communities.

(3) Make limited changes to existing framework – merge the Garda Inspectorate and Policing Authority in one body, establish an executive board of An Garda Síochána with some external membership, and reform GSOC's structures and processes amending the Garda Síochána Act 2005

More limited changes were considered having regard to submissions received as part of the consultation exercise undertaken by the Minister in Autumn 2018 following the publication of the COFPI report (see section 1). The changes included:

- merging the Garda Inspectorate and the Policing Authority – the Authority would continue as a hybrid body combining oversight and executive functions in respect of the body it is overseeing;
- establishing an executive board of An Garda Síochána with some external members;
- proceeding with the reforms of GSOC as outlined under option 1.

Merging the Garda Inspectorate and the Policing Authority would reduce the number of bodies by one and address to a limited extent the identification of the system of oversight by some as cumbersome. It would also ensure that the Policing Authority had the benefit of an in-house inspection function and access to real time information to support its oversight of An Garda Síochána in relation to the provision of policing services. It would not, however, address the challenges around An Garda Síochána not having ownership of its future strategies and plans or the levers to manage and drive reform – an accountability deficient would remain. In addition, combining the Authority's executive functions, in particular those relating to selecting and appointing senior members, with the powers to conduct inspections could be perceived as being at odds with the independence required to undertake inspections and could risk undermining the trust and confidence critical to the effective performance of the inspection role.

Establishing an executive board chaired by the Garda Commissioner with some external members, along the lines of the Executive Management Board that was legislated for in 2007 but ultimately not proceeded with at that time was considered. The role of such external members would be advisory only. While a number of external voices on an executive board would have the potential to bring an outside perspective to bear on discussions, their impact would be limited. Such a board would not be in a position to hold the Commissioner and the senior leadership team to account for their performance as is intended in the case of the non-executive board as they would be members of the executive board and would, in effect, simply be holding themselves to account.

While the direct costs would be broadly similar to those identified in relation to option 1 with the exception of those relating to the Board the option would have minimal potential to improve the governance of An Garda Síochána and lead to a better run organisation or in the longer term delivery of better policing services. The confusion in the existing governance and oversight framework identified by COFPI would remain as would the accountability gap and associated risk of controversies destabilising An Garda Síochána and escalating to the highest levels of Government.

(B) Community Safety

The following options were considered:

- (1) Do nothing
- (2) Provide for the specific measures identified by COFPI to support the whole of government approach to community safety recommended by COFPI
- (3) Provide for a new strategic framework at national and local level to support the whole of government approach to community safety recommended by COFPI

(1) Do nothing

The Commission found that while crime is a top priority for police, in practice the majority of police time is spent on harm prevention providing services to people who are vulnerable or at risk. It further found that the Department of Justice, An Garda Síochána and other agencies in the criminal justice system cannot, acting alone, provide an adequate response to such harm prevention issues. Other Departments of State and agencies responsible for people at risk, including local authorities, health, child and social services, should work together to protect people from harm.

To reflect the reality of everyday policing the Commission recommended that policing be redefined to include the prevention of harm and that a statutory obligation be placed on relevant Departments of State and agencies to cooperate with An Garda Síochána in relation to the duty to protect people from harm. This would reciprocate the existing statutory obligation on An Garda Síochána to cooperate with state agencies in the performance of their functions. The Commission also made a series of recommendations aimed at developing multi-disciplinary approaches at national and local level so that An Garda Síochána and concerned agencies would be well equipped to handle crises together.

Many communities in Ireland are significantly affected by crime and the fear of crime. These are serious matters which can adversely affect quality of life within communities, therefore the Commission recommended that policing and harm prevention, to be effective and to address such issues, must also be done in collaboration with communities at the local level.

While, as recognised by the Commission, there are examples of good cooperation on the ground there is consensus among relevant Departments that nationally mandated inter-agency arrangements are required to support joint working and to remove ambiguities around ability to conduct joint operations and share relevant information.

There would be no direct financial costs to the Exchequer associated with this policy option. However, intangible costs would arise through lost opportunities for agencies to collaborate effectively in the performance of their respective functions to improve community safety and to work collaboratively with local communities to tailor initiatives to their individual needs.

This option is not considered feasible.

(2) Provide for the specific measures identified by CoFPI to support the whole of government approach to community safety

As noted above the Commission recommended that policing be redefined to include the prevention of harm and that a reciprocal statutory obligations be placed on relevant Departments of State and other agencies to cooperate with An Garda Síochána in relation to the duty to protect people from harm.

To support multi-disciplinary approaches it recommended a range of practical measures including:

- information sharing protocols;
- joint strategic plans between relevant agencies and An Garda Síochána;
- establishment of crisis intervention teams at divisional level;
- the colocation of emergency social services with An Garda Síochána to support close cooperation.

It recommended that the core functions of the policing oversight body to supersede the Policing Authority and the Garda Inspectorate include: fostering and monitoring interagency working and engendering a broad acceptance of community safety as a task for the community as a whole, not for the police alone; and supporting effective Joint Policing Committees or local policing fora to work with the police and other agencies to set local community safety objectives and priorities. It made clear that this role would not involve the new body monitoring the work of health, social services and other agencies except in so far as they should be working with An Garda Síochána to help people whose safety is at risk or who may pose a risk to the safety of others.

To ensure that policing is seen as a collective responsibility at the highest levels and not just an isolated task of the Department of Justice and An Garda Síochána the Commission recommended that the Cabinet Committee on Justice matters be expanded to include relevant Ministers and that it should hold at least two meetings a year focused on community safety. Its stated purpose would be to forge a comprehensive government approach to the problems of community safety, crime reduction and protection of people at risk and ensure agencies are cooperating.

Community safety by its nature is a broad concept; potentially encompassing any policies, initiatives and programmes that might impact on a given community's sense of safety or actual safety. Given the breadth of the community safety concept and the vast range of bodies with a potential role in its delivery it was considered necessary to carry out further policy development work to inform the legislative framework to ensure that it would be effective in driving a step change in inter-agency collaboration and engagement with communities and in embedding a collective responsibility for improving community safety across Government.

A subgroup on community safety was established by the Department of the Taoiseach under the auspices of the Implementation Group on Policing Reform to support this policy development work and enable the participation of Departments and agencies with a role in community safety (including An Garda Síochána and the policing oversight bodies). It acted as consultative forum and discussed themes including:

- creating a shared understanding of community safety between all Departments and bodies/agencies,
- the need for a framework for community safety at national and local level that would foster a multi-sectoral approach to community safety with a particular emphasis on being fit-for-purpose at the community level,
- the need to establish a statutory obligation on Departments and agencies to cooperate on the delivery of community safety to seek to balance the existing one-sided obligation on An Garda Síochána to cooperate with other Departments and agencies, and
- how oversight of community safety might best be structured taking account of the recommendations of the Commission in relation to the role of the new policing oversight body.

Having regard to an examination of national experiences of inter-agency co-operation and international experience and best practice the key findings that emerged as being central to positive engagement around community safety by the wide range of actors were that:

- improving community safety is fundamentally dependent on co-ordination across Departments of State and agencies;
- strong leadership at national level including a national strategy is essential;
- clear accountability arrangements, budget management, and capacity development on the part of local communities are central to effective implementation;
- having solid implication structures in place facilitates clear decision-making processes, monitoring of progress and evaluation of outcomes;

- the structured approach provides important communication channels for stakeholders to allow issues to be addressed and opportunities to be identified as well as increasing service integration.

In relation to the examination of the proposed role of the successor body to the Policing Authority and the Garda Inspectorate a number of concerns were identified including:

- a concern that it would invest the new body with a vast and ultimately unrealisable oversight responsibility;
- the need to avoid creating duplicative and/or overly burdensome oversight mechanisms for statutory agencies that are already subject to their individual oversight mechanisms;
- a concern that the role envisaged for the body combining “fostering and monitoring” was conflictual.

The policy development work also considered the Joint Policing Committees (JPCs) as the current local structures for engagement between the community and An Garda Síochána and their suitability to play the role suggested by the Commission. The JPCs were broadly seen as performing a valuable function in fostering police-community relationships. However, the success and efficiency of JPCs was considered to be quite inconsistent with little standardisation of how JPCs operate in terms of quality and effectiveness notwithstanding the revised 2014 guidelines promulgated pursuant to section 35 of the Garda Síochána Act 2005. Many did not engage sufficiently in strategic planning. The effectiveness of individual JPCs was identified as being highly dependent on the quality of the chairperson. The membership of the JPCs was also identified as an issue, it being largely dominated by elected officials leading to an adversarial approach with the elected officials expecting the other JPC members (local authority and An Garda Síochána) to simply report to them and problem solve alone rather than in a collaborative partnership as originally intended. The limited membership offered little scope for the development of multi-agency solutions. The membership was also subject to criticism as lacking diversity in terms of, for example, young people, nationality or ethnicity. Another factor identified as impeding their operation was the lack of resources assigned to them. It was concluded that JPCs in their current form were too limited in scope and membership to effectively address broader community safety issues and that a different structure should instead be considered to ensure a community-driven multi-sectoral approach to community safety.

Taking account of the above findings and concerns this option was not considered to be sufficient. Instead a national-led strategic framework was identified as necessary to achieve the level of change required to embed a whole of Government approach to improving community safety with strong inter-agency collaboration and strong

community engagement. Taking account of the intended role of the successor body to the Policing Authority and the Garda Inspectorate in overseeing the performance by An Garda Síochána in relation to its community safety activities, especially those aimed at preventing harm to individuals who are vulnerable or at risk, it was recognised that there would be a need for formal linkages between that body and the new community safety framework. It was also recognised that that body would, through its engagement with An Garda Síochána, and its research and inspection functions, be in a position to promote community safety and inform the development of community safety policy.

(3) Provide for a new strategic framework at national and local level to support the whole of government approach to community safety recommended by CoFPI

Having regard to the policy development work referred to above a new framework at national and local level was developed and is the preferred option. It is built around the following:

- a national strategy on community safety to serve as an overarching policy framework and programme of actions to underpin a whole of government approach to community safety nationally;
- a designated Cabinet Committee to provide high level political oversight and accountability to Government;
- a national community safety steering group to provide senior leadership and direction for the implementation of the national strategy and fostering inter-agency cooperation;
- a national office for community safety headed by a director to have executive responsibility for delivering the objectives of the national strategy;
- local community safety partnerships to develop and implement local community safety plans that respond to the specific needs of the community. These partnerships will replace the existing JPCs and have an expanded remit and dedicated staff. Membership will include local representatives, service providers and a range of community representatives.

Under this policy approach all elements of the framework would be placed on a statutory footing to reflect the shared responsibility across Government and to give it the necessary permanency and focus to drive the high degree of change required to support concerted interagency cooperation. The framework would be supported by a statutory obligation on Departments of State and other public service bodies to cooperate with An Garda Síochána and each other on the delivery of community safety.

The successor body to the Policing Authority and the Garda Inspectorate - to be called the Policing and Community Safety Authority - would have a role in relation to

overseeing the performance of An Garda Síochána in relation to its activities to enhance community safety including keeping under review how it is delivering on the aspects of the national community safety strategy for which it is responsible. It would also have a role in promoting inter-agency collaboration and community engagement and in research into such subjects. To support this formal linkages would be provided with the various elements of the framework at national and local level including a consultative role on the national strategy, membership of the steering group and a right to attend local community safety partnership meetings. The National Director would also be required to assist the body by providing relevant information and attending meetings with it.

A number of pilot local community safety partnerships have been established to trial the concept and are subject to ongoing evaluation. The findings from the evaluation will inform any refinements of the policy approach and legislative framework and will inform the rollout of the partnerships nationwide in due course.

This option gives rise to some costs for the Exchequer relating to the establishment of the National Office for Community Safety and the Local Community Safety Partnerships. Initial projections for the National Office of Community Safety budget is €1.67M per annum including pay, non-pay expenditure (i.e. office expenses, overheads, travel and subsistence), a budget for communications projects and research and evaluation as well as a funding for training and capacity building for local partnerships and a grant and intervention budget for local partnerships. €100,000 has been provided in budget 2023 for preparatory work.

Initial projections for the annual budget for 36 Local Community Safety Partnerships across the country is estimated at €5.4M per annum. However, as the Local Community Safety Partnerships will replace Joint Policing Committees there will be a degree of counterbalance.

These costs need to be considered against the development of more integrated services and the more effective use of the resources available to public services bodies and the long term value of improving community safety from a societal and individual perspective.

5. Consultation

The Bill has been informed by extensive consultations. In the first instance, as noted at section 1, COFPI's Report and recommendations followed extensive consultation in line with its terms of reference.

Following the submission of the COFPI Report to Government in September 2018 the Minister for Justice undertook a round of consultations with key stakeholders including An Garda Síochána and the policing oversight bodies before presenting an implementation plan to Government for approval – A Policing Service for Our Future. The Government Decision in December 2018 to approve the plan included a commitment to consult with An Garda Síochána and the policing oversight bodies in the course of the development of the Scheme of the Bill to provide for a new coherent governance and oversight framework for policing. Extensive engagement took place with those bodies in the course of the development of the Scheme during 2019-2020. Similarly the bodies were consulted in the course of the development of the Bill in 2021-2022.

The Implementation Group for Policing Reform sitting within the Department of the Taoiseach and independently chaired provided a regular forum for consultations with other Departments in relation to matters connected with the Bill and particularly community safety. As noted above further policy work was undertaken within the remit of a subgroup of the IGPR to ensure that the legislative framework to be provided in the Bill would be effective in making community safety a shared responsibility. Departments and agencies with a role in community safety, An Garda Síochána and the policing oversight bodies were invited to participate in the working group and the output informed the development of the framework in the Bill.

Other parties consulted on the Scheme and Bill included the Data Protection Commissioner, the Director of Public Prosecutions, the Irish Human Rights and Equality Commission and the Public Appointments Service.

The General Scheme was also the subject of pre legislative scrutiny by the Joint Committee on Justice in 2021/22 and the Bill takes account of the recommendations from the process as contained in its report published on 1 June 2022 (www.oireachtas.ie).

6. Enforcement and compliance

(a) Governance and oversight framework for policing

Compliance with the applicable statutory framework will be the responsibility of the body concerned - An Garda Síochána, the Policing and Community Safety Authority and the Office of the Police Ombudsman - in the first instance.

Having regard to the Minister's overall responsibility for public safety the Bill includes a range of tools to support his or her accountability to the Oireachtas in respect of the performance of the bodies. These include requirements on the bodies in relation to

preparing governance frameworks, strategic planning, annual business planning, annual or special reporting arrangements (including concerning financial matters), the preparation of codes of ethics where appropriate, and arrangements to support the selection and appointment of competent senior leadership teams. The requirements have been tailored to respect the functional independence of the bodies concerned.

These statutory requirements will be supplemented by administrative arrangements based on the Code of Practice for the Governance of State Bodies (2016). The Criminal Justice Governance Function in the Department of Justice has primary responsibility for supporting the Minister's oversight responsibilities having regard to the statutory framework and the Code.

As required by the Code tailored oversight agreements will be concluded with each body under the Minister's aegis setting out the broad governance and administrative accountability framework within which the relevant body is to operate, and defining the key statutory and administrative roles, responsibilities and commitments that underpin its relationship with the Department. Annual Performance Delivery Agreements will also be drawn up with each body in accordance with the Code setting out the metrics and associated targets by which the performance of the relevant body will be measured during the year in question. A number of formal governance meetings will be held with the senior leadership of each body annually. In addition to these fixed points of engagement, the Department will regularly engage with the bodies throughout the year in order to monitor their performance and identify and address any issues that may affect their operations or performance.

The bodies will be vote holding bodies and will be accountable to the Committee of Public Accounts. The bodies will also be required to attend before other Oireachtas Committees.

(b) Community safety

The framework provided for at national and local level has been designed to support public service bodies in discharging their statutory obligation to cooperate with each other in improving community safety. A designated Cabinet Committee will provide oversight at the highest level while the functions of the Steering Group, the National Office and Safety Partnerships will enable the degree and effectiveness of cooperation to be kept under review and evaluated and challenges to be highlighted and escalated as needs be for resolution.

The individual public service bodies concerned will be subject to the governance and oversight arrangements applicable to them within their sector.

7. Review

The operation of the legislation will be kept under review in the context of the Minister's responsibilities for the oversight of bodies under the aegis of the Department of Justice, and for policy in relation to policing. The operation of the framework to improve community safety will be kept under review by the Minister and other relevant Ministers having regard to their respective policy responsibilities.

(a) Governance and oversight framework for policing

In addition to the governance and oversight arrangement referred to at section 6 the Bill makes provision for An Garda Síochána, the Policing and Community Safety Authority and the Police Ombudsman to review and evaluate the performance of their functions every 3 years. The totality of these arrangements will provide insight into the performance of the bodies concerned and the functioning of the overall governance and oversight framework provided for in the Bill.

(b) Community safety

Obligations to review are built into the national and local framework provided for in the Bill. The national community safety strategy will be reviewed within 6 years of its approval by Government. The functions of the National Community Safety Steering Group include to review and evaluate the effectiveness of the approved national strategy and of the National Community Safety Office. The functions of the National Office include the conduct or commissioning of evaluations relating to any of its functions and the operation of the local community safety partnerships. The functions of the safety partnerships include periodically reviewing their local safety plans. The outputs from the conduct of these functions will provide insight into the operation of the national and local framework provided for in the Bill.

8. Publication

The regulatory impact analysis will be published on the Department's website in tandem with the publication of the Bill.