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**GOVERNANCE FRAMEWORK (OVERSIGHT AGREEMENT)**

**THE DEPARTMENT OF JUSTICE AND EQUALITY  
AND  
THE GARDA SÍOCHÁNA OMBUDSMAN COMMISSION**

**2016-2018**

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## **1. Introduction**

The Garda Síochána Ombudsman Commission (hereinafter 'GSOC') was established as a statutory, independent body (under the Garda Síochána Act 2005) to provide independent oversight of alleged misbehaviour by members of the Garda Síochána. GSOC commenced operations on 09 May 2007. The Garda Síochána Act 2005 (as amended) stipulates that GSOC is independent in the exercise of its functions.

## **2. Objectives of the Agreement**

The key objectives of this Agreement are:

- To define GSOC'S role in the Justice and Equality sector;
- To define the Department of Justice and Equality's relationship to GSOC;
- To define the inputs, outputs and expected outcomes of GSOC's activities; and
- To support GSOC in carrying out its functions as detailed in the Garda Síochána Act 2005 (as amended).

## **3. Role of GSOC within the Justice Sector**

The Mission Statement of the Department of Justice and Equality is to "Maintain community and national security, promote justice and equity, and safeguard human rights and fundamental freedoms consistent with the common good".

GSOC has an important role in ensuring that public confidence in the Garda Síochána is safeguarded, and has extensive powers under the 2005 Act to enable it to carry out its responsibilities. Its main functions are as set out below.

- GSOC investigates complaints involving allegations of criminality by members of the Garda Síochána. GSOC's Designated Officers have full police powers in certain circumstances.
- GSOC may refer complaints regarding alleged misbehaviour of a disciplinary nature to the Garda Commissioner for investigation and it may choose to maintain oversight of progress in those investigations.
- Following investigations, GSOC may make recommendations to the Garda Commissioner; it may also forward files to the Director of Public Prosecutions.
- GSOC shall investigate any matter that appears to indicate that the conduct of a Garda member may have resulted in the death of, or serious harm to, a person.
- GSOC may also, even where it does not receive a complaint, and where it appears to it to be desirable in the public interest to do so, investigate any matter that appears to indicate that a Garda member may have committed an offence or behaved in a manner that would justify disciplinary proceedings. The Minister for Justice and Equality may also refer such a matter to GSOC for investigation.

- GSOC may examine any practice, policy or procedure of the Garda Síochána with a view to reducing the incidence of related complaints.
- Under the Protected Disclosures Act 2014, GSOC is prescribed as a body to which Garda members may make protected disclosures.

#### **4. Corporate Governance**

The Ombudsman Commission consists of three members who are appointed by the President on the nomination of the Government and following passage of resolutions by Dáil Éireann and Seanad Éireann recommending their appointment. At least one of the three members must be a man and at least one must be a woman. One of the members is appointed as Chairperson.

##### **Chairperson**

The function of the Chairperson of GSOC is to manage and control generally the officers, administration and business of the Ombudsman Commission. In addition, the Chairperson is responsible for the implementation of effective corporate governance and for ensuring that the Ombudsman Commission's statutory obligations are fully met.

##### **Current Ombudsman Commission**

The current Ombudsman Commission will serve up to 12 December 2016. The Chairperson of GSOC is Ms Justice Mary Ellen Ring. The other members of the Commission are Ms Carmel Foley and Mr Kieran FitzGerald.

##### **Location**

GSOC's Headquarters are located at 150 Upper Abbey Street, Dublin 1. It also has satellite offices in Cork and Longford.

#### **5. Mutual Commitments**

- Both parties to this Governance Framework (i.e. the Department of Justice and Equality and GSOC respectively) commit to proactive and timely communications, cooperation and information sharing on service delivery.
- Both parties support the promotion of partnership, responsiveness and mutual cooperation in their ongoing interactions.
- Both parties support prompt and timely responses to correspondence, information requests and related matters.
- Both parties commit to keeping each other fully apprised and updated on issues as appropriate.

#### **6. Inputs**

##### **Budget**

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The annual budgetary provision for GSOC will form part of the Estimates for the Justice and Equality Vote and the requirements of GSOC will be considered in that context.

The budget for GSOC for 2016 is €9.546 million. The Department of Justice and Equality will continue to keep the budget available to GSOC under on-going review in the light of its operational requirements.

### **Staff Resources**

GSOC is empowered to appoint its own officers, subject to the consent of the Minister for Public Expenditure and Reform and the Minister for Justice and Equality. Officers of GSOC are not staff of the Department; they hold office in the Civil Service of the State.

GSOC may make requests for exceptional staff needs to the Department of Public Expenditure and Reform, through the Department of Justice and Equality. Following the grant of delegated sanction for Vote 24, GSOC is not bound by the moratorium on recruitment and promotion in respect of posts up to and including Principal Officer (PO) (Standard), provided it remains within budget. In that context GSOC must certify to the HR Division, of the Department that it has the budget, in accordance with the terms of the delegated sanction, for any staff changes it intends to make. Sanction from the Department of Public Expenditure and Reform must still be sought in respect of recruitment for posts of PO1 and above. While decisions are a matter for the Department of Public Expenditure and Reform, the Department of Justice and Equality will commit to supporting GSOC where agreed necessary.

### **7. Outputs**

- GSOC will carry out its functions as set out in the Garda Síochána Act 2005 (as amended).
- GSOC will make every effort to provide an efficient and effective service for its various stakeholders.
- GSOC will make every effort to ensure that the highest level of cooperation is maintained with the Garda Síochána. The Protocols, agreed in September 2013 between GSOC and the Garda Síochána will be monitored by those bodies and amended as required. Where appropriate, issues emerging may be addressed by a committee to be established for that purpose, chaired by a senior official of the Department, with senior representatives from GSOC and the Garda Síochána.
- The Department of Justice and Equality will seek information from GSOC in respect of the Annual Verification Process regarding its compliance with the *Corporate Governance Standard for Justice and Equality Bodies* and the *Code of Practice for the Governance of State Bodies*. GSOC will provide the necessary response in an agreed and reasonable timeframe.

- GSOC currently have a delegated sanction of up to €50k on single items of expenditure. For sums above that amount GSOC will submit requests for sanction to the Department of Justice and Equality which must satisfy itself that the expenditure is necessary and justified and then seek the sanction of the Department of Public Expenditure and Reform. GSOC will seek prior sanction for any expenditure likely to arise in excess of the delegated sanction amount. Sanction will be sought by GSOC once it is clear that the cost will exceed €50,000 but before commitments are entered into.
- GSOC will ensure that expenditure for 2016 will not vary from its projected budgetary expenditure except in exceptional circumstances and following agreement from the Department of Justice and Equality's Financial Management Unit (FMU).
- GSOC will make use of best practice and innovative techniques in the areas of staffing, resourcing, budget, office management and security. GSOC's staff members will be utilised to optimal effect.
- GSOC will continuously monitor all aspects of the service it provides, engage with its stakeholders and contribute to policy development as required.

## **8. Annual Reports and Accounts**

Section 80(1) of the Garda Síochána Act 2005 (as amended) requires GSOC, not later than 31 March of each year, to submit to the Minister a report on its activities in the immediately preceding year.

Section 80(4) of the Garda Síochána Act 2005 (as amended) requires GSOC at the end of each five year period, commencing with the date of its establishment, to submit to the Minister a report reviewing the general performance of its functions in the preceding five years.

Each of GSOC's annual reports and five year reports must be laid before the Houses of the Oireachtas by the Minister for Justice and Equality.

Section 77(1) of the Garda Síochána Act 2005 (as amended) requires GSOC to keep proper books of account, including an income and expenditure account and balance sheet, as approved by the Minister for Justice and Equality with the consent of the Minister for Public Expenditure and Reform. Section 77(1) also provides that, not later than three months after the end of the accounting period to which the accounts relate, GSOC shall submit accounts kept under that section to the Comptroller and Auditor General for audit.

Section 77(4) of the Garda Síochána Act 2005 (as amended) requires the Minister to lay approved copies of the accounts before the Houses of the Oireachtas as soon as practicable after their presentation.

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## **9. Potential Risk Factors**

GSOC will ensure that an effective risk management framework is in place and will monitor its risk register on a monthly basis.

GSOC will keep the Department informed of any significant risks that arise at the appropriate time.

## **10. Supports provided by Department**

The Department of Justice and Equality will provide the following supports to enable GSOC to fulfil its mandate:

- where required, liaise with the Department of Public Expenditure and Reform on behalf of GSOC to ensure, as far as possible, timely sanction for expenditure and staffing in line with Public Financial Procedures and Civil Service HR Policy Guidelines;
- provide updates to GSOC on Public Financial Procedures and Civil Service HR Policy Guidelines;
- provide guidance to GSOC on Civil Service HR Policy, public expenditure, remuneration and industrial relations, procurement and contracts;
- provide guidance to GSOC on Government Accounting and Governance;
- provide advice to GSOC in relation to proposed ICT projects (and resulting expenditure) and prompt review (by the Department of Justice and Equality's ICT governance group) of the sanctioning of project related expenditure;
- liaise with GSOC in relation to Public Service Reform initiatives; and
- the Department of Justice and Equality will chair a committee established by the Minister for Justice and Equality to act as a forum where any difficult issues arise concerning the Protocols agreed between GSOC and the Garda Síochána.

### **Legislative reform**

The Government is pursuing a comprehensive programme of Justice reform. GSOC and the Department of Justice and Equality commit to ongoing consultation on legislative matters which relate to GSOC's functions.

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## **11. Monitoring Arrangements**

GSOC and the Department of Justice and Equality will provide each other with information to allow for monitoring of the operation of this Framework.

In line with the Department of Justice and Equality's overall approach to governance relationships with the Bodies and Agencies under its aegis, there will be formal governance meetings held between senior management of the

Department and GSOC at least twice each year, but more frequently if necessary.

Such meetings will afford both organisations the opportunity to inform one another and address any matters arising out of the operation of this Framework and will, inter alia, consider: developments, achievements, challenges encountered etc.

**12. Duration and Signatories of the Governance Framework**

The Secretary General of the Department of Justice and Equality and the Chairperson of the Ombudsman Commission agree that the arrangements as set out above will apply with effect from the date signed hereunder for a period of 3 years.

Mary Ellen Ring

Ms Justice Mary Ellen Ring  
Chairperson of the Garda Síochána  
Ombudsman Commission

DATE 12<sup>th</sup> July 2016

Noel Waters

Noel Waters  
Secretary General  
Department of Justice and Equality

DATE 12/7/16