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Measures to Support Traveller Education NTRIS 21/05/20 [GP] **NTRIS Education Pilot project**

Partners in the project include: Tusla Education Support Services, the Departments of Education and Skills, Justice and Equality, and Children and Youth Affairs, and Traveller and Roma representative bodies and Communities in pilot areas.

Based on data available on areas with large Traveller and Roma populations and on school attendance rates of children from Traveller and Roma communities, the following four locations for the pilot were identified and agreed by the relevant Departments and stakeholders:

- Galway: Tuam,
- Wexford: Bunclody and Enniscorthy,
- Dublin: Finglas, Ballymun and Coolock
- Cork

The total cost of the pilot is in the order of €2.2m. Each pilot area is being provided with the following resources:

- 1 additional Educational Welfare Officer (EWO) provided by Tusla
- 1 additional Home School Liaison Coordinator (HSCL) funded by Department of Education and Skills.
- 2 additional Traveller/Roma Education Workers drawn from the local communities employed by local Traveller/Roma Support Groups through the Department of Justice and Equality.

The pilots have commenced and the teams are in place in Tuam, Enniscorthy/Bunclody and North Dublin. The pilot in Cork will commence when the team is fully recruited which is currently ongoing. The teams will work together with parents, children and young people, schools, Traveller and Roma communities and service providers to remove the barriers impacting on Traveller and Roma children's attendance, participation and retention in education.

There are a total of 59 schools participating in the pilot, in which 1,378 Traveller and ROMA children are enrolled.

Essential elements of the programme include:

- Developing relationships with local Traveller and Roma communities
- Working with schools to identify and address in-school barriers to attendance and participation
- Working with parents to support their children's participation in school
- Encouraging and supporting attendance in Early Years Services
- Liaising with statutory, community and voluntary services to enhance attendance , participation and retention in school

- Supporting children and young people in transitions from Pre School to Primary, Primary to Post Primary, Junior to Senior Cycle and transitions to further and Higher Education
- Developing local action plans informed by local data and identified need
- Working with the partner Departments to share the learning and outcomes from the programme
- Being flexible and creative in developing innovative approaches to support Traveller and Roma, attendance, participation and retention in education
- Exploring and collaborating with other community and statutory initiatives that can support the programme e.g. DEIS initiatives.

Expected outcomes of the pilot include improved attendance, participation and retention of Travellers and Roma in education and improved engagement with Traveller representative groups.

In terms of assessment of the pilot, a research project to establish a baseline scenario of Traveller and Roma students' engagement, attendance, participation and retention has been commissioned by DCYA. It is intended that the pilot will inform future policy initiatives to support children and young people from the Travelling and Roma communities in their education.

Social Inclusion Unit
20/5/2020

COPFI Note 18/05/20 [FG]

General Scheme of Policing and Community Safety Bill

Governance and oversight framework - Garda Síochána Board and other reforms

Summary of key points (detailed note beneath)

- A key finding of the CoFPI report is that the current governance and oversight framework for policing is 'set up to fail' because it is confused with no clarity as to where responsibility lies between the Garda Commissioner, the Policing Authority and the Department/Minister.
- As responsibility is so diffuse no one is accountable and the end result is that when controversies arise they quickly escalate to the highest levels of Government.
- To address this, the CoFPI redesign of governance/oversight functions focuses on clearly delineating between the management of the Gardaí, independent external oversight, and the role of the Minister/Department.

Responsibility for running the Garda organisation will be situated where it belongs in any organisation - with the head of the organisation, the Commissioner. The legislation will confer on the office holder the levers of control to act as a true CEO (subject to normal public sector controls). He will be held to account by the Garda Síochána Board for how he manages the organisation.

- The Board, which is to be a non-executive State board (the Commissioner will not be a member; as a 'true CEO' he will report to it), will bring external expertise and robust constructive challenge to the Commissioner and his management team. It will oversee the development of major strategies, annual budgets and service plans, governance standards, risk and financial controls, and approve senior appointments/dismissals (other than of the Commissioner and Deputy Commissioners whose appointment or removal must remain with Government).
- The Board will not bear any relationship to the Garda Executive Management Board previously legislated for in 2007 which was never established. It is more akin to the Board of the HSE. It will have no Garda management members and it is intended that its membership will be people of the appropriate calibre with relevant expertise and experience, who will both challenge and support the Commissioner in his management of the organisation. Like any other Board (eg the HSE board), the Board will not involve itself in Garda operational matters, other than the extent to which something impinges on the reputation of the organisation or becomes a systemic issue.
- Again as is standard, the Board will be accountable to the Minister for its performance.
- It is worth noting that the Effectiveness and Renewal Group (ERG) for the Department of Justice and Equality was strongly supportive of the establishment of a Garda Board and indeed the Group recommended that boards (whether statutory or advisory) should be established for all the Department's medium sized agencies.
- The Commissioner will continue to be Accounting Officer and be accountable to the PAC and to other Oireachtas Committees.
- The Commissioner will be accountable to the Minister/Government for policing and security through the Secretary General of the Department.
- The operational independence of the Commissioner from the Board and Ministers will be made explicit in legislation.
- The Commissioner will continue in his own right to have obligations in relation to assisting and cooperating with the oversight bodies - a reformed Garda Síochána

Ombudsman Commission, the successor to the Policing Authority /Garda Inspectorate and an Independent Examiner for Security Legislation.

- The successor to the Authority/Inspectorate will be exclusively concerned with independent external oversight of policing and community safety including through public scrutiny – but it will not have executive functions in relation to the organisation it is overseeing. This will ensure that it is not conflicted and should simplify the relationship with the Commissioner,
- CoFPI designed this Board and external oversight model to create the necessary clarity and the levels of trust and confidence required to give the Commissioner the levers of control and to allow the Department to pull back from its involvement in routine management of the Garda organisation and fully implement its own transformation programme.
- Crucially, the Board is intended to act as a firewall between the Minister/Government and the Commissioner in the event of any issues emerging.
- In view of the unique role performed by police and security services on behalf of the State, governance and oversight arrangements put in place by most countries tend to involve multiple reporting and accountability lines, whether to the Minister/Government, parliamentary committees, and independent oversight bodies. CoFPI follows that logic in recommending:
 - The Board provides assurance to the Minister and Government in relation to the internal governance of the Gardaí.
 - The oversight bodies – the Policing and Community Safety Authority (working title), a reformed GSOC and the Independent Examiner for Security Legislation - provide strengthened independent oversight.
 - And the Department/Minister is focused on determining policy, providing information on policing and security to the Oireachtas/Public; exercising external governance mainly through the implementation of an annual costed Service Plan.

Briefing note

1. Purpose of note

The purpose of the note is to set out the background and context to the proposal of the Commission on the Future of Policing in Ireland accepted by Government, that a Garda Síochána Board should be part of the governance framework for the Garda Síochána. It reflects the Department's current thinking on how the Board fits into the overall architecture of governance, oversight and accountability of policing. The note also details current thinking on the role of the successor body to the Policing Authority/Garda Síochána Inspectorate – the Policing and Community Safety Authority (working title).

2. Background to CoFPI recommendation to establish Board

The Government approved the preparation of the General Scheme of the Policing and Community Safety Bill last December (S180/20/10/1002C) to provide for the establishment of a non-executive Garda Síochána Board to strengthen the internal governance of the Garda organisation. The Board is part of a package to address the serious finding of the Commission on the Future of Policing (CoFPI) that the existing system for governance and external oversight acts to the detriment of clear and effective accountability. CoFPI referred to a *“system set up to fail”* while the Effectiveness and Renewal Group referred to a system that had evolved so that *“the buck stops nowhere”*. The cause as identified by CoFPI is that the current system blurs management/governance of the Garda Síochána and external oversight resulting in a confused system that lacks clarity as to where responsibility lies. In particular:

- the Garda Commissioner in the dual role of chief police officer and chief executive does not have the powers needed to run the organisation effectively, to drive reform and to take ownership of the future direction of the organisation - without those powers s/he cannot be held to account effectively for his/her performance;
- the Policing Authority is a hybrid body mixing executive functions in relation to the body it is to oversee and responsibility for independent external oversight of that body - the underlying messages in CoFPI are that this model creates a conflict and also has the effect of disempowering the Garda Commissioner in his/her role as chief executive;
- the Department of Justice is involved in many aspects of management of the Garda organisation that go beyond accountability and finds itself *“in the trenches with Gardaí, handling operational crises together in a state of mutual dependence”*. This is partly attributable to a lack of management capacity in the Garda Síochána.

To strengthen accountability and to ensure that the *“buck stops where it should”* CoFPI recommended a model that clearly delineates between:

- democratic accountability which is the responsibility of the Minister and his Department with activity focused on policing and security policy, structural oversight of the Garda

Síochána (with a costed annual plan at its core) and the oversight bodies, and provision of timely information required in the public interest;

- day to day management/internal governance of the Garda Síochána which is to be the responsibility of an empowered Garda Commissioner supported by a non-executive board;
- external oversight which is to be the responsibility of two independent bodies - a reformed Garda Síochána Ombudsman Commission (GSOC) and a new truly independent external oversight body to replace the Authority and the Inspectorate to provide robust, public scrutiny of policing performance with some expanded functions.

The non-executive Board, a corporate governance standard across the private sector and a feature of many public sector bodies, is integral to the model. It:

- will bring external expertise and an independent perspective to the management of the Garda organisation providing robust but constructive internal challenge,
- will hold the Garda Commissioner (who will not be a member of the Board) to account for the performance of his/her functions and in turn be held to account for the performance of its functions by the Minister/Government;
- is necessary to create the levels of trust and confidence required to give the Commissioner the levers of control to take the executive decisions around HR, IR, finance etc. needed to run the organisation and to allow the Department of Justice to pull back from its involvement in routine management and fully implement its own transformation programme;
- will provide reassurance to the Minister in relation to the internal governance of the Garda organisation;
- ensure that risks within the organisation are identified at an early stage and mitigated so that controversies are forestalled;
- will act as a firewall between the Minister and the Garda Commissioner in the event of issues arising in connection with the management and governance of the organisation.

While there has been some commentary to the effect that the CoFPI model is intended to address the “cumbersome” nature of the existing governance and oversight framework for policing, that is merely a positive by-product arising from the folding of the Authority and the Inspectorate into a single new oversight body and the shortening of decision making around a range of executive functions (including workforce decisions). Its main object goes much deeper and is concerned with ensuring a better run Garda organisation and stopping the destabilising effects of controversies on the Garda Síochána itself, on public confidence in the organisation, and on the Government through clarity on responsibilities and accountability.

3. A bespoke Board

As with all boards of public sector bodies, the Scheme will tailor the Garda Síochána Board to its specific context. The Garda Síochána, as is the case with police services elsewhere, is not a corporate body. Instead, powers are vested in its members with specific powers to direct and control, to carry on and manage generally the business of the organisation, and to advise the Minister on policing and security matters being vested in the Garda

Commissioner. Reporting and accountability arrangements are overlaid on this structure in accordance with the constitutional position that situates the exercise of policing and security functions within the Executive. This will remain unchanged under the new model. The Scheme will continue to vest the chief police officer/chief executive functions in the Garda Commissioner in his or her own right. Specific functions will be vested in the Board taking account of CoFPI and the guidance provided by the Code of Practice for the Governance of State Bodies (DPER September 2016).

The Scheme will also set out the role of the Minister/Government in relation to top level appointments/removals; determination of priorities; approval of strategic plans, annual service plans etc. In particular it will provide for a structured approach to the development and approval of a costed annual service plan following the Estimates and which is to form the centrepiece of Departmental oversight of the Garda Síochána.

The indicative functions of the Garda Síochána, the Board and the Garda Commissioner are at appendix 1.

4. Accountability arrangements

At present the Commissioner is accountable to the Minister for the performance of his or her functions and those of An Garda Síochána and is required to fully account to the Minister and Government through the Secretary General of the Department for any aspect of his or her functions. The Commissioner is also required to report to and to assist and cooperate with the Policing Authority and has various obligations in relation to the Inspectorate and Garda Síochána Ombudsman Commission. S/he is accounting officer with the legal obligations associated with that role and may also as a matter of practice be required to attend before Oireachtas Committees (other than the PAC) when invited.

Under the Scheme, **the Commissioner will be accountable to the Board for the performance of his or her functions** i.e. for the running of the organisation. He or she will be required to provide the Board with all necessary information to enable the Board to perform its functions. The Commissioner will not be a member of the Board or a committee of the Board but may in accordance with procedures established by the Board attend meetings and be entitled to advise and speak at such meetings. This is an important point. There may be some confusion between the Board recommended by CoFPI and the Executive Management Board that was legislated for in 2007 but never established. That Board was to have members of Garda management and external members acting in a purely advisory role. That is not what is intended here.

The Board will appoint a secretariat to be based in Garda Headquarters. Members of the secretariat will report to the Chair/Board. It is proposed that the Board will have no more than 9 members with expertise relevant to the functions of the Board and will meet a minimum of 11 times per annum.

The Board will in turn be accountable to the Minister/Government for the performance of its functions and will be required to inform the Minister in writing of any matter that it

considers requires the Ministers attention. This could relate to matters connected with the operation/membership of the Board itself, its functions or the performance of the Commissioner of his or her functions.

The **Commissioner will be required to account fully to the Minister/Government for policing and security through the Secretary General of the Department** e.g. nature and levels of activity, developments and measures being taken to address them. This will as at present be supported by an obligation on the Commissioner to provide at the request of the Secretary General any information required.

As at present, in order to facilitate the Minister's responsibilities in terms of accounting to the Oireachtas and the public the Commissioner will be required to keep the Minister informed of certain matters including: significant developments concerning policing and security; significant issues that could adversely affect public confidence in the Gardaí, and matters relevant to the Government's accountability to the Houses. The Commissioner will also be required to submit reports at the request of the Minister on various matters.

The **Commissioner will continue to be the accounting officer** and be required to fulfil the legal duties associated with that role. The question of who if anyone attends before the PAC with the Commissioner will be a matter for the Garda Commissioner as it is for any accounting officer.

The **Commissioner will as at present (and as is the case with chief executives of other public sector bodies) be required to attend before other Oireachtas committees on occasion**. The Chair of the Board or a member of the Garda workforce nominated by the Commissioner may attend with the permission of the Committee concerned. This is a relatively standard provision and should in so far as the Chair is concerned not arise with any frequency.

The Scheme will make explicit **the operational independence of the Commissioner**. It will provide that the Commissioner is not accountable to and must act independently of the Board, the Minister or any Minister of the Government in relation to the maintenance of order or the enforcement of the law in relation to any individual or group of individuals, the investigation and prosecution of offences and decisions about individual members of the Garda workforce.

The Commissioner will continue in his/her own rights to have **obligations in relation to assisting and cooperating with the oversight bodies** whether that be the reformed Garda Síochána Ombudsman Commission, the Policing and Community Safety Authority, or the Independent Examiner for Security Legislation. In so far as the PCSA is concerned the Commissioner will (as at present) be required to report to it and to provide any information necessary for the performance of that body's functions, and attend meetings including a number in public. The relationship between the Commissioner and this new body will be more straightforward than the current relationship with the Authority as its role will be exclusively one of independent oversight.

5. Accountability in practice

In response to the question “Who is the Commissioner to call first?” when an issue arises the answer is that it will depend on the nature of the issue.

If an issue of major import arises relating to the management/governance of the organisation then the Commissioner should inform the Board either through the Secretariat or directly via the Chair. It can be anticipated that the Board itself will put procedures in place in relation to how/when it is to be informed of matters within its remit.

If the management/governance issue is of such import that it might reasonably be expected to affect adversely public confidence in the Garda Síochána or is relevant to the accountability of the Government to the Houses then, as now, the Commissioner will also be required to inform the Minister, through the Department. This obligation and in particular decisions around the timing of when this obligation is required to be activated has been the focus of attention by the Fennelly Commission and also in the context of the PAC examination of the finances of the Garda College. Ultimately, it is a matter of judgment on the part of the Commissioner but Fennelly made it clear that it was not necessary for the Commissioner to wait until s/he had gathered all the facts in relation to an issue before informing the Minister. Where the Commissioner does inform the Minister of an issue that comes within the responsibility of the Board it will be open to the Minister to refer to the Board’s role and responsibilities or to make contact with the Chair in relation to the matter.

In parallel with this, if the matter relates to policing services it will most likely be necessary for the Commissioner to also inform PCSA. Any action that that body may decide to take (e.g. in terms of requesting a report, meeting with the Commissioner in private or public, commissioning an inspection etc) will be a matter for itself within its independent statutory remit. As noted above its primary relationship will be with the Commissioner. It is not anticipated that the Chair of the Board will be appearing jointly with the Commissioner before PCSA- the statutory obligations will be placed on the Commissioner in his/her own right.

If a significant issue arises in relation to policing and security then the Commissioner should inform the Minister (as now).

Other obligations will arise in relation to the architecture for oversight of security including the new role of the **Independent Examiner of security legislation**. In line with the recommendations of the Commission on the Future of Policing it is proposed that the Examiner will, amongst other functions, maintain a continuous review of how security legislation is being implemented by police and other agencies and will report on its operation and effectiveness. It is intended that the Independent Examiner legislation will be part of the Policing and Community Safety Bill.

In view of the unique role performed by police and security services the governance and oversight arrangements put in place by countries tend to be involve multiple reporting and accountability lines whether to the Minister/Government, parliamentary committees, and independent oversight bodies. Essentially, that is what CoFPI recommended. The Garda

Síochána Board provides assurance to the Minister and Government in relation to the internal governance of the Garda Síochána. PCSA and a reformed GSOC provide independent oversight. And the Minister is focused on providing information on policing and security to the Oireachtas/public; exercising external governance mainly through oversight of a costed annual service plan; and the development of policing and security policy.

6. Role and functions of successor body to the Policing Authority/Garda Inspectorate – Policing and Community Safety Authority (working title)

The Policing and Community Safety Authority will oversee and assess in an **independent and transparent** manner the performance of the Garda Síochána in relation to policing in order to support the effective provision of such services to the benefit of the safety and wellbeing of the public. This will include overseeing how the Garda Síochána fulfils its responsibilities in working with other public service bodies to enhance community safety. In carrying out its functions the PCSA will continue the scrutiny that the Policing Authority has brought to bear on policing but with an empowered in-house inspection function at its disposal that will enable more real time assessment of performance.

Its role will be broad-ranging applying to all arrangements and strategies implemented by the Garda Síochána to support and enhance the performance of its functions in relation to policing. In addition to scrutinising performance, conducting inspections or inquiries at its own initiative or at the request of the Minister, and monitoring implementation of recommendations, it will conduct research and provide policy advice to the Minister.

The indicative objective and functions of the body are at Appendix 2.

There will be strong statutory obligations on the Garda Commissioner and others to assist and cooperate with it in the performance of its functions including through the provision of information, documents and attendance at meetings.

In terms of its statutory framework the body will be similar to the Policing Authority. It will be a body corporate with its own vote and explicit statutory independence in the performance of its functions. It will comprise 9 members (a chair and 8 ordinary members) representing particular areas of experience and expertise and appointed by Government following a PAS selection process and resolutions of both Houses of the Oireachtas.¹

As referred to above the inspection functions will be strengthened. It will include new powers to conduct unannounced visits of Garda stations and other premises under the control of the Garda Commissioner and to conduct joint inspections with other inspection bodies where that would be mutually beneficial. In addition the Commissioner will be

Indicative areas of experience/expertise of members: policing services; *the criminal justice system*; human rights, equality and diversity; services for victims of crime, healthcare, child and social services; *enhancing the safety of communities including through inter-agency cooperation and community engagement to promote the prevention of crime and the prevention of harm to individuals who are at risk*; public sector administration, *business and innovation*, board management and corporate governance.

statutorily obliged to provide a written response setting out his or her consideration of the report and what actions he or she proposes to take in relation to the report.

The body will replace the existing Policing Authority and the Garda Inspectorate with provision made for the transfer of staff to ensure a smooth transition and that the expertise built up by the executive of both bodies is retained and built on.

Criminal Justice/Governance
Department of Justice & Equality
18 May 2020

Main functions of the Garda Síochána

To provide policing and security, including vetting, services for the State with the objective of—

- (a) preserving peace and public order,
- (b) protecting life and property,
- (c) vindicating the human rights of each individual,
- (d) protecting the security of the State,
- (e) preventing crime,
- (f) preventing harm to individuals who are [vulnerable/at risk],
- (g) bringing criminals to justice, including by detecting and investigating crime,
- (h) protecting and supporting victims of crime, and
- (i) regulating and controlling road traffic and improving road safety.

Main functions of the Board

(a) oversee the development of corporate strategy in relation to major plans of action, risk policy, annual budgets and service plans,

(b) monitor implementation of performance objectives and organisational performance,

(c) oversee major capital expenditure,

(d) promote high standards of governance with particular regard to the codes of ethics issued under the Scheme,

(e) monitor the arrangements for the recruitment, training, development and performance management of members and Garda staff and ensure compliance with best practice,

(f) ensure, having regard to expenditure limits determined by the Minister following the Estimates, the integrity of the Garda Síochána's accounting and financial reporting systems, and that appropriate systems of control are in place, in particular, systems for risk management, financial and operational control, and compliance with the law and relevant standards,

(g) establish and implement arrangements for the management of the performance of the Garda Commissioner and implement the necessary development and appraisal processes, and

(h) perform any other functions conferred on it by this Scheme or the regulations made under it.

* (h) refers to additional specific functions including: a role in relation to the selection/removal of the Commissioner and Deputy Commissioners, approval of appointment/removal of other senior officers; adoption of the strategic plan; adoption of the annual (costed) service plan and capital plan.

Main functions of the Garda Commissioner

Subject to this Scheme and the regulations, the Garda Commissioner has the following functions:

(a) to direct and control the Garda Síochána;

(b) to carry on and manage and control generally the administration and business of the Garda Síochána, including by -

(i) being responsible for the allocation and deployment of resources available to him or her, and

(ii) arranging for the recruitment, training and appointment of its members and the Garda workforce and their continuing professional development;

(c) to seek to secure the continuous improvement in the policing and security of the State;

(d) to advise the Minister on policing and security matters;

[(e) to assist and co-operate with the [Policing and Community Safety Authority] in order to facilitate the performance by the Commission of its functions under this Scheme;]

(f) to perform any other functions that are assigned to him or her by this Scheme or that may, by regulation, be assigned to him or her.

* (f) refers to additional specific functions including: appointment/removal of other senior officers subject to approval of the Board; appointment/dismissal of other personnel subject to regulations, determining the size and composition of the Garda workforce subject to consents of MJE and MPER; determining terms and conditions of personnel subject to consents of MJE and MPER; preparation of the strategic plan, annual (costed) service plan and capital plan and related functions.

Objective and functions of Policing and Community Safety Authority

(1) The objective of the Authority is to oversee and assess in an independent and transparent manner the performance by the Garda Síochána of its functions relating to policing services in order to support the effective provision of such services to the benefit of the safety and wellbeing of the public.

(2) “Effective provision” refers to the provision of policing services that -

- (a) adhere to the policing principles,
- (b) exemplify the highest policing standards measured against best practice in comparable police services and a commitment to continuous improvement,
- (c) promote and support interagency cooperation and community engagement to enhance community safety,
- (d) make the most beneficial, effective and efficient use of the resources available to the Garda Síochána, and
- (e) deserve and enjoy the trust and support of the public.

(3) Subject to this Scheme the functions of the Authority are as follows –

- (a) to further its objective under subhead (1) as far as practicable,
- (b) to keep under review the performance by the Garda Síochána of its functions and the arrangements and strategies in place to support and enhance the performance of those functions and, in particular to keep under review -
 - (i) the delivery of the objectives of the annual service plan approved under head 54, and
 - [(ii) the delivery of the objectives of the national community safety strategy approved under head 87 as they concern the performance by the Garda Síochána of its functions.]
- (c) to carry out at its own initiative or at the request of the Minister inspections or inquiries in relation to any particular aspects of the operation and administration of the Garda Síochána (including in relation to its cooperation with other [public service bodies] to enhance community safety) and make recommendations for any action [by the Garda Commissioner or the Minister] that the Authority considers necessary;

(d) to advise on, and monitor the implementation of any recommendations arising from such inspections or inquiries as it considers appropriate or at the request of the Minister;

(e) to advise on, and monitor the implementation by the Garda Síochána of any recommendations arising from [reviews or inquiries] carried out by bodies other than the Authority as it considers appropriate or at the request of the Minister;

(f) to promote the policing principles;

(g) to promote professional policing standards and the continuous improvement of policing having regard to best international practice;

(h) to promote public awareness of matters relating to policing [and community safety] services;

(i) to keep the Minister informed of developments in respect of matters relating to policing [and community safety] services and make recommendations to assist the Minister in co-ordinating and developing policy in that regard;

(j) to keep itself generally informed of -

(i) trends and patterns in the use of force by members of the Garda Síochána, and

(ii) trends and patterns in crimes committed;

(k) to undertake, commission or assist in research projects (including by way of public consultation) and other activities in respect of matters relating to policing services, which in the opinion of the Authority, may -

(i) promote improvements in standards for those matters and public awareness of them,

(ii) promote improvements in interagency cooperation and community engagement in the delivery of community safety, or

(iii) contribute to a reduction in the number of complaints against members of the Garda workforce [or the Garda Síochána] in relation to those matters,

and make recommendations to [the Garda Commissioner and] the Minister arising from those projects or activities, and

(l) perform any other functions conferred on it by this Scheme or the regulations.

(4) In carrying out its functions the Authority shall have regard to

(a) the policies and objectives of the Government [or any Minister of the Government] in so far as they may affect or relate to the functions of the Authority, and

(b) the need to co-operate with and coordinate its activities with [public service bodies/public authorities], the performance of whose functions may affect or relate to the functions of the Authority.

(5) Subject to this Scheme, the Authority may do anything which it considers necessary or expedient to enable it to perform its functions.

(6) Any function of the Authority, may be performed through or by the Chief Executive of the Authority or other member of its staff duly authorised in that behalf by the Authority.

(7) The Chief Executive or other member of the staff of the Authority who, pursuant to subhead (6), performs any of its functions is presumed in any proceedings to have been authorised by it to do so on its behalf, unless the contrary is shown.

(8) The Authority may provide for the performance by a committee, under the general direction of the Authority, of one or more of its functions.

(9) The Authority shall furnish to the Minister such information regarding the performance of the Authority's functions as the Minister may from time to time require.

(10) The Authority shall inform the Minister of matters relevant to the accountability of the Government to the Houses of the Oireachtas.

DJE Follow Up Material Green Party 15/05/20 [GP]

Supplementary material

- 1. Current legislative plans**
- 2. Galway initiative**
- 3. Greater transparency in reporting of domestic violence cases**
- 4. Maura Butler review of the operation of section 7A of the Criminal Law (Sexual Offences) Act 1993**
- 5. Upcoming reports**

6. Pilot Traveller and Roma educational programme

1. Current Legislative Plans

Joint Criminal and Civil Legislation

Urgent Bills:

Civil and Criminal Law (Miscellaneous Provisions) Bill 2020 (to respond to new challenges and address certain legal issues arising in the context of the current Covid-19 pandemic.)

Criminal Legislation

Urgent Bills

- Bills transposing EU measures:
 - a. Enact Criminal Justice (Mutual Recognition of Probation Judgements and Decisions) Bill
 - b. Enact Criminal Justice (Theft and Fraud Offences) Bill
 - c. Publish Criminal Justice (Counterfeiting) Bill
 - d. Publish Criminal Justice (Money Laundering and Terrorist Financing) Bill
 - e. Publish revised Criminal Justice (Mutual Recognition of Custodial Sentences) Bill[There will also be some transposing SIs]
- Criminal Justice (Repeal of certain provisions of the Misuse of Drugs and Firearms Acts) Bill (responds to Supreme Court judgement)
- Preparation of General Scheme of Smuggling of Persons Bill (necessary for Schengen Acquis)
- Publication of Data Retention Bill (subject to Supreme Court judgement)
- Publication of Criminal Procedure Bill

Important Bills under preparation

- Preparation of General Scheme on hate crime and hate speech
- Amendment and enactment of PMB on harassment, harmful communications etc.
- Preparation of General Scheme of COFPI Bill on Policing and Community Safety
- Preparation of General Scheme of COFPI Bill on Garda powers of search, arrest and detention
- Preparation of General Scheme of COFPI Bill on Garda body cams etc.
- Amendment and enactment of PMB on perjury
- Criminal Justice (Miscellaneous Provisions) Bill [this contains one Schengen-related provision]
- ECHR (Amendment) Bill

- Garda Síochána (Compensation) Bill
- Bill on Optional Protocol to the UN Convention Against Torture

Civil Legislation

Urgent bills

Regulation and Court Reform:

- Courts and Civil Law (Miscellaneous Provisions) Bill
- Property Services Regulation (Amendment) Bill (and related European Commission pre-infringement queries)

Equality and Inclusion:

- Assisted Decision Making Capacity (Amendment)
- Gender Pay Gap Information Bill 2019

Important bills under preparation

Equality and Inclusion:

- Disability (Miscellaneous Provisions) Bill
- Adoptive Leave (Amendment) Bill

Access to Justice and Family Conflict Resolution:

- Family Court Bill
- Criminal Legal Aid Amendment
- Defamation Amendment

Regulation and Court Reform:

- Judicial Appointments Commission Bill
- Private Security Services (Amendment) Bill
- Insolvency (Amendment) Bill

2. Barnahus: Onehouse Galway project

The project referred to is a Tusla initiative based in Galway. It is our understanding that Tusla were seeking a permanent premises in which to pilot this model (Barnahus) which aims to ease trauma of children who have been sexually abused and seems to have been successful in other EU member states. More information is available at <https://www.gov.ie/en/press-release/7ea4b1-barnahus-onehouse-galway-model-to-ease-trauma-for-children-who-have-/>

The Department of Children and Youth Affairs would be able to provide further information about the current position.

3. Transparency in reporting of domestic violence court cases

(While the material below relates to a different type of court reporting than raised at our discussion on Monday, we believe that the information below will be of interest).

Regulations were made under section 40 of the Civil Liability and Courts Act 2004 in 2005 to permit researchers to apply to the Minister for approval to attend family law proceedings and have access to relevant documents relating to those proceedings, for the purpose of publishing a report on the proceedings. The SI, which is very short, can be viewed at: <http://www.irishstatutebook.ie/eli/2005/si/337/made/en/print>

More generally, section 40 of the Civil Liability and Courts Act 2004 was amended by Part 2 (sections 3 to 12) of the Courts and Civil Law (Miscellaneous Provisions) Act, 2013 to allow bona fide representatives of the Press attend family law cases (subject to the right of the judge to exclude any such representatives) and to publish reports.

The publication of reports of family law cases is allowed under these provisions on the strict condition that no names, addresses or any other details which might identify the parties can be used.

On Monday, reference was made to the Child Care Law Reporting Project which is directed by Dr Coulter. This operates under relevant child care legislation and is currently funded by the D/Children and Youth Affairs. It relates to public law only, i.e. it does not apply to private family law (disputes between parents relating to children and other matters).

4. Review of Section 7A of the Criminal Law (Sexual Offences) Act 1993 by Maura Butler

This section is due to be reviewed this year and a report to be laid before each House of the Oireachtas. This report will include an assessment of the impact on the welfare of those who engage in sexual activity for payment, as well as information on prosecutions and convictions.

Maura Butler (formerly of the Law Society) has been engaged to conduct the review.

While the nominal start date is 25 March, it is understood that the review could not commence as planned due to the current circumstances. It is anticipated that a formal announcement of the review's commencement will be made in the coming weeks.

The Terms of Reference of the review are as follows:

Terms of reference

Section 27 of the Criminal Law (Sexual Offences) Act 2017 provides that the Minister for Justice and Equality shall, not later than 3 years after its commencement, cause a report to be prepared on the operation of section 7A of the Criminal Law (Sexual Offences) Act 1993 and shall cause copies of the report to be laid before each House of the Oireachtas. The section specifies that the report shall include—

(a) information as to the number of arrests and convictions in respect of offences under section 7A of the Act of 1993 during the period from the commencement of that section, and

(b) an assessment of the impact of the operation of that section on the safety and well-being of persons who engage in sexual activity for payment.

Section 27 was commenced on 27 March 2017. Section 7A of the 1993 Act makes it an offence for a person to pay, give, offer or promise to pay or give a person (including a prostitute) money or any other form of remuneration or consideration for the purpose of engaging in sexual activity with a prostitute.

The Department now wishes to commission a review of the operation this provision. The review will:

- describe the objectives of this provision in the 1993 Act;
- quantify the number of arrests and convictions in respect of offences under section 7A since its commencement;
- assess the extent to which the objectives of the Act have been achieved, analysing in that regard the differential impact of the enforcement of the Act and of other public policy interventions and relevant social changes on the extent of achievement;
- assess the extent to which the Act's objectives have not been achieved and make recommendations to address the barriers, if any, uncovered in that regard;
- assess the impact of the Act's operation on the safety and well-being of persons who engage in sexual activity for payment and make such recommendations to strengthen protection for such person as are appropriate; and

- in relation to persons engaged in sexual activity for payment, comment on the risk of such person being victims of human trafficking and make such recommendations in relation to identification and protection of human trafficking victims so engaged as are appropriate.

The review will be undertaken in consultation with An Garda Síochána, other relevant statutory agencies and civil society organisations working with persons engaged in prostitution and with victims of human trafficking.

Methodology

The engagement with many stakeholders may be in the form of submissions, one-to-one interviews, roundtable discussions/workshops, and desktop research as proves necessary as are determined by the expert engaged to carry out the review.

Administration

The Department will provide secretarial support for the review.

The review should be completed within 3 months of being commissioned and of the agreed start date, conditional on Clause 25 and an option to extend the delivery date, by agreement, in circumstances where that proves necessary. Such necessary extension would include the availability of primary engagement with critical stakeholders and the time lags that may arise in convening group events.

5. Upcoming Reports

A number of reviews are underway.

- Review of protections for vulnerable witnesses in the investigation and prosecution of sexual offences (Tom O'Malley)
- Review of the Administration of Civil Justice (Justice Peter Kelly)
- Review of anti-fraud and anti-corruption structures (James Hamilton)
- Study on Familicide and Domestic Homicide Reviews (Norah Gibbons / Maura Butler)
- Advisory Group on the Provision of Support, including Accommodation, to Persons in the International Protection Process (Catherine Day Group)
- Review of Access to the Labour Market for Persons Seeking International Protection (pending).
- Review of defamation law, required under s. 5 of the Defamation Act 2009
- Review of the operation of the Personal Insolvency Act 2012
- Review of the Immigrant Investor Programme
- Report of the inter-agency implementation group (chaired by Caroline Biggs SC): implementation review of Garda Inspectorate Report, *Responding to Child Sexual Abuse*.

- Report on civics and language tests for citizenship (ESRI)

6. Traveller and Roma pilot programme

The Department of Education has confirmed that across 4 projects, there are 1282 Traveller students and 117 Roma students in the pilot programme to support the retention of Traveller and Roma students in school.

Maternity / Paternity / Parental Leave 25/02/20 [SF]

Maternity / Paternity / Parental Leave

An extension to maternity leave requires an amendment to the Maternity Protection Acts 1994 and 2004 to extend the leave and to set out the conditions for receiving maternity benefit, a social insurance payment administered by the Department of Employment Affairs and Social Protection.

There has been a significant increase since 2016 in the type of family leave available to parents (see details below) and in the duration of such leave. IBEC has expressed concern at the impact on employers of accommodating the extra family-related leave now available to parents. On the other hand, the EU's Work-Life Balance Directive will require Ireland to introduce a right for each parent to have 18 weeks of paid parental leave per child. The Directive has to be transposed by 2022.

Current position

○ **Maternity leave and benefit**

The *Maternity Protection Acts 1994 and 2004* provide that all female employees in Ireland, no matter how long they have been working, are entitled to take maternity leave for a basic period of 26 weeks. At least 2 weeks have to be taken before the end of the week of the baby's expected birth and at least four weeks after. A further 16 weeks' additional maternity leave (unpaid maternity leave) may be taken immediately after maternity leave ends. (Total 42 weeks)

In 2017, there was an extension to maternity leave and benefit for mothers of babies born prematurely. Since 1 October 2017, the basic period of maternity leave has been extended for an extra period which corresponds to the time between the baby's actual birth and the expected start date of maternity leave.

- **Paternity leave and benefit**

A statutory scheme of paternity leave was introduced in 2016. Fathers and parents other than the mother of the child are entitled to 2 weeks' paternity leave from employment or self-employment following the birth or adoption of a child. Paternity benefit is a weekly payment to a parent on paternity leave from work who is covered by social insurance (PRSI). A parent can start paternity leave at any time within the first 6 months after the birth or adoption placement.

- **Parent's leave and benefit**

The *Parent's Leave and Benefit Act 2019* came into effect from 1 November 2019 and allows for two weeks paid leave for each parent within 52 weeks of the birth or adoption placement of their child. The law allows for the leave to be increased to a maximum of 9 weeks by order of the Minister for Justice and Equality with the consent of the Minister for Employment Affairs and Social Protection and the consent of the Minister for Public Expenditure and Reform.

- **Parental leave (unpaid)**

The *Parental Leave (Amendment) Act 1998* was amended in 2019 to extend the duration of parental leave from 18 weeks to 22 weeks for each parent of each eligible child with effect from 1 September 2020. The Act provides for the leave to be extended for a further 4 weeks – to 26 weeks – from 1 September 2020. The upper age limit for the eligible child was raised from 8 to 12 years (or 16 years in the case of children with disabilities). Parental leave is unpaid.

EU measures awaiting transposition

Transposition of EU Work-life Balance Directive (1158/2019)

The Directive on Work-Life Balance for Parents and Carers aims to increase the participation of women in the labour market and the take-up of family-related leave and flexible working arrangements. It also provides opportunities for workers to be granted leave to care for relatives who need support.

The Directive was adopted by the EU Council of Ministers in June 2019. Member States have three years to adopt laws, regulations and administrative provisions necessary to comply with the Directive (2 August 2022).

- **Article 5 – Parental Leave**

Member States are required to provide for an individual right to 18 weeks of parental leave per parent, 9 weeks of which must be non-transferable and paid at an adequate level, before the respective child reaches an age (under eight years) to be determined by Member State. The right to request flexible uptake is enshrined in Article 5.

24 February 2020

Department of Justice and Equality
Civil Justice and Equality Policy