



**An Roinn Dlí agus Cirt  
agus Comhionannais**  
Department of Justice  
and Equality

# **Oversight Agreement 2020-2022**

**Department of Justice and Equality**

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**An Garda Síochána**

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## **1. Introduction**

### **1.1 Scope of this Agreement**

This Agreement has been drawn up by the Department of Justice and Equality (“the Department”) in consultation with An Garda Síochána, having due regard to the 2016 edition of the Code of Practice for the Governance of State Bodies (“the Code of Practice”). It succeeds the Corporate Governance Assurance Agreement (2017-19) between the Department and An Garda Síochána.

This Agreement sets out the broad governance and accountability framework within which An Garda Síochána operates, and defines the key roles and responsibilities which underpin the relationship between An Garda Síochána on the one hand and the Department, the Minister and the Government on the other. The Agreement covers, and should be read as including reference to, all of the functions of the Garda Commissioner under the Garda Síochána Act 2005 (as amended) (“the Act”).

While this Agreement will remain in force until end 2022, the parties will, in accordance with the Code of Practice, review the Agreement annually and update it as necessary.

### **1.2 Background and context**

#### *1.2.1 The Garda Síochána Act 2005 (as amended)*

The Act provides for the administration and management of An Garda Síochána and defines the roles of, and the relationship between, the Minister for Justice and Equality (“the Minister”) and the Commissioner of An Garda Síochána (“the Commissioner”). The Act also sets out in law the functions and objectives of An Garda Síochána.

The Act also provides for the independent oversight of An Garda Síochána through:

- the Policing Authority (“the Authority”), which has responsibility for overseeing the performance by An Garda Síochána of its functions relating to policing services;
- the Garda Síochána Ombudsman Commission (“GSOC”), which is responsible for how complaints are dealt with; and
- the Garda Síochána Inspectorate (“the Inspectorate”), which advises on how the resources available to An Garda Síochána can be used so as to achieve and maintain the highest levels of efficiency and effectiveness in its operation and administration.

#### *1.2.2 Functions of An Garda Síochána*

Under section 7 of the of the Act, the function of An Garda Síochána is to provide policing and security, including vetting, services for the State with the objective of—

- preserving peace and public order,
- protecting life and property,
- vindicating the human rights of each individual,
- protecting the security of the State,
- preventing crime,

- bringing criminals to justice, including by detecting and investigating crime,
  - regulating and controlling road traffic and improving road safety,
- and any other functions conferred on it by law.

The Mission of An Garda Síochána is “*Ag Coinneáil Daoine Sábháilte – Keeping People Safe*”.

### **1.3 Organisational reform and restructuring**

#### *1.3.1 A Policing Service for the Future*

Since January 2019, a major programmatic reform of policing services has been underway via *A Policing Service for the Future (APSFF)*, which is the Government’s multi-annual plan to implement the recommendations of the Report of the Commission on the Future of Policing in Ireland (CoFPI). This plan is being implemented across five workstreams designed to reflect the major themes of the CoFPI Report, as follows: Leadership & Accountability, People, Structures & Operations, Independent Oversight, and Partnership. Three enablers have been identified as necessary to support effective delivery: Change Capacity, Communications & Engagement, and Legislation.

A Policing Reform Implementation Programme Office (PRIPO), located in the Department of the Taoiseach, drives and co-ordinates APSFF implementation and reporting, while the high-level Implementation Group on Policing Reform has collective responsibility for delivery. This Group comprises senior officials from the organisations most closely involved in driving the reform programme, including An Garda Síochána and the Departments of the Taoiseach, Justice and Equality and Public Expenditure and Reform (DPER). Senior representatives of other relevant organisations are also involved as required.

Part of the reform programme includes the development of a new Operating Model for An Garda Síochána. The new model will be centred on newly configured and more operationally autonomous Garda Divisions and will seek to provide a more bespoke, responsive and community-based level of service to the public. The new model involves 19 Garda Divisions supported by four geographical regions and by national, regional and Divisional specialist units as required.

#### *1.3.2 Department of Justice and Equality – Transformation Programme*

Major structural reform has taken place in the Department with the implementation of its Transformation Programme during 2019. This Programme moves the Department from a traditional Divisional structure to a streamlined functional model under which the core work of the Department has been realigned under two separate pillars: Criminal Justice and Civil Justice & Equality. Each pillar is subdivided into the four functional areas of Policy, Legislation, Governance, and Operations & Service Delivery. The criminal and civil pillars are supported by a third, central pillar comprising the enabling and co-ordination functions of Corporate Affairs, Transparency and European Affairs.

The varied work carried out by the Department’s former Policing Division is now, in the main, being undertaken by the Transparency, Criminal Justice Policy and Criminal Justice Governance

functions respectively. The **Transparency** function is responsible for sourcing, assessing and communicating all information required by the Minister, as well as managing internal and external communications including press queries, representations, complaints from members of the public, parliamentary questions, event management etc. Transparency has direct and highly frequent dealings with An Garda Síochána in such matters. The **Policy** function liaises directly with An Garda Síochána on relevant policing policy issues (with the **Legislation** function consulting directly with An Garda Síochána on the development of relevant legislation).

The establishment of a dedicated **Criminal Justice Governance** function is intended to enable the Department to build and consolidate its capacity in this area, thereby resulting in more focused and mutually beneficial relationships with the bodies under its remit and ultimately supporting a better service to stakeholders and the wider public. Criminal Justice Governance has primary oversight responsibility for all criminal justice agencies under the aegis of the Department. It comprises six Principal Officer-led teams, of which the following five have specific dealings with An Garda Síochána as required:

Team	Purpose
<b>Governance Standards</b>	To develop and promote consistent approaches to oversight, put in place effective governance agreements with bodies, and advise on specific governance structures and proposals.
<b>Garda Performance &amp; Compliance</b>	To support, monitor and appraise An Garda Síochána's overall performance and compliance with its corporate governance obligations, and manage the governance relationship on an ongoing basis.
<b>Financial &amp; Capital Resources</b>	To oversee financial (current and capital) resource management; and to oversee and, as appropriate, support infrastructural, procurement and IT resource management of bodies and statutory approvals for the accompanying resources.
<b>Human Resources &amp; Appointments</b>	To advise and consult on strategic human resource issues and senior appointments.
<b>Policing Legislative Framework</b>	To develop, via the Policing and Community Safety Bill, a new statutory governance and oversight framework for policing in line with the recommendations of the report of the Commission on the Future of Policing in Ireland.

## 2. Corporate Governance Arrangements and Obligations

### 2.1 Roles and Responsibilities

#### 2.1.1 *The Government*

Article 28.2 of the Constitution provides that the executive power of the State shall be exercised by or on behalf of the Government. Policing forms part of the executive power of the State, and this is reflected in the Act which reserves certain matters for the Minister and for Government.

The Government's functions under the Act include exercising specific powers of appointment, removal and dismissal in relation to the senior Garda ranks, approving the giving of directions by the Minister to the Commissioner, and approving the making of regulations by the Minister. The Department engages with Garda management on these issues as necessary, for example in preparing certain memoranda for Government and in the preparation of Garda regulations.

### *2.1.2 The Minister*

Under the Act, the Minister may:

- approve the determination and revision by the Authority of priorities and performance targets for An Garda Síochána in performing its functions in relation to policing services;
- establish, and from time to time revise, priorities and performance targets for An Garda Síochána in performing its functions in relation to security services;
- consent to the approval by the Authority of the Garda strategy statement;
- consent to the approval by the Authority of the annual policing plan; and
- with the approval of the Government, issue a written directive to the Garda Commissioner concerning any matter relating to An Garda Síochána.

The Department engages with Garda management on the above issues to ensure that decisions taken are properly informed and based on accurate information.

Under section 42 of the Act, the Minister may, with respect to any matter considered by him or her to be of public concern, on his or her own initiative or, in the case of a matter relating to policing services, either —

- having consulted with the Authority, or
- on the request of the Authority, where the Authority is satisfied that an inquiry should be ordered,

by order appoint a person to—

- inquire into any aspect of the administration, operation, practice or procedure of An Garda Síochána, or the conduct of its members, and
- make a report to the Minister on the conclusion of the inquiry.

The Minister is accountable to the Oireachtas for policing and security matters, including matters relating to An Garda Síochána, the Authority, GSOC and the Inspectorate.

### *2.1.3 The Secretary General*

Under section 40 of the Act, the Commissioner shall account fully to the Government and the Minister, through the Secretary General, for any aspect of his or her functions. This includes the duty to provide, at the request of the Secretary General, any document in the power or control of An Garda Síochána.

#### 2.1.4 *The Garda Commissioner*

The Commissioner is accountable under the Act to the Minister for the performance of the Commissioner's functions and those of An Garda Síochána. The functions of the Commissioner are set out in Section 26 of the Act and include:

- directing and controlling An Garda Síochána;
- carrying on and managing and controlling generally the administration and business of An Garda Síochána, including by arranging for the recruitment, training and appointment of its personnel;
- advising the Minister on policing and security matters;
- assisting and cooperating with the Authority in order to facilitate the performance by the Authority of its functions;
- performing any other functions that are assigned to him or her by or under the Act.

In performing his or her functions, the Commissioner shall have regard to the following matters:

- the objective of promoting effectiveness, efficiency and economy in An Garda Síochána;
- the priorities and performance targets in operation under section 20 and 20A at the relevant time;
- any relevant policies of the Minister or the Government;
- the strategy statement in operation under section 21 at that time;
- the annual policing plan prepared under section 22;
- any directive issued under section 25; and
- the policing principles.

The Commissioner's specific duties under the Act include:

- the appointment of persons to the ranks of Garda, Sergeant and Inspector and, subject to safeguards (including the requirement for the consent of the Authority), their dismissal;
- the recruitment of civilian staff and the appointment of civilian staff below the grade equivalent to the rank of Chief Superintendent;
- informing the Authority and, as the case may be, the Minister of measures taken to achieve the objectives of the policing and security priorities and performance targets determined by the Authority and the Minister respectively, and of the outcome of those measures;
- preparing and submitting a strategy statement every 3 years, or less if directed by the Authority, to the Authority;
- preparing and submitting an annual policing plan to the Authority; and
- preparing and submitting 3 year review reports to the Authority.

Under section 41 of the Act, the Commissioner is obliged to keep the Minister and the Secretary General fully informed of:

- matters relating to significant developments concerning—

- the preservation of peace and public order in the State,
- the protection of life and property in the State, and
- the protection of the security of the State;
- significant developments that might reasonably be expected to affect adversely public confidence in An Garda Síochána;
- matters relevant to the accountability of the Government to the Houses of the Oireachtas; and
- any other matters that, in the Commissioner's opinion, should be brought to the Minister's attention.

In addition, the Commissioner is obliged, whenever required by the Minister, to submit to the Minister a report on any matters connected with the policing or security of the State or the performance of the Commissioner's other functions that may be specified in the requirement.

Section 41A of the Act places similar obligations on the Commissioner with respect to the Authority in relation to matters connected with policing services.

#### *2.1.5 Accounting Officer*

An Garda Síochána has its own Vote (Vote 20) and its own Accounting Officer. Section 43 of the Act provides that the Commissioner is the Accounting Officer in relation to the appropriation accounts of An Garda Síochána for the purposes of the Comptroller and Auditor General Acts 1866 to 1998. As Accounting Officer, the Commissioner is responsible for the safeguarding of public funds and property under his or her control and is accountable in this respect to the Committee of Public Accounts (PAC) and other Oireachtas Committees.

#### *2.1.6 The Policing Authority*

The Authority was established on 1<sup>st</sup> January 2016 under Part 2A of the Act (as amended by Garda Síochána (Policing Authority and Miscellaneous Provisions) Act 2015) and is independent in the performance of its functions. The principal function of the Authority is to oversee the performance by An Garda Síochána of its functions relating to policing services. The Authority's functions in this regard include:

- keeping under review the adequacy in An Garda Síochána of:
  - corporate governance arrangements and structures;
  - arrangements for the recruitment, training and development of the members and members of the civilian staff;
  - mechanisms in place for the measurement of performance and accountability of members and civilian staff; and
  - arrangements for managing and deploying the available resources;
- holding regular meetings with the Commissioner, at least four of which must be held in public each year and broadcast;



- nominating persons for appointment by the Government to the posts of Commissioner and Deputy Commissioner, and recommending their removal in certain circumstances;
- undertaking the selection process and appointing persons to the ranks of Superintendent, Chief Superintendent and Assistant Commissioner (and removing them for reasons related to policing services);
- appointing Garda staff of grades equivalent to or above that of Chief Superintendent;
- determining Garda priorities in relation to policing services;
- approving the Garda Síochána strategy statement;
- approving the annual policing plan;
- establishing a Garda code of ethics;
- promoting and supporting the continuous improvement of policing in the State;
- requesting GSOC and/or the Inspectorate to initiate an inspection or inquiry or to examine Garda practices or procedures;
- monitoring, assessing and reporting to the Minister on the measures taken by An Garda Síochána in relation to recommendations made in a report of the Inspectorate;
- exercising the previous functions of the Minister in relation to Joint Policing Committees.

#### *2.1.7 Garda Síochána Inspectorate*

The Inspectorate was established under Part 5 of the Act and is independent in the exercise of its functions, which are:

- To carry out inspections or inquiries in relation to any particular aspects of the operation and administration of An Garda Síochána. These inspections can be carried out either—
  - on the Inspectorate’s own volition, if it considers it appropriate to do so, or
  - at the request of the Authority (in respect of a matter relating to policing services) or the Minister;
- To submit to the Authority or the Minister, as the case may be—
  - a report on those inspections or inquiries, and
  - if required by the Authority (in relation to policing services) or the Minister, as the case may be, a report on the operation and administration of An Garda Síochána during a specified period and on any significant developments in that regard during that period.

Any report prepared by the Inspectorate can, where appropriate, contain recommendations for any action that the Inspectorate considers necessary; and

- To provide advice to the Authority and the Minister with regard to best policing practice.

#### *2.1.8 Garda Síochána Ombudsman Commission*

GSOC was established under Part 3 of the Act and is independent in the exercise of its functions. Part 4 of the Act contains the statutory provisions whereunder GSOC investigates complaints made against members of An Garda Síochána.

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

- to investigate complaints involving allegations of criminality by Garda members;
- to refer complaints regarding alleged misbehaviour of a disciplinary nature to the Garda Commissioner for investigation (*Note: GSOC may choose to maintain oversight of progress in those investigations*);
- where appropriate following investigations—
  - to make recommendations to the Garda Commissioner in relation to disciplinary proceedings, or
  - to forward files to the Director of Public Prosecutions with appropriate recommendations;
- to 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;
- where it appears to GSOC to be desirable in the public interest to do so (even where no complaint has been received), to 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 can also refer such a matter to GSOC for investigation;
- to examine any practice, policy or procedure of An Garda Síochána with a view to reducing the incidence of related complaints;
- to investigate, with the consent of the Minister, where there is a concern that the Garda Commissioner may have committed an offence or behaved in a manner that would constitute serious misconduct.

The Protected Disclosures legislation prescribes GSOC as a body to which Garda members may make protected disclosures.

## **2.2 Setting of priorities by the Authority and the Minister**

### **2.2.1 Policing services**

Under section 20 of the Act, the Authority shall, with the approval of the Minister and having consulted with the Commissioner, set and revise priorities and performance targets for An Garda Síochána in relation to policing services. The Authority is required to send a copy of the determined priorities to the Minister who will lay it before the Houses of the Oireachtas.

The Commissioner is required to inform the Authority, either within a time specified by the Authority or, if no such time is specified, in the annual report submitted to the Authority, of the measures taken to achieve the objectives of the priorities determined and performance targets established and of the outcome of those measures.

### 2.2.2 Security services

Under section 20A of the Act, the Minister shall, having consulted with the Commissioner, set and revise priorities and performance targets for An Garda Síochána in relation to security services. The Minister shall lay a copy of the priorities before the Houses of the Oireachtas and may exclude material that would be prejudicial to national security or that might facilitate the commission of an offence, prejudice a criminal investigation or jeopardise the safety of a person.

The Commissioner is required to inform the Minister, within a time specified by the Minister, of the measures taken to achieve the objectives of the priorities determined and performance targets established and of the outcome of those measures.

## 2.3 Strategy Statement

In accordance with Section 21 of the Act, the Commissioner shall prepare, and submit to the Authority for its approval (with the consent of the Minister), a strategy statement for An Garda Síochána and for policing services for the following three years. In preparing the strategy statement, the Commissioner shall have regard to:

- relevant Government policy;
- the priorities determined by the Authority under section 20 of the Act relating to policing services;
- any priorities that may be determined by the Minister under section 20A of the Act relating to security services;
- the resources expected to be available to An Garda Síochána over the duration of the statement;
- the need to ensure the most beneficial, effective and efficient use of those resources; and
- the policing principles.

The Authority shall, with the consent of the Minister, approve the strategy statement either in the form submitted or with such amendments as the Authority (with the consent of the Minister, and having consulted with the Commissioner) may determine. The Authority shall then send a copy of the approved strategy statement to the Minister, who is required to lay it before the Houses of the Oireachtas. An Garda Síochána's current Strategy Statement covers the period 2019-21 and is available online at [www.garda.ie](http://www.garda.ie).

## 2.4 Annual Policing Plan

Section 22 of the Act requires the Commissioner to prepare an annual policing plan setting out the proposed arrangements for policing services for the following year. In so doing, the Commissioner shall have regard to the following:

- the priorities determined and performance targets established under section 20;
- the strategy statement in operation under section 21 during the year to which the plan relates;
- relevant directives issued under section 25;
- the resources expected to be available to An Garda Síochána for that year and the proposed allocation of those resources;

- relevant Government policy; and
- the policing principles.

The plan shall be submitted to the Authority for its approval (with the Minister's consent), either in the form submitted or with such amendments as the Authority, with the consent of the Minister and having consulted with the Commissioner, may determine. The Authority shall then send a copy of the approved plan to the Minister, who is required to lay it before the Houses of the Oireachtas. The Authority shall regularly monitor how An Garda Síochána delivers against targets in the Plan.

## **2.5 Adherence to relevant Codes and Standards**

An Garda Síochána is subject to a range of statutory and corporate governance obligations including those set out in the Code of Practice, the *Corporate Governance Standard for the Civil Service* (which requires all State bodies with their own Vote and Accounting Officer to prepare and keep up to date an internal Governance Framework), and the Governance Standard for Justice and Equality Sector Bodies. The Commissioner will ensure that all attendant obligations, including those relating to risk management, internal audit, procurement and the Public Spending Code, are fully complied with.

## **2.6 Audit and risk management arrangements**

### *2.6.1 Garda Internal Audit Service and Garda Professional Standards Unit*

An Garda Síochána's Internal Audit Service (GIAS) is responsible for monitoring and reviewing the effectiveness of the organisation's arrangements for governance, risk management and internal control. The GIAS is required to monitor and review the effectiveness of the organisation's internal audit activities.

A complementary service is provided by the Garda Professional Standards Unit (GPSU), which examines and reviews the operational, administrative and management performance of An Garda Síochána at all levels with a view to promoting the highest standards of practice with reference to those of comparable police services.

### *2.6.2 Audit Committee*

Section 44 of the Act provides that the Authority is responsible for the appointment of members to the Garda Audit Committee. Under the Act, the Committee shall comprise a Deputy Commissioner (or civilian of equivalent rank) and not fewer than four other persons, with relevant skills and experience, who are not members of An Garda Síochána. The Act also provides that the Chair of the Committee shall be designated by the Authority from one of the aforementioned four persons.

The Audit Committee is required to meet at least four times per annum and to advise the Commissioner on governance and financial matters relating to his or her functions, including:

- the proper implementation of Government guidelines on governance and financial issues;

- compliance with section 22 of the Exchequer and Audit Departments Act 1866, section 19 of the Comptroller and Auditor General (Amendment) Act 1993 and any other obligations imposed by law relating to financial matters;
- the appropriateness, efficiency and effectiveness of An Garda Síochána's procedures relating to—
  - public procurement,
  - seeking sanction for expenditure and complying with that sanction,
  - acquiring, keeping custody of and disposing of assets,
  - risk management,
  - financial reporting, and
  - internal audits.

The Committee shall report in writing at least once a year to the Commissioner on the above matters and on its activities in the previous year, and shall provide the Authority and the Minister with a copy of each report.

The Commissioner shall ensure that the Committee is provided with all of An Garda Síochána's audit reports, audit plans and monthly reports on expenditure. In addition, if the Commissioner has reason to suspect that any material misappropriation of the money for which (s)he is the accounting officer, or any fraudulent conversion or misapplication of An Garda Síochána's property may have taken place, (s)he must report the matter to the Committee as soon as practicable.

The Commissioner shall also ensure that the Committee is provided, on request, with details of any financial matter or procedure necessary for performing its functions, including details relating to —

- any contract that the Commissioner proposes to enter into and that involves the expenditure of more than an amount specified by the committee, and
- any legal action against the Commissioner that gives rise to a potential financial liability.

The Commissioner is entitled to withhold such details where (s)he certifies in a statement to the Committee that the provision of the details requested could prejudice the security of the State or endanger life.

### *2.6.3 Risk management*

A Risk, Policy and Finance Governance Board (replacing the former Risk and Policy Governance Board) has been established to advise the Garda Executive on managing risk in the organisation. The Board's functions include identifying, assessing and mitigating risk and determining the parameters for further examination or escalation of risk. The Board will meet on a quarterly basis and will be chaired at Deputy Commissioner or Garda Staff equivalent.

A copy of An Garda Síochána's Corporate Risk Register, and of substantial amendments thereto, will be provided to Garda Performance & Compliance.

## **2.7 Reporting obligations under statute and the Code of Practice**

### *2.7.1 Annual Report*

Section 46 of the Act requires the Commissioner to make a report to the Authority, not later than four months after the end of each year, in relation to policing services during the preceding year. The report shall include an account of the following in relation to policing services:

- the implementation of the policing plan for the year to which the report relates;
- the performance of An Garda Síochána's functions during that year;
- the achievement of the performance targets established under section 20 of the Act for the year;
- the implementation of any directives under section 25 of the Act, laid before the Houses of the Oireachtas during the year; and
- any other matter that the Commissioner thinks fit.

The Authority shall provide a copy of the report to the Minister within 30 days of receiving it, and the Minister shall lay a copy of the report before the Houses of the Oireachtas not later than 30 days thereafter.

### *2.7.2 Annual Report – governance reporting requirements*

In line with the applicable requirements of Appendix A of the 'Code of Practice for the Governance of State Bodies – Business & Financial Reporting Requirements', the Annual Report will (inter alia) include:

- An explanatory note on any derogations (as agreed with the Department) from the applicable provisions of the Code of Practice.
- Confirmation that an appropriate assessment of An Garda Síochána's principal risks has been carried out, including a description of these risks (where appropriate) and associated mitigation measures or strategies.
- Confirmation that An Garda Síochána is adhering to all relevant aspects of the Public Spending Code.
- A statement on the system of internal control in An Garda Síochána, addressing the applicable items listed in Appendix D of the Code of Practice for the Governance of State Bodies – Business & Financial Reporting Requirements'.

### *2.7.3 Commissioner's Comprehensive Report to the Minister*

In conjunction with the submission of An Garda Síochána's Annual Report to the Authority, the Commissioner shall separately furnish to the Minister a Comprehensive Report in line with the relevant provisions of section 1.9 and Appendix C of the 'Code of Practice for the Governance of State Bodies – Business & Financial Reporting Requirements'. The purpose of this Report is to provide assurance that the necessary systems of internal control, risk management and other areas of compliance are operating effectively in the body. In line with the Code of Practice, the

aforementioned statement on the system of internal control forms part of the Commissioner's Comprehensive Report in addition to its inclusion in the Annual Report.

#### *2.7.4 Appropriation Accounts*

As Accounting Officer for An Garda Síochána, the Commissioner shall ensure that the annual Appropriation Accounts are prepared in accordance with the Exchequer and Audit Departments Act, 1866 (as amended by the Comptroller and Auditor General (Amendment) Act, 1993) and with accounting rules and procedures laid down by the Minister for Public Expenditure and Reform.

#### *2.7.5 Three-year review report*

Section 23 of the Act requires the Commissioner, at the end of each three-year period, to prepare and submit to the Authority a report containing a review of the efficiency and effectiveness of the management and deployment of resources available to An Garda Síochána for policing services during that 3 year period. The report may include recommendations that the Commissioner considers necessary for improving the management and deployment of resources.

The Authority is required to send a copy of the report to the Minister, who shall lay it before the Houses of the Oireachtas. The Minister may exclude any matter that would be prejudicial to the interests of national security or that might facilitate the commission of an offence, prejudice a criminal investigation or jeopardise the safety of any person.

## **2.8 Other key governance obligations**

### *2.8.1 Procurement*

In accordance with section 8.16 of the Code of Practice, the Commissioner will ensure that competitive tendering is standard procedure in An Garda Síochána and that procurement policies and procedures have been developed and published to all staff.

The Commissioner's annual Comprehensive Report to the Minister (see below) shall affirm adherence to the relevant procurement policies and procedures. However, in the event of any significant compliance difficulties or breaches – e.g. of a recurring nature, or involving substantial contract values (or values above EU thresholds) or a serious divergence from procurement rules and/or the Public Spending Code – An Garda Síochána will notify Criminal Justice Governance (Financial & Capital Resources team) at the earliest opportunity.

### *2.8.2 Current expenditure*

The Commissioner will ensure adherence to the applicable levels of delegated sanction for authorising current expenditure. In any instance where there does not exist clear authority to make a payment, An Garda Síochána will consult Criminal Justice Governance (Financial & Capital Resources team) for clarification.

### *2.8.3 Protected Disclosures*

In accordance with Section 21(1) of the Protected Disclosures Act 2014, An Garda Síochána has published a Protected Disclosures Policy and all Garda members and staff have been informed of this policy. Furthermore, the Garda Commissioner has appointed a number of Protected

Disclosures Managers who will be supported with a dedicated and properly trained team. An Garda Síochána has been working with a number of external providers including Transparency International Ireland to create an environment to ensure that persons who wish to make protected disclosures are properly protected and supported.

(As noted earlier in this Agreement, GSOC is prescribed, under the Protected Disclosures Act 2014, as a body to which Garda members may make protected disclosures.)

#### *2.8.4 Children First*

An Garda Síochána is, along with the Child and Family Agency (Tusla), one of the key statutory bodies tasked with child protection. It is also identified as a relevant service under the Children First Act 2015 and, as such, is required to produce a Child Safeguarding Statement which incorporates a risk assessment and sets out the corresponding risk controls (e.g. training, vetting) that have been put in place. Schedule 2 to the Act also designates every member of An Garda Síochána as a 'mandated persons' who is obliged to make reports to Tusla in certain prescribed circumstances and to assist with Tusla assessments on request. In line with the *Children First National Guidance for the Protection and Welfare of Children*, An Garda Síochána also has a network of local Designated Persons who serve as their area's principal contact for information/advice regarding specific child safeguarding concerns and for ensuring that such concerns are reported to Tusla as required.

An Garda Síochána will ensure full and continued compliance with its obligations under the Children First Act, the *Children First National Guidance for the Protection and Welfare of Children* and the Children First Sectoral Implementation Plan published by the Minister in accordance with section 27 of the Act. An Garda Síochána will annually (or more frequently if requested) submit to Garda Performance & Compliance a report on its Children First compliance for the year in question. This report will include, inter alia: details and figures regarding vetting, training and instruction of personnel; and the numbers of mandated reports and other referrals made to Tusla in the period concerned. However, any significant compliance difficulties or breaches will be notified to Garda Performance & Compliance at the earliest opportunity.

#### *2.8.5 Customer Charter*

An Garda Síochána has a customer charter setting out the level of service that a customer can expect. The charter is published on the Garda website and is supported by a customer action plan.

#### *2.8.6 Data Protection*

An Garda Síochána will strive, including with the various bodies with whom it exchanges personal data, to ensure full compliance with its obligations under the General Data Protection Regulation (GDPR), the Law Enforcement Directive and the Data Protection Acts 1988 and 2018. An Garda Síochána will annually, or more frequently if the Department so requests, submit to Garda Performance & Compliance a report indicating the number and nature of data breaches identified and reported in the period concerned and any remedial action it has taken to avoid recurrences. However, any significant data breach (e.g. involving the personal data of large numbers of people, or involving highly sensitive personal information) will be notified to Garda Performance & Compliance at the earliest opportunity.



### **2.8.7 Public Sector Equality and Human Rights Duty**

Section 42 of the Irish Human Rights and Equality Commission Act 2014 establishes a positive duty on public bodies to have regard to the need to eliminate discrimination, promote equality and protect the human rights of staff and persons to whom services are provided. An Garda Síochána will have continued regard to its obligations under Section 42 of the Act, and in particular its obligations to:

- Assess and identify human rights and equality issues relevant to its functions;
- Identify the policies and practices that are in place/will be put in place to address these issues; and
- Report on relevant developments in its Annual Report.

### **2.8.8 Environmental and Energy Issues**

An Garda Síochána will fulfil its statutory and other obligations in relation to environmental and energy issues as follows:

- (i) In accordance with requirements set out in the *Public Sector Energy Efficiency Strategy 2017*, An Garda Síochána has appointed an Energy Performance Officer, who has responsibility for (inter alia) the following actions and targets:
  - Striving to achieve the statutory target of a 33% reduction in energy use by 31<sup>st</sup> December 2020 in accordance with S.I. 426 of 2014 (European Union (Energy Efficiency) Regulations).
  - Accurately reporting energy use, annually, to the Sustainable Energy Authority of Ireland (SEAI), in advance of their deadline.
  - Reporting on progress (or lack thereof) achieved on energy reduction in An Garda Síochána's annual report.
- (ii) Participating in Justice-sector and wider public sector initiatives in relation to energy and environmental issues.
- (iii) Having due regard to DPER Circular 20/2019 on Promoting the use of Environmental and Social Considerations in Public Procurement.

## **2.9 Comply or Explain**

### **2.9.1 Performance Delivery Agreement**

A specific Performance Delivery Agreement between the Department and An Garda Síochána is not considered appropriate given the particular nature of the performance oversight framework established under the Act. Policing and security priorities are set by the Authority and the Minister respectively and are fed into the annual Policing Plan, which is prepared by the Commissioner and approved by the Authority with the consent of the Minister. The Policing Plan contains priorities and performance targets for the year to which the Plan relates, and the Authority regularly monitors how An Garda Síochána delivers on the policing targets. The Commissioner also reports to the Authority in relation to policing services generally, including at public meetings with the Authority. The Department has a role in monitoring policing performance more generally as part of its relationship with An Garda Síochána – in particular,

through the framework of governance-related meetings set out in Section 4 of this Agreement. The Department also convenes regular, structured meetings to facilitate the Garda Commissioner in reporting to the Minister on the provision of security services and actions to achieve the Minister's security priorities as reflected in the Strategy Statement and the annual Policing Plan.

#### *2.9.2 Provision of Information to Members of the Oireachtas*

It has been agreed that DPER Circular 25/2006 does not currently apply to An Garda Síochána and that parliamentary questions concerning An Garda Síochána will continue to be dealt with by the Department's Transparency function for the time being. However, building on previous engagement on this matter between the Department and An Garda Síochána, this arrangement will be kept under review and may be revisited within the lifetime of this Agreement.

### **3. Commitments**

#### **3.1 Mutual Commitments**

Both parties commit to:

- A 'no surprises' approach to matters of common concern.
- Supporting the achievement of agreed targets and promoting partnership, responsiveness and mutual co-operation in their ongoing interactions.
- Working together closely and supportively for the purposes of the Estimates process.
- A proactive, responsive and timely approach to sharing information, as set out in the appended Communications Protocol which was agreed between the Department and An Garda Síochána in 2018 and which forms part of this Oversight Agreement. The operation of the Communications Protocol is continuously monitored and will be the subject of a formal review by the two parties in 2020.

#### **3.2 Departmental commitments**

The Department commits to:

- Supporting An Garda Síochána, where necessary and appropriate, in relation to sanction requests to DPER in line with public financial procedures and policies on public service numbers;
- Seeking, via the annual Estimates campaign, to secure sufficient resources for the activities of An Garda Síochána;
- Providing appropriate supports to the Commissioner as his role evolves into that of 'true CEO' as per the agreed recommendations of the COFPI report;
- Informing and involving An Garda Síochána in any Departmental activities that relate to the role which An Garda Síochána undertakes or may be required to undertake.

#### **3.3 An Garda Síochána commitments**

An Garda Síochána commits to:

- Ensuring that effective internal controls and robust governance arrangements are in place in the organisation, that these are kept under review to ensure their continued effectiveness, and that Criminal Justice Governance is kept informed of – and, as appropriate, consulted on – related developments. In particular, An Garda Síochána will review its Corporate Governance Framework (2016) in consultation with the Authority and with Criminal Justice Governance (Standards team), and publish an updated version as required;
- Delivering on its commitments under APSFF;
- Developing a fully costed Policing Plan which will form the basis of future Departmental oversight of An Garda Síochána's performance;
- Providing timely, relevant and appropriately detailed information to facilitate the monitoring of this Oversight Agreement and the effective conduct of governance meetings;
- Formally bringing significant governance-related issues, incidents or concerns to the attention of Garda Performance & Compliance at the earliest opportunity, in line with the 'no surprises' principle;
- Providing prompt and high-quality material to the Department for responses to parliamentary questions and other Oireachtas business, correspondence, general briefing and information requests and related matters, as required and in keeping with the commitments contained in the Communications Protocol.

#### **4. Monitoring Arrangements and Key Interactions**

On all relevant matters, the interactions between An Garda Síochána and the Department must be dynamic and driven by the business needs and mutual commitments of each party. In this contact, relatively informal face-to-face, email and telephone contact will be necessary on a regular basis. However, it is important to set out the minimum pattern of engagement on governance-related matters, as follows below.

##### **4.1 Framework of governance meetings**

###### *4.1.1 Biannual governance meetings between Secretary General and Commissioner*

In line with the Department's overall approach to governance relationships with the Bodies and Agencies under its aegis, and in accordance with the Code of Practice, formal governance meetings will take place at least twice yearly between the Secretary General (or Deputy Secretary General) and the Commissioner. These meetings will consider, as required:

- the implementation of APSFF;
- the operation of the Communications Protocol;
- any specific governance or policy issues pertaining to An Garda Síochána;
- any trends in policing activity that the Commissioner may wish to bring to the Minister or the Department's attention, including progress updates in relation to the policing priorities and the delivery of the Policing Plan;

- financial management and budgetary matters;
- internal control and risk management;
- implementation of recommendations from GIAS reports and/or from the audit committee;
- human resource issues including staffing, training and industrial relations matters;
- any matter comprehended in, or arising from, this Agreement, including any significant issues arising from the Performance and Compliance meetings referred to at 4.1.2 below.

#### *4.1.2 Performance and Compliance Meetings*

To prepare for the twice-yearly Secretary General/Commissioner meetings (by agreeing agendas and advancing action points), and more generally to ensure an ongoing, robust and mutually supportive governance relationship, Garda Performance & Compliance will hold ongoing meetings with relevant senior Garda personnel. These 'Performance and Compliance' meetings will be small and relatively informal and will focus primarily on (a) key corporate governance obligations referenced in this Agreement and (b) progress in relation to the Policing Plan and other priority initiatives. The Performance and Compliance meetings are not intended to duplicate the work of the Authority or of the other meetings described below, or the associated reporting requirements. However, there may be occasions where a Performance and Compliance meeting needs to discuss a particularly urgent or serious issue that has arisen elsewhere, particularly if either party considers that the matter may require escalation to Secretary General/Commissioner level (whether at their next formal governance meeting or otherwise).

A minimum of six Performance and Compliance meetings per year will take place according to an agreed schedule. If required, supplementary meetings may be convened on specific matters.

#### *4.1.3 Meetings to monitor implementation of 'A Policing Service for the Future'*

An Garda Síochána will continue to participate in the monthly oversight meetings on the implementation of APSFF, chaired by the Deputy Secretary General (Criminal Justice).

#### *4.1.4 Joint Working Group on Resources for An Garda Síochána*

This Group comprises senior personnel from the Department, An Garda Síochána, the Authority, DPER and the Department of the Taoiseach. The Group currently meets on a monthly basis to review the following:

- The current position of the Garda Vote, any divergence from budgeted expenditure, and plans to address these divergences;
- HR matters including the workforce plan, redeployment and civilian recruitment;
- The Garda fleet and related strategy;
- ICT infrastructure and related project updates;
- Estate management and capital projects;
- Any other relevant financial matters, including (but not limited to) the costed Policing Plan and the review of the Garda finance function.

#### 4.1.5 Quarterly meetings on provision of security services

There will continue to be quarterly meetings between An Garda Síochána and the Department to monitor the provision of security services.

#### 4.1.6 Financial management meetings – Justice Group of Votes

An Garda Síochána will continue to participate in the monthly financial management meetings, chaired by the Department's Corporate Affairs Unit, which include representatives from across the Justice Group of Votes.

#### 4.1.7 Tripartite meeting with Policing Authority

A formal governance meeting between the Secretary General of the Department, the Chairperson of the Policing Authority and the Garda Commissioner shall be convened if so requested by any of these parties to address specified and significant issues that impact upon relevant responsibilities of the three parties and the relationship between them.

### 4.2 Provision of information on performance and compliance

An Garda Síochána undertakes to return:


- timely, accurate, relevant and appropriately detailed performance and compliance information to allow for the effective monitoring of this Agreement; and
- timely, accurate, relevant and appropriately detailed performance information for inclusion in the Revised Estimates for Public Services volume.

## 5. Flexibility and Amendment

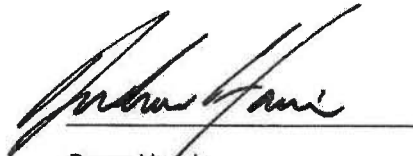
Both parties will keep the relevant oversight arrangements under review (including through the aforementioned formal review of this Agreement every 12 months) and, where necessary, will engage on agreeing any necessary amendments to ensure the continued relevance and effectiveness of those arrangements.

## 6. Duration and Signatories to the Agreement

Aidan O'Driscoll, Secretary General, Department of Justice and Equality, and Drew Harris, Commissioner, An Garda Síochána, affirm that this Agreement will apply with effect from the date hereunder until 31<sup>st</sup> December 2022.



Aidan O'Driscoll  
Secretary General  
Department of Justice and Equality



Drew Harris  
Commissioner  
An Garda Síochána

Date: 14 May 2020