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| Description: Houses_Oireachtas_Resize | **An Comhchoiste um Dhlí**  **agus Ceart, Cosaint agus Comhionannas**  Teach Laighean  Baile Átha Cliath 2  Guthán: (01) 618 3899  (076) 100 1755  Facs: (01) 618 4124  Rphost: Justiceanddefence@oir.ie | **Joint Committee on**  **Justice, Defence and**  **Equality**  Leinster House  Dublin 2  Tel: (01) 618 3899  (076) 100 1755  Fax: (01) 618 4124  Email: Justiceanddefence@oir.ie |

Ms Frances Fitzgerald TD,

Minister for Justice and Equality,

94 St. Stephen’s Green,

Dublin 2.

**Our Ref: 2014/5/B/4/18**

**RE: Review of the Garda Síochána Act 2005**

Dear Minister,

The Joint Committee, at its meeting on 25th June 2014, agreed to forward to you an interim response arising from its review of the Garda Síochána Act 2005. This focuses particularly on the issues in relation to the oversight of an Garda Síochána and related bodies.

The Committee recommends the following:

* In order to ensure proper oversight and accountability of the Force, the Committee recommends that the Garda Commissioner be accountable to the Garda Síochána Ombudsman Commission (GSOC). This would expand the remit of GSOC to more effectively investigate complaints against members of the Garda Síochána by members of the public, by having the powers to question senior members of the Force and receive assurances that the requirements of the Garda Síochána Act 2005 are being followed in such investigations.
* Presently, the Garda Ombudsman sits as a three person Commission. The Committee recommends that the structure of the Commission is changed, so that instead of three people, there is a single Garda Ombudsman. There are a variety of ways this may be structured, for example, one Ombudsman assisted by two assistants. However, the appointment of a single Ombudsman would ensure a greater degree of accountability and ensure that there is no possibility of dissenting opinions or divergence in the Ombudsman’s findings.
* The Committee recommends that no serving or former member of an Garda Síochána should serve on GSOC. This is of fundamental importance to ensuring an oversight body that is fully independent and free from political or Garda interference. Furthermore, this would reinforce a practice whereby an Garda Síochána is accountable to the citizens it serves to protect.
* GSOC should have the power to conduct investigations on their own initiative. This is vital to ensuring that best practices are followed at all times. The ability of GSOC to initiate investigations and inspections would encourage the Force to develop more effective practices and eliminate cultures which impede this.

**The Complaints Process:**

* The Committee recommends that GSOC should be responsible for all complaints against Gardaí. This would serve to enhance the robustness of GSOC and ensure that a fully independent body oversees and investigates all complaints against members of the Garda Síochána. This would further ensure the maintenance of a single, publicly defined standard for the investigation of complaints against law enforcement services.
* The Committee emphasises that any citizen should be entitled to raise a genuine concern or complaint to a public body without fear of reproach. As such, the Committee recommends that GSOC should introduce structures within its office to enable whistle-blowers to bring matters of concern to the notice of the Ombudsman, in the knowledge that the issues raised would be treated with the utmost sensitivity and in confidence. The Committee further recommends that established protocols are developed around this issue, including a review of the six month time-frame.
* To aid the efficiency of the complaints process, the Committee recommends that consideration is given to the establishment of a “help line” to offer advice in confidence and a separate “hot line” to offer the opportunity to report. The Committee submits that a proper differentiation is made to ensure that any complainant or potential complainant gains a full understanding of the procedures and potential consequences, and that an avenue exists to assess the authenticity of concerns before advising or suggesting that a complaint is made.

**Inspection of the Criminal Justice System:**

* The Committee recommends, as part of a more general authority or otherwise, that a Criminal Justice Inspectorate is established to oversee and supervise the administration of all aspects of the criminal justice system, similar to the body which exists in Northern Ireland. Establishing a similar body could be a long-term objective for the proposed Garda Authority, as it evolves.

This new organisation would have powers to oversee a number of bodies, expanding its remit over time. Such bodies under its remit may include an Garda Síochána, the Courts Service, the Director of Public Prosecutions, the Legal Aid Board, the Probation Service and the Ombudsman Commission. Other organisations such as the State Pathologist and Prison Governors may also fall within the remit of an expanded authority.

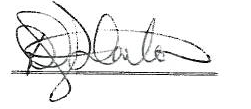
**The Proposed Garda Authority**

* The Committee recommends that the proposed Garda Authority would initially operate as a “shadow organisation”. This is to ensure that the right administrative structure is in place before the Authority assumes any real investigative and administrative powers. The Committee submits that there should be a gradual process of transferring powers and responsibilities to the proposed Authority. Furthermore, there are fundamental issues concerning the culture within the organisations concerned, including an Garda Síochána, which need to be addressed, further underlining the need for a gradual process.
* The Committee recommends that there is no Ministerial or Government involvement in the appointment of the Garda Authority and that this becomes the responsibility of the Public Appointments Service. This would ensure that the people selected for this extremely important and vital role are properly scrutinised as part of a competitive application process, thus ensuring that the most qualified and suitable people are overseeing Garda services. Consideration could also be given to allow the Garda Authority to have further control over budgets and strategic planning.
* Furthermore, the Committee recommends that the appointment of senior officers within an Garda Síochána becomes the responsibility of the Garda Authority. By placing the appointment of senior staff under the remit of an independent body, it minimises the scope for political interference and ensures an equally effective scrutiny of applicants for senior positions within the Force. It is recommended the appointment of vacancies from the rank of Chief Superintendent and upwards will fall within the remit of the Garda Authority.
* The Committee recommends that the proposed Garda Authority, and the organisations it oversees, be required to present an annual report to both Houses of the Oireachtas detailing all aspects of their work. It is also recommended that the relevant Oireachtas Committee should examine the annual reports to ensure greater accountability and enhance public confidence in the justice sector.

The Committee wishes to reiterate that this is an interim response dealing with a particular aspect of the Garda Síochána Act 2005.

The Committee intends to continue its review of this Act over the coming months with the view to bringing forward a more detailed and comprehensive report in the Autumn.

Yours sincerely



David G. Stanton TD

Chairman

27th June 2014