



AN TÚDARÁS PÓILÍNEACHTA
POLICING AUTHORITY

**Report in accordance with section 62(O) of the Garda
Síochána Act 2005**

December 2017

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Chairperson's reflection on the effectiveness of the Policing Authority

It is very welcome that the Oireachtas obliges the Policing Authority to submit this Report on its effectiveness and the adequacy of its functions. In many ways, the two are intertwined, and the Authority's achievements and views are set out in some detail in this document. A fully researched assessment of the Authority's effectiveness is beyond the scope of this report. In any event, it is too soon, and is best left to others. However, the Authority has considered its own effectiveness, and has received ongoing spontaneous comments and feedback. On that basis this reflection and report on our effectiveness as an Authority of nine (now eight) people, which has been endorsed by my colleagues, is offered.

Overall assessment

Overall, the Authority considers that it has been a positive disrupter in the Justice/Garda realm and has made a difference. In particular, in bringing transparency, independent challenge, a growing rigour and persistence to performance oversight, we consider that we have been effective. In a short timeframe, we have established a performance framework to oversee the functions of the Garda Síochána, and ensured that this oversight is subject to public scrutiny. We have put in place a Code of Ethics, a system for appointing senior Garda members and civilians, and provided a range of reports to the Minister for Justice and Equality. However, as this report acknowledges, there is quite a way to go. The Authority will not be in a position to assess itself as truly effective until such time as it can deepen its assessment of Garda performance, and see evidence of substantial progress by the Garda Síochána in implementing its reform programme.

As to the adequacy of our functions: they are broadly adequate for the tasks assigned to the Authority in the Act, although frequently cumbersome, over circumscribed and inefficient. However, partly due to the compartmentalised set of bodies, and to the limited remit that the Authority has in relation to resources, they are not adequate to oversee and assess performance in all of its dimensions. Although not scientific, a scan of our correspondence and of public comment also suggests that our functions are not adequate to meet public expectations.

Clarity of role and functions

A broad range of stakeholders had called for the establishment of a Policing or "Garda" Authority in recent years, but there is no settled view in Ireland as to the appropriate form of independent policing oversight. Few commentators appear to appreciate the form that was provided for in legislation, and assess the Policing Authority's performance against their perception of what *ought to be* the role of an Authority from their particular perspective. That suggests that the Authority has not yet been as effective as it might be at explaining and publicising its particular role and remit.

The spontaneous feedback from correspondence and commentators includes the following themes:

- The Authority is not as effective or searching as it should be in its questioning in public session;
- The Authority is slowly making a difference;
- The Authority doesn't understand policing, or policing in Ireland, because of the Members' backgrounds;
- The Authority should dismiss and/or discipline certain people in the Garda Síochána;
- The Authority should include elected representatives;

- The Authority is changing the context for Garda Síochána oversight in positive way;
- The Authority’s job, which it is not doing, is to advocate for additional resources for the Garda Síochána;
- The Authority is holding the Commissioner and senior team to account; and
- The Authority should have a budget to support the work of JPCs.

In the context of these valid perspectives, it may be helpful to summarise that the model of Authority provided for in legislation is one:

- that is *appointed* rather than elected;
- with a *specified mix of professions and expertise*;
- that is an *oversight body with a significant operational reach into another organisation* but not an accountability body;
- with *very narrow circumscribed* roles in relation to Garda resources which we consider to be a particular weakness; and
- with many of its powers requiring *Ministerial consent or Government approval*, (it should be said this has not proven to be a difficulty – in many ways this is about perception).

One of the challenges posed by the current oversight architecture has been the ambiguity inherent in the respective statutory roles of the Authority and the Minister when it comes to overseeing the performance of the Garda Síochána in relation to policing services. Linked to this, has been the challenge of overseeing the performance of the Garda Síochána as an organisation while the head of that organisation, the Garda Commissioner, is accountable to the Minister. While the proposition of making the Garda Commissioner accountable to the Authority may seem on the face of it, to be a simple solution to this ambiguity, it cannot be considered in isolation from a broad range of key policy and legal questions. The questions include the role to be provided for the Minister and the Secretary General of the Department of Justice and Equality, and the exclusion of the Authority from oversight of security matters. The Authority will develop these points further in its submission to the Commission on the Future of Policing in Ireland. For the purpose of this report, it is sufficient to state that the manner in which the ambiguity has played out has at least contributed to the creation of a crowded, confused and inefficient oversight regime, and impacted the Authority’s effectiveness.

The Authority’s view is that the uncertainty among stakeholders about its role and functions, while understandable, has the potential to affect public confidence in its effectiveness. It has also impacted on the manner in which some stakeholders and groups – including the Garda Síochána and the Department of Justice and Equality - engage with the Authority. This is largely as a result of a cumbersome legislative scheme.

Many functions but only one job

The Authority has a broad range of functions, which are commented on in some detail in this Report. However, we consider that we have only one job, which is set out clearly in the long title of our founding statute, i.e. to oversee - which in our view includes assessing – the performance of the Garda Síochána in relation to their policing functions. **After two years, the Authority is convinced that such oversight is very necessary and believes it has added valuable, transparent oversight, which was missing.**

We have developed constructive working arrangements with the Garda Síochána Inspectorate and the Garda Síochána Ombudsman Commission. However, we are convinced that greater clarity is necessary between the various bodies in the Garda realm, including the Department of Justice and Equality, as to which body is expected to do what. Duplication of effort is wasteful and is frustrating for the Authority, the Garda Síochána and, as our correspondence shows, for the public.

Practical matters

It was recommended that the Authority be established on a shadow basis before commencement of the legislation. This would have been hugely helpful, but did not prove possible. Members were advised of their appointment days before the Authority went “live” on 1 January 2016. This initiation was managed well by a very small team but was not optimal. The Authority quickly established its own governance processes, developed its strategy and values, identified its corporate priorities and set about implementing them in a methodical considered way. It set up a number of important committees to drive specific aspects of our business and began to build an executive team.

The Authority has reviewed its procedures and performance, including as required by the Code of Practice for the Governance of State Bodies, and will do so again. In all the circumstances, the Authority considers it has been effective in establishing itself. This has required a very significant time commitment from members, which will need to be borne in mind when next the Minister seeks to make appointments to the Authority.

The Authority also considers that for the future, nine members is not enough. We have added non-members to our Committees to mitigate this risk, but to ensure that a broad range of applicants can make the necessary time commitment some additional members would be welcome.

A Garda performance framework and Code of Ethics – work in progress

The essential building block of a framework through which the Authority can oversee and assess performance is now in place. The assessment of performance happens at both official level and Authority level. This provides the basis for reports to the Minister, for questioning at public meetings and for the development of the Authority’s own work programme. The twin planks of our approach – persistence and transparency – have been key to our effectiveness.

Nonetheless, the Authority’s assessment is that while it provides a sound foundation, considerable further work is needed to broaden the range of performance indicators and to deepen the quality of performance information available from the Garda Síochána. **In particular, the Authority has not been able to be as effective as it would like in understanding and then challenging deployment of resources; both people and money.** The Authority will make this a priority in 2018 and 2019, but improvements in Garda Síochána management information will also need to be addressed.

Likewise, the Authority was effective and timely in developing and introducing a Code of Ethics for the Garda Síochána. Our targeted oversight approach will need to persist longer than we expected in order to ensure that the Code will be mainstreamed in all aspects of Garda Síochána work, both internal and outward facing. **The Authority considers that the establishment of the Code of Ethics was particularly timely given broader concerns about integrity aspects of Garda performance.**

Meetings in public – the Authority’s own accountability

In many ways, the meetings in public with the Garda Commissioner capture the whole point of the establishment of the Authority. They have proven to be something of a challenge for Authority members who are not necessarily accustomed to public appearances. They have also proven to be a challenge for the Garda Síochána who, initially at least, did not seem to appreciate that the Authority’s own accountability to the community, as well as theirs, is exercised through the lens of those meetings. The Authority is in no doubt that those meetings are central to the effectiveness of Garda oversight. Optimally they are agenda based, scheduled and planned in good time to allow both parties to prepare. Five a year, with provision for extra meetings if required is about right. **Within this framework, events have required the Authority to be agile, and our assessment is that for a “new” body we have been reasonably effective in public and are improving with experience.** We seek to balance our agendas between policing and management topics, and provide opportunities for the Garda Síochána to be more transparent about the way they do their work and reassuring to the community.

Senior Appointments

The functions relating to appointments – both Garda and civilian - are among those which have the greatest capacity to impact on culture, and they are commented on in some detail in this report. It continues to be our view that, it is desirable to follow the example set by Government for the top Garda positions by opening ranks from superintendent upwards to direct entry.

We consider that one key change is urgent. Before the next round of competitions for senior Garda ranks, provision needs to be made so that all appointments include a probation period.

Access to information and scope

Spontaneous submission of information is critical to the effectiveness of oversight bodies generally. Notwithstanding quite strong provisions in the Act, the Authority has experienced some difficulty in getting access to information and the spontaneous submission of information, as foreseen in the Act, on matters relevant to the Authority’s functions is evolving very slowly. In this regard, the Authority may need stronger powers to compel performance, but would prefer to work collaboratively because, in the final analysis, powers are ineffectual if we don’t know that something we should ask for exists.

Conclusion

It has been an honour and a challenge to establish this fledgling Policing Authority. We believe that the Authority has been a positive force for change. Drawing on our assessment, the views of other stakeholders and the work of the Commission on the Future of Policing in Ireland, I am in no doubt that the oversight framework will change. Until then, the Authority will continue to enhance our capacity and our effectiveness to the extent possible within the existing statutory framework.



Josephine Feehily

Chairperson

Some Key Milestones and Achievements 2016 – 2017

January 2016	<ul style="list-style-type: none"> • The Policing Authority established and holds its first meeting
February 2016	<ul style="list-style-type: none"> • First meetings of the Code of Ethics Committee, the Appointments Committee, and the Policing Strategy and Performance Committee
April 2016	<ul style="list-style-type: none"> • First meeting with the Garda Commissioner in public
June 2016	<ul style="list-style-type: none"> • Authority makes first senior civilian appointment
July 2016	<ul style="list-style-type: none"> • Policing Authority Strategy Statement 2016 – 2018 published • Garda Síochána Strategy Statement 2016 – 2018 approved • First national meeting with the Chairs of the Joint Policing Committees
September 2016	<ul style="list-style-type: none"> • National consultation event in relation to the development of the Code of Ethics
October 2016	<ul style="list-style-type: none"> • Policing Priorities for 2017 submitted to the Minister for approval
November 2016	<ul style="list-style-type: none"> • Report on the Garda Síochána Protected Disclosures Policy sent to the Minister and published • Policing Plan 2017 sent to the Minister for consent
December 2016	<ul style="list-style-type: none"> • Code of Ethics for the Garda Síochána established
January 2017	<ul style="list-style-type: none"> • First Quarterly Report to the Minister on the implementation of the recommendations of the Garda Inspectorate in <i>“Changing Policing in Ireland”</i> • Functions relating to Garda Appointments commenced and first Assistant Commissioner competition advertised
March 2017	<ul style="list-style-type: none"> • First Panel established for Assistant Commissioner appointments and first appointment made by the Authority
April 2017	<ul style="list-style-type: none"> • Second Quarterly Report to the Minister on the implementation of the recommendations of the Garda Inspectorate in <i>“Changing Policing in Ireland”</i> • Submission to the Garda Inspectorate on entry routes to the Garda Síochána • Policing Authority Annual Report 2016 published
June 2017	<ul style="list-style-type: none"> • Panel established for Chief Superintendent appointments

<p>July 2017</p>	<ul style="list-style-type: none"> • Third Quarterly Report to the Minister on the implementation of the recommendations of the Garda Inspectorate in <i>“Changing Policing in Ireland”</i> • Report to the Minister on the implementation of the recommendations in the Interim Internal Audit Report in relation to the Garda Training College. • Panel established for Superintendent appointments and first appointments made of Chief Superintendents and Superintendents
<p>October 2017</p>	<ul style="list-style-type: none"> • Report published on <i>the Review of Matters Related to Mandatory Intoxicant Testing and the Incorrect Issuing of Summonses by the Garda Síochána Instead of Fixed Charged Notices</i> • Report to the Minister on the Garda Síochána response to the Report of the Fennelly Commission of Investigation. • Second Report to the Minister on the implementation of the recommendations in the Interim Internal Audit Report in relation to the Garda Training College
<p>November 2017</p>	<ul style="list-style-type: none"> • First appointment by the Authority of a PSNI candidate to the rank of Superintendent in the Garda Síochána
<p>December 2017</p>	<ul style="list-style-type: none"> • Fourth quarterly report to the Minister on the implementation of the recommendations of the Garda Inspectorate in <i>“Changing Policing in Ireland.”</i>

1. Introduction and approach

The Policing Authority is an independent agency established on 1 January 2016. Its fundamental role is to oversee the performance by the Garda Síochána of its functions relating to policing services. The Authority is somewhat unusual being an oversight body that also has a deep operational reach into the organisation it oversees in relation to certain functions.

The Authority was established by the enactment of the Garda Síochána (Policing Authority and Miscellaneous Provisions) Act 2015. This amended the Garda Síochána Act 2005 (the 'Act') and provided for an extensive range of functions for the Authority, some of which were previously the responsibility of Government or the Minister for Justice and Equality.

Section 62(O) (2) of the Act requires that the Authority report to the Minister on

- The effectiveness of the Authority; and
- the adequacy of the functions assigned to it by the Act.

The section also states *“the report under subsection (2) may contain recommendations for improving the effectiveness of the Authority”*.

In preparing this report for the Minister, the Authority has been mindful of the ongoing work of the Commission for the Future of Policing (the “Commission”). The terms of reference of the Commission include a requirement to consider the overall framework within which policing operates, including whether the policing is supported by coherent structures for governance, oversight and accountability. As a result, the Authority has sought to consider not just its own functions but how those functions fit into the overall oversight architecture and what changes might be needed in that overall architecture.

In addition to preparing this report in accordance with section 62(O)(2), the Authority will also be making a submission to the Commission for the Future of Policing by 31 January 2018 on certain matters set out in the Commission’s Terms of Reference and the overall oversight structures. The Authority will also continue to interact with, and assist, the Commission over the course of 2018 as required.

2. Establishing the Authority and how it worked

Beginning with a team of just three on 1 January 2016, the Authority has built a small but growing team of thirty at the time of writing. It has put in place sound governance, processes and procedures to manage its own work and has met all its statutory deadlines to date. As with all new organisations, its early work was about putting solid foundations in to form the building blocks for future years. By mid-2016, our Strategy Statement for the three years from 2016 to 2018, was published and it clearly set out the Authority's Mission, Values and Strategic objectives.

Our **Vision** is of a society served by a professional, impartial, constantly improving police organisation, which deserves and enjoys the trust and support of the people

Our **Mission** is to drive excellent policing through valued and effective oversight and governance.

Our **Values** go to the core of how we have worked over the past two years, and are:

- Acting in the public interest;
- Listening;
- Integrity;
- Transparency;
- Independence;
- Courage;
- Fairness; and
- Respect.

Governance

As set out in the Authority's Governance Framework, the Authority operates in accordance with Corporate Governance for State Bodies and the Corporate Governance Standards for the Civil Service. Along with the Framework, the following publications¹ have been put in place and contain further detail surrounding governance:

- Governance Framework;
- Code of Conduct;
- Standing Orders; and
- Schedule of Delegations.

¹ These documents are available on the Authority website at <http://www.policingauthority.ie/website/PA/PolicingAuthorityWeb.nsf/page/About-en>

Authority Meetings

The Authority has, to date, planned for an ordinary daylong plenary meeting each month, except in the month of August. Each meeting includes a meeting with the Garda Commissioner and the senior team. The Authority is required by the Act to hold no less than four meetings in public with the Garda Commissioner annually. The schedule of meetings for the year is published well in advance, including indicating which meetings will be held in public with the Commissioner. From time to time, the Authority will hold additional or exceptional meetings on a needs basis, which may include meetings with the Garda Síochána.

The table below provides an overview of meetings in 2016/2017.

Period	Planned Meetings	Actual Meetings	Of which Held in Public
2016	11	13	5
2017	11	19	5

Meetings with the Commissioner in public are held in a central venue to facilitate the public and media attending and observing. These meetings are advertised in advance on the Authority's website. They are live streamed via the Authority's website, are available to broadcast by the media and archived recordings are available to view on the Authority's YouTube channel.

The Authority publishes the draft agenda for meetings on its website one week in advance and approved minutes are also published on the website. Since January 2017, the Garda Commissioner has provided the Authority with a monthly report, which is published on the Garda Síochána and Authority's website.

Committees of the Authority

The Authority has established a number of Committees, supported by the Executive, to oversee the governance and progress the work of the Authority in relation to its statutory priorities. Each Committee has been established under terms of reference, which set out their purpose and guides their work. Terms of Reference for each Committee and the approved minutes of their meetings are available on the Policing Authority website.

Committee	Function
Code of Ethics	The Authority set up a Special Committee of the Authority, initially to develop the Code of Ethics and now, following the establishment of the Code, to oversee the

Committee	Function
	Garda Commissioner’s work to embed the Code of Ethics throughout the Garda Síochána.
Garda Organisation Development	This Committee was established to monitor and assess reform progress in the Garda Síochána. In particular, it oversees implementation the Organisation Development and Capacity Improvement Chapter of the Policing Plan, and monitors and assesses measures taken by the Garda Síochána to implement the recommendations of “Changing Policing in Ireland” on the basis set out in Government Decision S20193F.
Policing Strategy and Performance	<p>Taking account of the statutory responsibilities of the Authority in determining policing priorities and approving the Garda Commissioner’s Annual Policing Plan, the Committee makes proposals to the Authority on the approach and timelines to be adopted in each case.</p> <p>This Committee reviews monthly reports from the Garda Síochána on the implementation of the annual Policing Plan and advises the Authority in its ongoing approach to oversight of policing strategy and performance.</p>
Garda Appointments Quality Assurance & Selection Governance	This Committee was established as a Special Committee of the Authority to provide governance and quality assurance in the senior Garda appointments process for the period until the first competitions under the Authority’s remit to appointment Assistant Commissioner, Chief Superintendent and Superintendent in the Garda Síochána have been completed.
Audit and Risk	The Audit and Risk Committee is part of the control environment, tasked with providing independent advice to the Accounting Officer and the Authority including; the suitability and robustness of the organisation’s internal control, internal audit, risk management and governance systems and procedures.

Executive Team

The role of the Executive, led by the Chief Executive, is to implement the policies and decisions of the Authority. The Executive supports the Authority’s work by engaging with the Garda Síochána and other stakeholders, and providing the relevant information and expertise in relation to governance and policy development at both Authority and Committee level.

Values

In the course of its oversight of the Garda Síochána the Authority has emphasised the importance of Garda Senior management demonstrating, in a visible way, commitment to its values and to the Code

of Ethics established by the Authority in December 2016. The Authority has therefore been conscious from the beginning that it is important that the Authority itself also demonstrate a tangible and visible commitment to its own values. It also holds itself to the standards set down in the Code of Ethics.

Transparency

The Authority took an early decision that to the extent possible, its work would be done in a transparent way. In addition to holding five meetings in public, the Authority:

- publishes detailed minutes of all of its meetings and of its Committee meetings;
- publishes all of its reports on its website within a short period of time of the reports being finalised; and
- responds to media queries and queries from members of the public in as fulsome and timely a manner as possible.

By being as open as possible about its work, the Authority has sought to ensure that it is accountable to the public, and that it provides the Garda Síochána with the opportunity to be accountable to the public for the performance of its functions.

Independence

In the course of debates on its establishment, the independence of the Authority was given considerable emphasis. For the Authority, ensuring that it is independent of both the Department of Justice and Equality ('Department') and the Garda Síochána is fundamental to its purpose and credibility. In order to demonstrate independence as a core value, it has sought to:

- be honest and independent minded in its assessment of the performance of the Garda Síochána and in any public or private communications it has had;
- challenge relationship norms which may impact on its independence and ensure that there is a degree of formality around its relationship with both the Garda Síochána and the Department of Justice and Equality;
- conduct its work in a transparent and open manner to allow for others to challenge its independence;
- keep an appropriate distance from the day-to-day work of the Garda Síochána, recognising the operational independence of the Garda Commissioner.

Listening

Since it was established, the Authority has sought to identify a diverse range of sources of information about how different communities and individuals experience policing in Ireland. The Authority has met with various NGOs and state agencies, as well as visiting Garda stations to meet with the members and staff who are in direct contact with members of the public and attending JPC meetings. The Authority considers that it has made good progress at developing relationships with a diverse range of agencies and organisations to understand how certain communities experience policing. These groups include representatives from the LGBT community, racial and ethnic minorities, groups that

represent victims of domestic or sexual violence. A key focus for 2017 was to better understand how Joint Policing Committees around the country work.

The purpose of this engagement work is to better understand the context for the Garda Síochána's work and on occasion to verify the information that has been received from the Garda Síochána.

Authority's assessment:

The Authority considers that it has established the Authority with sound governance, processes and procedures to manage its work. However, as part of its annual consideration of its effectiveness, it continues to challenge and enhance its way of working. It does consider that having a slightly larger number of Authority members, say from 9 to 12 would expand its capacity both in terms of the range of expertise, but also the time commitment for Authority members to service the detailed oversight work that its committees do.

It is the Authority's view that working openly has been very effective from an oversight perspective and that this transparency is the reason, either directly or indirectly, that many issues have been aired in the public domain during the last two years. When all parties (including the Authority) know that information on their performance will be in the public domain, this inherently causes improvement.

The Authority is too new to have conducted any public attitudes survey that might assess how the public or other stakeholders perceive it. It does however receive feedback from members of the public, some of which is critical of the Authority for being too close to the Garda Síochána and "too soft" on the Commissioner in public, and other feedback to the effect that the Authority is overly critical and negative of the Garda Síochána. The Authority is conscious, therefore, that there are mixed views in the eyes of the public and other stakeholders about how independent (and indeed effective) the Authority is.

On balance, the Authority considers that it has established an independent relationship with the Garda Síochána, but intends that as its oversight role becomes more embedded, the Garda Síochána will be in a position to provide documents in a format that do not require substantial input from the Authority and that its independence will be enhanced.

The Authority considers that it has established an appropriately independent and effective working relationship with the Department of Justice and Equality. The way the relationship is framed in legislation has posed a number of challenges and these are set out in Section 3 below.

In the area of listening and engaging, the Authority considers it could do more and in 2018 it intends to continue and enhance its programme of listening, engagement and learning with civil society, Gardaí, statutory bodies and JPCs.

3. Oversight of performance of the Garda Síochána of its functions relating to Policing Services

The long title of the Garda Síochána (Policing Authority and Miscellaneous Provisions) Act 2015 provides that the Authority was established “*for the purpose of overseeing the performance by the Garda Síochána of its functions relating to policing services*”.

At its most basic, overseeing performance involves establishing a performance framework, and monitoring and evaluating progress against that framework.

Broadly speaking, the Authority has been assessing performance based on a performance framework that has the following components:

- the Garda Síochána Strategy Statement;
- the Garda Síochána Annual Policing Plan;
- the Garda Inspectorate Reports and the Modernisation and renewal plan;
- other reviews and third party reports (including GSOC reports); and
- its own research.

3.1. Overseeing the implementation of the Annual Policing Plan

The Authority has placed the Policing Plan at the centre of the performance framework, which it has developed. Progress is assessed, and the Authority’s Policing Strategy and Performance Committee challenge the Garda Síochána at its regular meetings, and again at the monthly Authority meeting.

Development of the Policing Plan and related performance targets

The Policing Plan is developed by the Garda Síochána in accordance with Section 22 of the Act and approved by the Authority, with the consent of the Minister. In preparing this Plan the Garda Commissioner must have regard, amongst other things, to the overall strategy of the Garda Síochána. The most recent Garda Síochána Strategy (2016 – 2018) was approved by the Authority and the Minister in accordance with section 21 of Act.

The Policing Plan contains the performance targets established by the Authority under section 20 of the Act. The process of developing the Policing Plan by necessity requires that the two organisations consult and work on the document using an iterative process. The legislation conceives of the development of the Plan and the Performance Targets as being two separate processes, but this is not practical given the need for any targets set by the Authority to have accompanying actions and initiatives within the Plan to give them practical effect.

A key priority for the Authority during its first two years has been to ensure that the Policing Plan would contain specific measurable targets - be that percentage increases in reporting of crime, increases in detections, decreases across crime areas, time frames for completion of particular actions and percentage increases or decreases in the results of the public attitudes survey. The 2017 Policing

Plan included more specific measurable targets than plans developed prior to the Authority's establishment, and the 2018 Plan builds on this with yet more specific measurable targets.

In advance of preparing the 2017 Policing Plan, consultation took place with (amongst others) the chairpersons of Joint Policing Committees, Chief Executives of Local Authorities, the Garda Commissioner and the Department of Justice and Equality. The process for developing the 2018 plan was similar but also involved an additional step of targeted consultation with a range of stakeholders. Following from the 2017 consultation, four new policing priorities were identified for 2018, namely:

- Domestic Violence;
- Brexit Preparedness;
- Major Incident Planning; and
- Data Governance and Stewardship.

Monthly assessment and challenge

The Authority's Policing Strategy and Performance Committee examines in detail the performance of the Garda Síochána against the Policing Plan on a monthly basis. This facilitates further oversight and challenges to the Garda Commissioner at the monthly Authority meeting. In advance of those meetings, the Committee receives a report, which sets out all the actions and targets in the Plan with a RAG status as against the progress being made. The report is required to set out the reasons for any target going off course and the remedial action proposed.

As of November 2017, the Garda Síochána reported the successful completion of 40 of the 84 policing initiatives set down in the 2017 Plan. Some achievements of the 2017 Plan include success in targeting organised crime, increased detection and reporting of sexual crimes in the latter part of the year, publication of a National Crime Prevention and Reduction strategy, and the roll out of Protective Service Units in three divisions. Some disappointments include:

- the lack of progress on civilianisation;
- the continuing downward trend in detection levels across a number of crime types;
- failure to deliver a strategy on diversity and inclusion and a new community policing framework;
- the slow pace at which the Performance Management and Accountability Framework has been implemented, and the continued lack of performance management for civilian staff.

In addition to the information provided by the Garda Síochána to support the assessment of its performance, the Authority has recourse to its own research, drawing on publicly available data, the Inspectorate reports and engagement with a range of relevant stakeholder organisations. The stakeholder meetings allow the Authority to garner a sense of how Garda Síochána performance is being experienced by members of the public. This work is evolving, and it is intended to deepen the Authority's engagement with other agencies and NGOs in 2018, as well as developing the research capability of the Authority.

3.2. Overseeing the Reform Programme - the Inspectorate Reports and the Modernisation and Renewal Programme (“MRP”)

In November 2015, the Garda Inspectorate published its report *“Changing Policing in Ireland”*. This report contained 80 recommendations of which 77 were accepted (some with amendments) in the Government Decision on 16 July 2016. The focus of that report was on modernising and restructuring the Garda Síochána. Following on from this, the Garda Síochána published a Modernisation and Renewal Programme (2016 – 2021) in June 2016. The purpose of this 5-year programme was *“to professionalise, modernise and renew the organisation to ensure it can meet present and future policing and security challenges.”* It is an ambitious change programme covering key areas such as the structure, composition of the workforce, culture, supervision and resources.

In July 2016, the Tánaiste and Minister for Justice requested that the Authority monitor and assess the measures being taken by the Garda Síochána to implement the recommendations of *“Changing Policing in Ireland”* noting that in many instances the vehicle for implementation of this Inspectorate Report is the MRP. In the course of 2017, the Authority established a framework against which it tracks progress on the various projects in the MRP. It also identified those recommendations in *“Changing Policing in Ireland”* that were not covered by the initial 133 projects being undertaken within in the MRP.

Progress in relation to the MRP is evaluated by the Organisation Development Committee of the Authority, which meets with Garda Representatives to discuss progress on a monthly basis. The Authority has sought to bring focus to particular priority themes that in its view are key enablers of change. These themes are grouped into the following oversight priorities that are now examined explicitly:

- Composition and structure of the workforce;
- Garda Resource deployment;
- Supervision;
- Data Quality;
- Victims; and
- Culture

The Authority has also focused on the areas of IT, HR and training which support and enable the achievement of the Inspectorate recommendations. At the Authority meeting on 23 November last, the Garda Commissioner acknowledged the need for prioritisation and this exercise is currently underway.

As part of this oversight work, the Authority produce quarterly reports for the Minister reporting on progress. These reports are subsequently published and made accessible to the public. These reports are based on quarterly submissions from the Garda Síochána, but the value added by the Authority is that it interrogates, rather than accepts, these submissions and seeks supporting documentation to evidence progress.

To date, three reports have been published (January, April and July 2017) and a fourth is being submitted to the Minister on 22 December 2017. These have raised concerns about the pace of

implementation. The July report stated that although the Garda Síochána had indicated that 20 % were completed, on further investigation the Authority found that many of those, which had been marked as complete, had in fact not met the intent of the relevant recommendation in *Changing Policing in Ireland*.

The Authority is mindful that in addition to “*Changing Policing in Ireland*”, which is the most recent report of the Inspectorate, the Inspectorate has previously published well researched and evidenced reports in accordance with its statutory remit. A focus during 2018 is likely to include some assessment of the progress and status of other Inspectorate reports.

3.3. Other scrutiny work: Reviews and oversight of implementation of recommendations in other third party recommendations

Since the Authority was established in 2016, there have been a number of reports from third parties that have contained recommendations relating to the performance of the Garda Síochána. In addition, the Authority itself has conducted or commissioned reviews in relation to specific issues.

A brief summary of the work done by the Authority in relation to those reports is set out below.

The O’Higgins report (May 2016)

The Report of the Commission of Investigation (Certain Matters relative to the Cavan/Monaghan Division of An Garda Síochána) (“the O’Higgins report”), published in May 2016, raised very specific questions about the Garda Síochána performance, which the Authority took very seriously. The report contained recommendations relating to service to victims, management and supervision and culture in the Garda Síochána. The Authority requested detailed responses from Garda management on what steps it was taking to address the problems highlighted. These issues were the subject of specific questioning at 4 separate meetings with the Garda Commissioner throughout 2016, and the Authority continues to focus on a number of the issues that were highlighted in that report including the urgent need for a system of performance management.

The review of the Garda Síochána Protected Disclosures Policy (November 2016)

The Authority completed a report on the Garda Síochána Protected Disclosures Policy in November 2016 and this is published on the Policing Authority’s website. This review was prompted by a request in June 2016 from the Tánaiste and Minister for Justice and Equality. Following this report, the Garda Síochána revised its policy and committed to doing a review of that revised policy in one year.

The Authority is concerned about progress made by the Garda Síochána in relation to the conduct of this review and it was discussed with the Commissioner at the Authority’s 2017 meeting.

The Fennelly report

The *Report of the Fennelly Commission (Commission of Investigation) Certain Matters Relevant to An Garda Síochána and other Persons* was formally referred to the Policing Authority by the Tánaiste on 12 April 2017, under S62(O)(6) of the Act, for the Authority to oversee those recommendations in the report that were outside of the Department's remit. The Authority provided a report to the Minister on its oversight of the implementation of the recommendations on 1 November 2017. This report is published on the Authority's website.

The interim internal audit reports on the Garda College in Templemore

In March 2017, the Tánaiste and Minister for Justice and Equality referred the "*Interim Audit Report - Financial Procedures in the Garda College Templemore, February 2017*" to the Authority under S62(O)(6) of the Act. This audit uncovered a number of irregularities concerning the financial controls and governance arrangements in place at the Garda College.

The Authority reported to the Minister on what progress the Garda Síochána were making in August 2017, and again in November 2017, and these reports are available on the Authority's website. In its first report the Authority expressed its disappointment that only 3 of the 19 recommendations could be assessed as "Complete", but was pleased to note in its second report that 11 of the 19 recommendations could now be considered as "Complete / Closed". In the Authority's view, this is an example of where progress was made by the Garda Síochána because of the oversight of the Authority and specifically as a result of knowing that progress, or lack thereof, will be transparently available to the public.

Crowe Horwath report (October 2017)

In October 2017, the Authority published a report prepared on its behalf by a consultancy firm, Crowe Horwath. The report was commissioned in July 2017, after the Garda Síochána drew attention to a huge overstatement of the number of mandatory intoxicant tests carried out at checkpoints over a number of years and the prosecution and wrongful conviction of persons in respect of offences which should have been disposed of by the Garda Síochána by way of a fixed charge notice. Apart from the behavioural and ethical issues arising, the report raised a large number of issues relating to organisational culture, supervision, data quality, technology, and training and professional development. In November 2017, the report was discussed with the Garda Commissioner at a public meeting of the Authority and the Commissioner has agreed to report on progress in respect of the recommendations contained in that report on a monthly basis.

3.4. Activities that have not yet been the subject of Authority scrutiny

Of necessity, the Authority has had to prioritise certain areas since it was established. In 2016, it focused on putting its own organisation and governance fundamentals in place, developing a performance framework to support its engagement with the Garda Síochána and meeting certain statutory deadlines. In 2017, it has sought to prioritise work on key enablers that would affect the entire Garda organisation e.g. supervision, workforce planning, and training.

The Authority is conscious that there are a large number of areas of operational policing in respect of which the Authority has not to date brought detailed scrutiny to bear. For example, the Authority has not yet brought any focus on the exercise of specific policing powers such as: stop and search, the treatment of detained persons in custody, intelligence gathering or handling of covert human intelligence sources, to name but a few. Some of these activities are already the subject of specific statutory regimes in place, for example, a number of High Court Judges have oversight functions in respect of certain surveillance and data retention legislation. Also other national and international agencies perform relevant oversight functions such as: the Data Protection Commissioner, Irish Human Rights Commission, European Committee for the Prevention of Torture, and the Council of Europe Group of States against Corruptions (“GRECO”). Early in 2018, the Authority intends to map out the various oversight regimes that apply to the Garda Síochána to assist in identifying what areas should be the for specific scrutiny by the Authority during its next strategy cycle (2019 – 2021), bearing in mind the many possible competing priorities that exist and the avoidance of duplication.

3.5. Assessment of effectiveness and barriers to effectiveness

Authority's assessment:

The Authority considers that it has been effective at:

- ensuring that the important statutory tasks of setting strategy, priorities and plans for policing are done within the statutory timelines;
- ensuring that the Garda Síochána Strategy and Policing Plan contain clearly articulated goals and targets that make it possible to meaningfully measure performance;
- bringing a sharpened focus on implementation by ensuring that reporting on performance happens at regular intervals, is the subject of checking and verification and is published;
- persuading the Garda Síochána to prioritise key projects and activities
- ensuring that there is greater transparency around the progress of implementation of the reform programme.

In this regard, there are a number of important areas where the Authority is disappointed that more progress has not been made by the Garda Síochána in certain key areas, for example:

- the lack of a finalised workforce plan and the failure to develop a comprehensive HR strategy which would publicly signpost the direction of the organisation as it builds its numbers from 16,000 to 21,000 by 2021 in line with the 2016 Government decision;
- real gaps in practical training and the continued absence of a training strategy, including a strategy around resourcing a comprehensive programme of continuous professional development; and
- the failure to make meaningful progress with regard to civilianisation and the redeployment of Garda members back to front-line duties. As of December 2017, it has been confirmed to the Authority that 14 Garda members have been re-deployed.

Barriers to effectiveness

The Authority has experienced a number of challenges in its oversight of policing performance over the past 2 years, four of which are highlighted here, namely:

- poor data availability and quality in the Garda Síochána;
- weak governance in the Garda Síochána;

- the oversight architecture; and
- access to information.

Poor data availability and quality in the Garda Síochána

The Authority has been unable to access key information that would inform its oversight functions. In the main, the reason for this is that the Garda Síochána have not, in the past, gathered certain data (e.g. how and where staff are deployed) centrally. In addition, there is an ongoing concern about the quality and accuracy of the key data that is gathered (e.g. crime statistics). The Authority and the Garda Síochána have agreed that key MRP projects that would improve data quality and internal management process will be prioritised in 2018.

Weak governance in the Garda Síochána

Clarity about authority and responsibility for decision-making, as well as robust structures to effectively assess organisational performance are essential for good governance, and for the development of a productive oversight relationship between the Authority and the Garda Síochána. The Authority has concerns in relation to many governance aspects of the Garda Síochána and in autumn 2017, it commissioned a review of the current governance arrangements at the senior management level. The results of this review will be followed up in early 2018 and, during next year, the theme of governance will cross-cut all of its oversight work and form a basis for continuing to press for change and improvement.

Oversight architecture

One of the challenges for the Authority has been to establish its authority in circumstances where there is almost a century of close working and corporate relationship between the Garda Síochána and the Minister for Justice and Equality and the Garda Síochána maintains a close reporting relationship to the Minister and by extension the Department. This was made more challenging by virtue of the fact that when the Authority was established, the Department may not have conceived that its role had changed in any way following the establishment of the Authority and the flow of information between the Garda Síochána and the Department continued as before. We have experienced situations across a range of the Department's functions, where the Authority ought to have been briefed or consulted. Sometimes the reason for this may be the way in which the Department itself is organised.

In the view of the Authority, the current structures are inefficient, have created confusion around responsibility, and blurred the lines of accountability. Examples of issues that contribute to the potential for such confusion include:

- Accountability of the Garda Commissioner: although the Authority is responsible for overseeing the organisational performance of the Garda Síochána of its policing service functions, the Garda Commissioner is accountable to the Minister in respect of all of his or her functions;
- There is a lack of clarity around what falls under the definition of “security services” and “policing services” and a lack of information around the provision of security services and transparency about how these functions are overseen;

- The division between “Crime” and “Policing” within the Department may at times obscure who in the Department has responsibility for liaising with the Authority in respect of matters relating to the oversight of policing services.

In addition to the potential for confusion that exists as between the Authority and the Minister, the Authority is conscious that there is considerable public confusion regarding what it is the Authority, the Garda Inspectorate and GSOC do. Given that new bodies have been created at different times, it is not surprising that there are certain gaps and overlaps in the functions of the three bodies. The Authority enjoys very good working relationships with the Inspectorate and GSOC and we will discuss further the broader oversight architecture in the context of our submission to the Commission.

In summary, the Authority would express the view that it is crucial that, in any reconfiguration of the oversight architecture, there should be clarity around the responsibilities of each of the various oversight bodies and that duplication in functions and work is avoided. The reason for this is not only that duplication and overlap is inefficient, but because it creates confusion about lines of accountability.

Access to information

In order to perform effective oversight it is important that the Authority is provided:

- on a timely basis with information it requests; and
- proactively with information about issues or risks in the Garda Síochána that the Authority does not have visibility over, but are central to its remit.

The Authority has, in general been provided with information that it requests but sometimes there have been long delays and in some instances a reluctance to provide information because of a concern in the Garda Síochána that it would become the subject of an Freedom of Information (FOI) request to the Authority.

On occasion, the Authority has been concerned that there has been a slowness on the part of the Garda Síochána to proactively inform the Authority about problems and risks related to the Authority’s functions, sometimes because of lack of appreciation about the scope of its functions. The Authority acknowledges that this has improved over the two years. For example, the decision of the Garda Commissioner to inform the Authority, and then the public, about the problems identified in relation to numbers of intoxicant tests and wrongful prosecutions was welcome.

3.6. Recommendations

The Authority will set out its views on the overall oversight structures in its submission to the Commission. In summary, it recommends that the following be considered in any amended oversight architecture:

- that it would be made clear that the nature of the Authority’s functions vis-à-vis the Garda Síochána are akin to those of “a non-executive board”, with the Garda Commissioner effectively performing the role of a Chief Executive of the police service with direct accountability to the Board, i.e. the Authority;

- that the ambit of the Minister’s oversight responsibility and the ambit of the Authority’s responsibility would be clearly identified such that the overlap and duplication of functions are minimised to the greatest degree possible;
- that the Authority’s accountability to the Minister, the Oireachtas and/or the Government for the performance of its functions be made clear;
- if a decision is made to retain the Garda Síochána as a unitary service:
 - consider what the appropriate role is for the Authority in the oversight of security service functions to ensure that there are no gaps in the assessment of performance;
 - ensure that there is greater clarity around what falls under the oversight of “security services” and that all other functions of the Garda Síochána fall under the remit of “policing services”;
 - ensure that the Authority has access to enough information about the activities of the Garda Síochána with respect to “security services” to allow it understand how this is resourced and the extent to which these function overlap with policing services.
- that the Government consider extending the application of the Freedom of Information Act to the Garda Síochána so that much more of the organisation’s work is subject to the provisions of that Act. This will assist in changing the culture of the organisation to become more open and transparent;
- that the legislation be amended to make the obligation to provide information to the Authority in response to a request (Sections 40(2A)) and the obligation to provide information pro-actively (section 41A) stronger;
- that the Department be obliged to proactively provide information to the Authority where it has information relevant to the performance of the Authority’s functions.

4. Functions of the Authority which reach operationally into the Garda Síochána

In addition to the overarching function of overseeing performance the Authority has certain functions that reach operationally into the Garda Síochána and that are important enablers of Garda performance. These are:

- Establishment of a Code of Ethics
- Functions in relation to keeping under review and providing advice on Garda Síochána resourcing.
- Approval of numbers and grades of civilians
- Appointment of senior Garda members and senior civilians
- Appointment of members of the Audit Committee

4.1. Establishment of a Code of Ethics for the Garda Síochána

Having a Code of Ethics to guide and inspire is a badge of most professions whose members are required to exercise judgement. The Act was amended in 2015 to task the Authority with establishing a Code of Ethics for the Garda Síochána within 12 months i.e. by 31 December 2016. The Authority considered this to be one of its most important functions in 2016, and established a Committee of the Authority to develop the Code. This deadline was met and the Code was established on 14 December 2016, and officially launched on 27 January 2017.

The process of development was an iterative one and involved a high level of engagement from civil society and other organisations. The final product was markedly different from where it started, in large measure due to the value of the process and the quality of the contributions. The final approach chosen by the Authority was to set out guiding principles to inform and guide the actions of everyone who works in the Garda Síochána at every level. This approach is not without its critics. However, after very detailed research and consideration and taking account of the contributions received, a Code, which seeks to inspire and secure commitment, was chosen over a Code with a focus on control or punishment.

Establishing the Code, although important, is only the first step. The Authority attaches particular importance and urgency to the work necessary to embed the Code in all aspects of Garda work. Since the Code was launched, the Code of Ethics Committee of the Authority has continued its work in 2017 to drive and oversee the work in the Garda Síochána of rolling out and embedding the Code, which is the responsibility of the Garda Commissioner. On a number of occasions in 2017, the Committee expressed frustration with the slow pace in developing and finalising the plan to roll out the Code. In June 2017, the Authority wrote to the Garda Commissioner expressing concerns at the absence of a satisfactory plan for the roll out of the Code.

A project team is now in place in the Garda Síochána to roll out the Code, and progress is being made in this regard. In December 2017, the first of the regional launches of the Code commenced. It has

been agreed that the 2018 Policing Plan will contain specific measurable commitments relating to this work. The fact that from September 2017 onwards, all newly attested Gardaí are signing the Code of Ethics when they take the oath is a major positive step.

Authority's assessment of its effectiveness

The Authority considers that it was effective at:

- developing a robust process for developing the Code of Ethics, which allowed for considerable engagement with the public, civil society, other state agencies, and the Garda Síochána;
- finalising the Code within the 12 month statutory deadline and publishing and launching it in January 2017;
- prompting the Garda Síochána decision to have new Garda members sign a Code of Ethics declaration at attestation.

The Authority has been less effective at ensuring the rollout of the Code by the Garda Commissioner in a timely manner. For example, it is disappointing that a full year on from the launch of the Code only a small number of managers have received training. However, it acknowledges that progress is now being made and that the Garda Síochána have agreed to specific measures in the 2018 Policing Plan regarding the embedding of the Code across the organisation.

The Authority was also effective in pressing the Garda Síochána to carry out a culture audit, which is now underway. The outcome of that audit will give a clear “as is” assessment which will inform the Authority's oversight of ethics generally and the Code of Ethics in particular.

4.2.Oversight of resources of the Garda Síochána

In accordance with the Act, the Authority has limited functions in relation to oversight of the deployment of resources by the Garda Síochána. These are:

- keeping under review *“the arrangements for managing and deploying the resources available to the Garda Síochána so as to ensure the most beneficial, effective and efficient use of those resources.”* (Section 62 H (2)(a)(iv));
- providing advice to the Minister before each financial year with regard to the resources that are likely to be required by the Garda Síochána to perform its functions in that financial year. (section 62 H (2)(b)); and
- approving (with the consent of the Minister and Minister for Finance) the number and grades of civilian staff to be appointed by the Garda Commissioner (Section 19).

Current approach to resource deployment in the Garda Síochána

The Garda Síochána is funded through an Exchequer Vote for which the Garda Commissioner is the Accounting Officer. Funding is allocated through the Annual Estimates Process, which is negotiated by the Department with the Department of Public Expenditure and Reform ('DPER') without in-depth involvement in these negotiations by the Garda Síochána. The Authority does not have a role or function in relation to the Estimates Process for the Garda Vote and this limits its ability to gain a full understanding of the resource requirements so as to have a fully informed opinion on the adequacy of the provision in order to fulfil its statutory responsibility to advise the Minister.

In order to address this gap, the Authority requested in 2016 that a Resources Group comprising senior representatives from the Garda Síochána, the Department, DPER and the Authority meet to oversee matters relating to Garda Síochána resources. The Authority's rationale for this group was to ensure that all the parties with a role in Garda Síochána resources would have a line of sight on all relevant issues and decisions. Further to this request, a Resources Group was formed and meets quarterly to provide a forum for regular structured engagement between the Garda Síochána, the Department and the Authority in relation to the resources available to the Garda authorities, with attendant by DPER at one meeting per annum.

Separately, a joint Garda Síochána and Departmental resources oversight group has been set up since the establishment of the Authority. The Authority understands that this group meets monthly in parallel to the Resources Group, and it is understood that it oversees all aspects of Garda Síochána resources. More recently (November 2017) the Minister for PER, in correspondence to the Minister for Justice and Equality has requested that a *Garda Reform and Resources Group* be established with representatives from the Department, DPER, Garda Síochána and the Authority to provide greater clarity in this area.

Workforce Expenditure

By far the most significant aspect of the Garda Síochána budget is its workforce. In 2018, payroll and related costs accounted for over 1 billion and approximately 68% of the total funding allocation for the Garda Síochána in 2018. In accordance with Government policy, it is intended that additional resources be provided to the Garda Síochána in the period to 2021 to bring the Garda Workforce to 21,000. It is planned that this will comprise 15,000 Garda members, 4,000 civilians and 2,000 Reserve members. Furthermore, it is envisaged that the increase in civilian staff will allow for the redeployment of approximately 1,500 Garda members from administrative to front line policing duties. The Authority has been requesting that the Garda Síochána provide a plan to set out clearly how its workforce is currently deployed in addition to plans for the recruitment and deployment of these resources over this period.

In 2017, the Authority established a regular, multi-party Workforce Planning group ('WFP group') in 2017, to include all of the parties that have a role in increases in the Garda Síochána workforce. The Garda Síochána, the Department, DPER, the Public Appointments Service (PAS) and the Authority are represented on this group, which meets approximately every fortnight to review progress with workforce planning and the civilianisation project. While the Garda Síochána have developed an initial Workforce Plan to address immediate workforce requirements in 2017, much work is still needed to achieve the objective of a multi-annual plan that addresses the challenges that the Garda Síochána will face in reaching 21,000 staff by 2021, and the redeployment of 1,500 Garda members to frontline duties. This plan will need to take account of (amongst other things) associated recruitment, Industrial Relations and budgetary issues.

The WFP group is also used as a forum to build shared understanding of the staff resource requirements of the Garda Síochána and to keep abreast of progress on and to facilitate an efficient decision making process in relation to the civilianisation and redeployment projects.

The Authority has a more direct statutory role in relation to approvals and appointments of certain Garda staff and the details of this function are set out separately in sections 4.3 and 4.4 below.

Capital and Current Expenditure

The total estimate provision for Vote 20 includes funding for capital and current expenditure on the basis of which the Garda Síochána develops an operating budget. The Authority currently has no role in oversight of this budget or in the allocation of resources to various activities including, crucially, to achievement of objectives in the annual Policing Plan or the funding of projects as part of the Modernisation and Renewal Programme. In the Authority's view, in order to effectively oversee policing performance and make an assessment of the adequacy of resources, there needs to be an explicit link between plans for activity and projects on the one hand and the resources to achieve them on the other. Specifically, the prioritisation of activities must take account of the availability of resources. Moreover, reporting of performance against strategic objectives must be linked to the effective and efficient use of public money.

Assessment of Effectiveness

In July 2016 and again in August 2017, the Authority wrote to the Minister in accordance with the statutory requirement to advise the Minister annually on the resources that the Garda Síochána are likely to require to fulfil its functions. In these letters it is highlighted to the Minister, what the Authority saw as the key priorities in relation to capital expenditure and both pay-related and non-pay related current expenditure. It drew attention (amongst other things) to structural weaknesses in the Garda Vote, and emphasised a need for evidence based resource planning. There has been no evidence of change as a result of the Authority's advice, and the Authority's function, in this regard ends with the provision of the advice.

While the Authority has been making progress in gaining an understanding of the resource requirements of the Garda Síochána, full familiarity with the complexity of the issues concerned to inform a full view of the adequacy of resources will take time, and will require close engagement with the processes of resource allocation and management. From Autumn 2017, the Authority recruited a dedicated qualified accountant to support the Authority in considering the performance of the Garda Síochána in delivery of the targets in the policing plan with specific reference to assessing the adequacy and indeed the optimum deployment of the resources available. However, a key challenge for the Authority continues to be the lack of visibility on detailed information on the planning and performance framework and the lack of input into key expenditure decisions.

Although the Authority has not yet developed a good understanding of the overall deployment of resources in the Garda Síochána, it has focused on the deployment of resources in specific areas such as HR, ICT and the implementation of the Divisional model, through the work it has done in overseeing the MRP. This has raised a number of significant concerns around the lack of a comprehensive Human Resource Strategy for the organisation, and around the wider approach to prioritisation – whether in relation to prioritising roles for recruitment or redeployment, or whether in the initiation and commissioning of ICT projects.

Recommendations

The Authority recommends that:

- the Garda Commissioner should remain as the Accounting Officer for the Garda Síochána, as it is critical that the most senior official of the organisation that spends the money should be accountable for how it is spent;
- the Garda Commissioner or his/her senior representatives should be more directly involved with the Department and DPER when the estimates for the Garda Vote are being discussed and negotiated;
- consistent with its role in overseeing performance, the Authority should have a role at a high level in overseeing the allocation of the Garda Síochána operating budget;
- the Authority should have a role in approving significant proposed capital/project expenditure by the Garda Síochána; and
- consistent with the suggestion by DPER for establishment of a *Garda Reform and Resources Group*, that **one** group should be established to discuss and oversee the resources of the Garda Síochána with them on a monthly basis. This group should have representatives from

the Garda Síochána, the Department, the Authority and DPER and replace all other existing groups or resource oversight fora.

4.3. Approval of numbers and grades of Civilian staff

The Authority has certain functions relating to approving the numbers and grades of civilians. Section 19(1) and (2) of the 2005 Act provide as follows:

19. *(1) Subject to subsection (2A), the Garda Commissioner may appoint such numbers of persons as civilian staff of the Garda Síochána as may be approved by the Authority with the consent of the Minister and the Minister for Finance.*

(2) The Garda Commissioner shall determine the grades of civilian staff and the numbers in each grade in the categories of professional, administrative and specialist staff, as may be approved by the Authority with the consent of the Minister and the Minister for Finance.

Civilianisation and the redeployment of Garda members to frontline policing duties was a key element of the Government decision in July 2016 to increase the workforce of the Garda Síochána and these are priority issues for the Authority. Given that this decision will result in an increase of approximately 2000 in the civilian staffing complement by 2021, there is an important opportunity to ensure that the make-up of this new cohort of staff is correct in order to build capacity within the Garda Síochána and free up policing resources from administrative duties.

In the Authority's view, the current process for making a decision to approve a new civilian post in the Garda Síochána under section 19 of the Act is cumbersome and unnecessarily bureaucratic. There are a number of steps and separate parties involved in each decision, resulting in a long lead in time and duplication of decision-making, as follows:

- the Garda Síochána put forward a business case for each position or group of positions;
- the Authority considers the justification for the request and decides whether to approve the position(s) and under what conditions;
- the Minister for Justice and Equality is required to consent to the Authority's approval;
- the Minister for Public Expenditure and Reform is required to consent to the Authority's approval and to approve relevant terms and conditions for the position;
- communication of these consents and approvals cascades back through all parties to the Garda Síochána;
- the Garda Síochána, or the Public Appointments Service on its behalf, then recruits a candidate(s) for the position(s), a process which may require a number of months to complete.

The Authority has, with the agreement of the other parties, sought to streamline the process for approvals/consents so that delays are minimised. The preparation by the Garda Síochána of a comprehensive multi-annual workforce plan is a crucial element in improving this process. Notwithstanding this, the approach envisaged by the legislation involves too many parties and is

bureaucratic, resource intensive and unnecessarily time consuming as it involves sequencing of decisions across a large number of organisations.

Assessment of Effectiveness

The process set out in legislation is not efficient or effective. Against that, the Authority has been reasonably effective in supporting collaborative working among the relevant parties. However, the Authority considers that process needs significant rationalisation.

4.4.Appointments of senior personnel

The Authority has certain statutory functions to appoint persons to the rank of Assistant Commissioner, Chief Superintendent and Superintendent and senior civilians at the grade of Principal Officer and above. However, there is a lack of overall consistency in relation to those functions at present, as follows:

- the Authority makes appointments to the rank of Assistant Commissioner, Chief Superintendent and Superintendent but only appoints civilians at the grade of Principal Officer (equivalent to Chief Superintendent) and above;
- the Authority makes the appointments to the senior Garda ranks having undertaken a selection competition for the purpose. The legislation is drafted in such a manner that the Authority itself must undertake this process and it may not outsource it to PAS or any other external provider;
- the Garda Commissioner is responsible for the recruitment of the senior civilians, who are then be appointed by the Authority (with no role for the Authority in the selection process);
- the legislation requires that the Authority nominate a person to the Government for appointment to the rank of Commissioner and Deputy Commissioner and the selection process for these positions must be undertaken by PAS.

Appointment to senior Garda roles (Superintendent, Chief Superintendent and Assistant Commissioner).

In accordance with section 13 of the Act the Minister may, with the consent of the Minister for Public Expenditure and Reform, determine the number of persons who may be appointed to the ranks of Assistant Commissioner, Chief Superintendent and Superintendent. The section also provides that *“the Authority may, in accordance with the regulations and having undertaken a selection competition for that purpose, appoint a person to any of those ranks.”*

Because section 13 makes specific reference to the Authority *“having undertaken a selection competition”*, the Department prepared the relevant regulations on the basis that the Authority is required to undertake all steps in the selection competition itself and cannot avail of the services of the Public Appointment Service or any other external service providers. As a result, the Authority has had to develop expertise and capacity in recruitment so as to run selection competitions.

This was done as quickly as possible following the coming into force on 1 January 2017 of the Garda Síochána 2005 (Appointment to the ranks of Assistant Garda Commissioner, chief superintendent and superintendent) Regulations 2016.

Nomination to the Government for appointment of Commissioner and Deputy Commissioner

In accordance with Section 9 of the Act, *“the appointment of a person to be the Commissioner of the Garda Síochána shall, upon the nomination of the Authority, be made by the Government.”* The section also provides that the Authority shall not nominate a person to be Garda Commissioner *“unless it has, with the prior approval of the Government, invited the Service to undertake a selection competition for that purpose and the Service has undertaken such a competition.”*

Following the retirement of the Garda Commissioner in September 2017, the Authority has commenced work on the recruitment of a new Commissioner. It has now received formal prior approval from Government and it is envisaged that the position will be advertised early in 2018. The Authority has a strong working relationship with PAS, but it considers that at present there is too much prescription in the legislation regarding the process. In common with other aspects of the Act, the Authority is given the responsibility for a task (in this case the nomination) but the legislation limits our capacity to perform it.

Appointment to Senior Civilian roles

The Authority has the function of appointing civilian staff of grades that are equivalent to or above Chief Superintendent. This effectively means to the grade of Principal Officer or higher.

Section 19(2A) provides that:

(2A) The civilian staff of the Garda Síochána of grades that are equivalent to or above that of chief superintendent in the Garda Síochána shall be appointed by the Authority.

The Garda Commissioner is responsible for the recruitment for civilians and the Authority has no statutory function in this regard. It is the Authority’s view that the process for the recruitment and appointment of senior civilians should be equivalent to the process for recruiting to the senior ranks, where the Authority is responsible for recruitment. The Authority is most uncomfortable with having the statutory responsibility for making appointments without having any real role in the process of selection.

Appointment of Sergeants and Inspectors

The Garda Síochána (Promotion Amendment) Regulations 2006 were amended in 2016 to provide that the Authority have certain functions in relation to the process for the promotion of sergeants and inspectors by the Garda Síochána. The Authority considers that those regulations should be reviewed in their entirety, with a view to modernising the processes involved in accordance with the 2015

recommendations of the CPSA, and other recent developments in recruitment and selection processes.

Senior Appointments made by the Authority

Since the relevant functions were conferred on the Authority in May 2016 (Civilians) and January 2017 (Garda ranks), the appointments as set out in the table below have been made.

Policing Authority appointments in the Garda Síochána			
Rank/Grade	Applicants	Date Advertised	Appointments made as at 01/12/2017
Assistant Commissioner	31	25/01/2017	4
Chief Superintendent	79	10/03/2017	7
Superintendent	96	10/05/2017	17
Chief Administrative Officer (Deputy Secretary level)	n/a PAS run competitions		1
Executive Directors (Assistant Secretary level)			3
Principal Officer			4
Total			36

Assessment of Effectiveness

The Authority considers that it has been effective putting in place processes, and running three competitions within six months of the Regulations coming into force, and that this has been done in an efficient and effective manner.

Nonetheless, the differing approaches to Garda and civilian appointments are confusing and not appropriate.

Recommendations

In relation to Appointments, the Authority recommends that consideration be given to amending the legislation (i.e. the 2005 Act and the 2016 Regulations) to provide for the following:

- the Authority should have the same functions in relation to Garda numbers and grades as it does in relation to civilian numbers and grades;
- the appointments process should be the same for senior civilians and senior Garda ranks;
- it should not be prescribed that the Authority itself or the Public Appointments service must run selection competitions. The Authority considers that the legislation should be sufficiently flexible to allow for a range of approaches – insourced and outsourced. This would provide for the possibility of using external service providers to conduct all or some aspects of the recruitment process (i.e. PAS or other external providers). This would allow the Authority to avail of the expertise of specialist recruitment service providers such as PAS and also to avail of their expertise;
- the selection process for the Garda Commissioner and the Deputy Commissioners as prescribed in the legislation should be much simpler and allow greater flexibility;
- all new appointees are the subject of clearly stated terms and conditions of employment (either set down in a contract or regulations) and that these terms of employment should include a period of probation;
- the Authority can also hold a competition for an individual post (i.e. not for a rank);
- the life of panels in the event that it is necessary to delay the making of an appointment;
- selection competitions for all ranks and grades appointed by the Authority should fall under the Public Service Management Act 2004 and be subject to the oversight of the Commission of Public Service Appointments;
- over time, the question of what appointments should be done by the Authority and which should become the responsibility of the Garda Commissioner should be kept under review, to ensure that the role of the Garda Commissioner, as Chief Executive, is respected and is in line with international norms;
- the Garda Síochána (Promotion) Regulations 2006 be reviewed in light of the 2015 recommendations of the CPSA². The current functions of the Authority as set down in the current Regulations of appointing members and chairs of promoting boards and of approving the syllabus for sergeant and inspector exams, are of limited, if any, value.

² This document is available here: <http://www.cpsa.ie/en/Publications/Audits-of-Recruitment-and-Selection-Activity/An-Garda-S%C3%ADoch%C3%A1na/An-Garda-S%C3%ADoch%C3%A1na.pdf>

4.5. Role in relation to the Garda Síochána Audit Committee

The Audit Committee is a fundamental control in any organisation. Section 45 of the 2005 spells out the functions of the Audit Committee for the Garda Síochána.

Section 45(1) states:

The audit committee shall –

- (a) advise the Garda Commissioner on governance and financial matters relating to his or her functions.*
- (b) report in writing at least once a year to the Commissioner on those matters and on its activities in the previous year, and*
- (c) provide the Authority and the Minister with a copy of each report.*

In accordance with section 44 (2) the Authority is responsible appointing all members of the Audit Committee. This is an important function to ensure that appropriate and suitably qualified and independent persons are appointed to undertake this role as required by the Act, Public Financial Procedures and the Corporate Governance Frameworks applicable to the Garda Síochána.

The Charter of the Garda Síochána audit Committee was revised in November 2017 to provide that:

- copies of the minutes of each meeting will be provided to the Authority;
- the Audit Committee will meet with the Authority once a year following the publication of its annual report; and
- for the Chair of the Audit Committee will meet with the Authority and the Chairperson of the Authority at least twice a year.

Assessment of Effectiveness

The Authority assesses that it has been effective at identifying and appointing suitable people to serve on the Audit Committee. The Authority is also satisfied that there is appropriate interaction and information sharing between the Authority and the Audit Committee given their distinct roles.

Recommendations

It is not clear that it is necessary to have such specificity regarding composition and functions of the Audit Committee as is contained in the Act. There are well established models in industry and in the public sector and extensive literature around best practice for an audit function. Overall, the Authority recommends that a simpler provision should be considered that would require the Authority to establish an independently composed Audit Committee and that, notwithstanding its function of advising the Accounting officer, it would also have the statutory responsibility of advising the Authority in certain circumstances.

If the current prescriptive legislation is maintained, it is recommended that:

- the legislation specify a clearer reporting relationship between the Audit Committee and the Authority, including a requirement to advise the Authority on governance and financial matters on a periodic basis, provide the Authority with a copy of the audit plan at the start of each year and to advise the Authority on any matters of concern arising which in their opinion should be brought to the attention of the Authority in its oversight role;
- increase the functions of the Audit Committee to also include oversight of and input to the work of the Garda Síochána Professional Standards Unit and to all aspects of expenditure, financial management, internal controls and the achievement of value for money across the Garda Síochána; and
- extend the range of office holders from whom the Garda Commissioner may chose a nominee to the Audit Committee, by perhaps allowing for the nomination of an Assistant Commissioner or Executive Director for appointment by the Authority.

Appendix 1 – Schedule of proposed legislative change

Section of the Act	Commentary on possible legislative change
3A - Security services	<p>In the event that a unitary police service is retained, the Authority recommends that the definition of what constitutes “security services” should be reviewed. For example, much of the activity that is proscribed by the Criminal Justice (Money Laundering and Terrorist Financing) Act 2010 has nothing to do with “security” in the sense of “national security”. Similarly, there are a number of areas where, although there may sometimes be a connection with “national security”, for the most part this police activity is effectively “normal” police work that should be the subject of a transparent system of oversight, e.g. organised crime or major incident planning.</p> <p>The Authority would also refer more generally to the observations in this report about the potential for blurred responsibility and accountability gaps in the current system due to the overlap between the oversight of policing services and of security.</p>
7 - Functions of the Garda Síochána	<p>The Authority recommends that consideration be given to making specific reference here to the services that the Garda Síochána must give to victims of crime.</p>
9 - Appointment of Garda Commissioner	<p>It should not be prescribed that the Authority itself or the Public Appointments Service (PAS) must run selection competitions. The Authority considers that the legislation should be sufficiently flexible to allow for a range of approaches – insourced and outsourced. Similarly, the provision regarding the appointment of an Acting Commissioner should be less prescriptive.</p>
10 - Appointment of Deputy Garda Commissioners	<p>Same point as above – i.e. the Authority recommends that the requirement that the PAS undertake the competition should be removed from this section.</p>

Section of the Act	Commentary on possible legislative change
11 - Removal of Garda Commissioner, Deputy Garda Commissioner and members of certain other ranks from office	The Authority recommends that this provision clarifies the basis and process to be followed in making a recommendation to the Government to commence a removal process.
12 - Steps to be taken before the removal of office holder	The Authority recommends that consideration be given as to whether the level of process contained in section 12 is necessary, and whether it may instead be sufficient to provide an opportunity for a Commissioner to be told the basis for the proposal to remove, and be given an opportunity to respond. This is more in line with the process for dismissal set down in section 14 of the Act, for example.
13 - Appointment of members to ranks of Assistant Garda Commissioner, chief Superintendent and superintendent	The Authority recommends that this provision be amended to allow for greater flexibility in relation in how the Authority recruits these ranks (i.e. so that it is not mandatory that it undertake all aspects of the competition itself).
13A - Steps to be taken before removal from office by Authority of members of certain ranks	The Authority recommends that consideration be given to making the process set down in Section 13A simpler, having due regard to the right of members to fair procedures. In addition, consideration should be given to the application of other possible sanctions, e.g. reduction in rank.
14 - Appointment of members to other ranks and summary dismissal of such members	The Authority would welcome the opportunity to discuss why it has a role in this process.
16 - Solemn Declaration	<p>The Garda Síochána have suggested that the Solemn Declaration should be amended to also include reference to the Code of Ethics, and the Authority agrees.</p> <p>The Authority recommends that consideration be given to providing that the Oath be signed as well as stated.</p> <p>It has also been suggested that consideration should be given to removing the reference to “God”, in the context of an emerging policy shift across the public sector.</p>

Section of the Act	Commentary on possible legislative change
19 - Civilian staff	The Authority recommends that consideration be given to the points made in section 4.4 of this Report.
20 - Setting of Priorities by Authority for policing services	The Authority recommends that consideration be given to combining this section with the section 22 on the Policing Plan because in practice the priorities and the performance targets are contained in the annual Policing Plan.
20A - Setting of Priorities by Minister for security services	The Authority recommends that consideration be given to requiring the Minister to provide the Authority with the agreed priorities and performance targets that apply to security services in confidence to assist it in overseeing the development of the Policing Plan. This would assist the Authority in relation to its function of approving the Policing Plan, which deals with both security services and policing services.
21 - Strategy Statement	The Authority recommends that consideration be given to the drafting in section 21. The requirement that the Authority “approve with the consent of the Minister” has caused some confusion as it is not clear what the sequencing should be in finalising the strategy statement, and what party is ultimately responsible for approving/consenting the strategy statement.
22 - Annual policing plan	The Authority recommends that the drafting in section 22 also be considered for the same reason as set out above in relation to section 21. In addition, the reference in section 22(5)(b) to “the consent of the Minister” seems unnecessary because the requirement to obtain the “consent of the Minister” to the overall plan (either amended or not) is already in section 22(5).
24 - Professional Standards Unit	The Authority wonders whether this provision is necessary. If it is, the Authority recommends that it should be less prescriptive in relation to how the Unit is led. Consideration should also be given to how the Professional Standard Unit’s role fits in with the role of Internal Audit and the Audit Committee.

Section of the Act	Commentary on possible legislative change
26 - Functions of the Garda Commissioner	The Authority recommends that consideration be given to the points made in this report regarding the functions of the Garda Commissioner and accountability. In particular the function of the Garda Commissioner “to assist and cooperate with the Authority” needs to be strengthened.
31 - Delegation of Garda Commissioner’s functions	The Authority recommends that there should be an obligation to notify the Authority in advance when it is intended that the Garda Commissioner’s functions will be delegated.
35 and 36 - establishment of Joint Policing Committees and Guidelines	The Authority recommends that further consideration be given to the powers, duties and resourcing of Joint Policing Committees to ensure that they can be an effective forum for local accountability. The Authority will address this further in its submission to the Commission.
38 - Security in public places.	<p>The Authority recommends that this provision be revised in light of the below observations and having regard also to what are the appropriate overall mechanisms for overseeing the operation of CCTV.</p> <ul style="list-style-type: none"> – At present, section 38 (5) provides that the Authority shall , by order, establish criteria for certain persons (such as local community groups) who may be authorised by the Garda Commissioner to install and operate CCTV. It is not clear what the rationale was for the 2015 Act moving this function from the Minister to the Authority. The Minister continues to play a role in this area and this year put in place criteria for local groups to apply for funding for community based CCTV. Given that the Authority’s main function is to oversee the performance by the Garda Síochána of its functions, it is not clear that it is useful for it to be involved in setting criteria for local community groups, particularly when this involves a large degree of overlap with the work of the Department in setting criteria for grant funding. – Section 38(7)(b) provides that the Garda Commissioner may revoke the authorisation of a certain category of persons (such as local community groups) with the consent of the Authority. Again, this does not appear to be an appropriate function for the Authority for the same reasons as outlined above.

Section of the Act	Commentary on possible legislative change
	<p>– Section 38(11)(b) was amended in 2015 so that it now provides that the Authority, with the consent of the Minister “shall issue guidelines to the Garda Commissioner concerning the supervision and control by the Commissioner of the monitoring of CCTV by authorised persons”. However, section 38(13) goes on to provide that “authorised person” in this provision refers only to persons covered by section 38(3)(b) and (c). We have received confirmation that the Garda Commissioner has not authorised any persons in accordance with section 38(3)(b). Therefore, what is in practice involved here is that the Authority would prepare guidelines for the Garda Commissioner to supervise and control local community groups in “monitoring” CCTV.</p> <p>It is not clear what “monitoring” means in this context but if it effectively means “watching” then it should be noted that in practice - to the extent that these CCTV systems are watched live (as distinct from being recorded) - then this is done by either the relevant local authority (who is usually the data controller) or the Garda Síochána. The Authority notes that in the 10 years since the Garda Síochána Act 2005 was enacted, and before the Authority was established, section 38(11) made provision for the establishment of these guidelines but they were not put in place. The reason for this may be that the provision itself is unclear about the purpose of such guidelines.</p>
<p>40 - Duty of Garda Commissioner to account to Government and provide material to Attorney General</p>	<p>The Authority recommends that consideration be given to revising this provision having regard to the observations made in this report about the need for greater clarity around lines of accountability. At present, the obligation to report to the Authority under section (1A) and (2A) is weaker than the equivalent reporting requirement to the Minister in this Section.</p>
<p>41 A - Duty of Duty of Garda Commissioner to provide information to Minister</p>	<p>The Authority recommends that consideration be given to revising this provision and section 41, having regard to the observations made in this report about the need for greater clarity around the respective responsibilities of the Minister and the Authority. At a minimum, the Garda Commissioner should be obliged to keep the Authority informed of the same matters as he or she is obliged to keep the Minister informed of, with the exception of matters outside of the Authority’s statutory remit (i.e. security services).</p>

Section of the Act	Commentary on possible legislative change
42 - Special Inquiries relating to Garda Síochána	<p>The Authority recommends that consideration be given to the role of the Authority in this section, although section 38(3A) – which provides that the Minister is to consult with the Authority on Terms of Reference – should be retained.</p> <p>In order to conduct a meaningful consultation the Authority needs to be able to review relevant information about the issue for inquiry. However, the extent of the information that will be needed will vary depending on the issue or the case, and it does not seem to the Authority that it is necessary to make specific statutory provision for this.</p> <p>In addition, consideration should be given to amending section 42 (4), (5), (6) and (7) to simply refer to “any person” rather than “a member of the Garda Síochána, a member of the Authority nominated for the purpose by the Authority or any other person”.</p>
44 - Audit committee: appointment of members, etc. and 45 - Functions of the Audit Committee	<p>The Authority recommends that consideration be given to revising these sections having regard to the observations made in this report about the functions of the Audit Committee and its relationship with the Authority.</p>
81 - Confidentiality of information obtained by Ombudsman Commission	<p>The Authority recommends that the Authority should be listed in section 81(4)(a) to facilitate information being sent from the Ombudsman Commission to the Authority. The equivalent confidentiality provision for the Authority (Section 62(M)(4)(a)) makes reference to the Ombudsman Commission.</p>
102(4A) and 102 (7) - other investigations by Ombudsman Commission	<p>The Authority would highlight that it has been advised of potential legal risks that attach to the use of section 102(4A) in circumstances where a member has already been the subject of an investigation by GSOC that the Authority may be unaware of.</p> <p>The Authority considers that, although there may be instances where it will be appropriate to refer a matter to the Ombudsman Commission in accordance with section 102(7), generally speaking, the legislation does not envisage that the Authority is an appeals mechanism for individuals who wish to</p>

Section of the Act	Commentary on possible legislative change
	complain about a decision of the Ombudsman Commission. The Authority recommends that consideration be given to providing individuals who wish to complain about a decision by the Ombudsman Commission with a clear route to do so (e.g. by means of a statutory review mechanism).
103 - Duty to keep certain persons informed	The Authority recommends that consideration be given to providing that the Authority be informed by the Ombudsman Commission of the results of every section 102 investigation.
106 - Examination of certain practices, policies and procedures of Garda Síochána	The Authority recommends that consideration be given to providing that the Authority be informed of the results of every section 106 investigation.
117 - Recommendations in Inspectorate Report	<p>The Authority considers that there may be potential to eliminate certain inefficiencies in the current oversight architecture if the statutory relationship between the Inspectorate and the Authority was closer, or alternatively if the respective remits of the two bodies were clearly delineated to ensure there is no duplication of function. This will be considered further in the Authority’s submission to the Commission for the Future of Policing in Ireland.</p> <p>The Authority suggests removing the reference to “as may be appropriate” in section 117A(1) as it is confusing and unnecessary.</p>