



**Report on Protected Disclosures made directly to the Minister for Justice and
Equality by workers, or former workers of, An Garda Síochána**

2015 & 2016

Introduction

The Department of Justice and Equality's policy in relation to dealing with protected disclosures is set out in its policy document "Protected Disclosures in the Workplace". This policy, introduced by the Department under the terms of the Protected Disclosures Act 2014, is designed to facilitate and encourage all workers to raise genuine concerns about possible wrongdoing taking place in the workplace so that these concerns can be investigated following the principles of natural justice and addressed in a manner appropriate to the circumstances of the case.

The Department also has a Sectoral Policy which sets out how Protected Disclosures in the wider Justice & Equality Sector are dealt with.

Protected Disclosures and An Garda Síochána

The Protected Disclosures Act came into effect on 15 July 2014, and in relation to members of An Garda Síochána replaced the previous system of making disclosures to a Confidential Recipient. The Act was part of the then Government's comprehensive approach to enhancing the protections available to whistle-blowers, including members of the Garda Síochána.

Under the Act, members of the Garda Síochána may communicate their concerns to the Garda Commissioner, as their employer if they so choose, or they may make a disclosure to GSOC, which is a statutorily independent body, for investigation. Where a protected disclosure is made to GSOC, the Act provides that GSOC may, if it appears to it desirable in the public interest to do so, investigate the disclosure. The legislation allows that an individual employed by a public body may also make a Protected Disclosure to the Minister with responsibility for that body.

Annual Reports on Disclosures

Section 22 of the Protected Disclosure Act 2014 requires public bodies to prepare and publish each year a report in relation to the previous year in an anonymised form.

The Department has already published reports in respect of 2015 and 2016 on Protected Disclosures received in the Department of Justice and Equality (Vote 24).

[Report on Protected Disclosures received in the Department of Justice and Equality \(Vote 24\) 2015](#)

[Report on Protected Disclosures received in the Department of Justice and Equality \(Vote 24\) 2016](#)

These reports do not include figures in respect of instances where employees or former employees of An Garda Síochána made disclosures to the Minister. Such disclosures are dealt with under the Sectoral Policy.

Disclosures in 2015/2016

In 2015 one complaint was received by the Minister from an employee of the Garda Síochána in which the Protected Disclosures Act was cited. In 2016 three complaints were received by the Minister from employees of the Garda Síochána in which the Protected Disclosures Act was cited.

It is important to note that in some cases the individuals concerned have indicated that they have already been in contact with the Garda Síochána and/or GSOC regarding the same matters.

The process that applies is as follows. Firstly, the correspondence is assessed to determine whether it constitutes a Protected Disclosure under the Act. Secondly, consideration is given to what action is required. The individual is then informed of what action the Minister proposes to take. All reasonable efforts are taken to keep the identity of the individual concerned confidential.

The status of these cases is as follows

2015	The Disclosure's complaint is with GSOC.
2016	Two of the Disclosures were reviewed by Mr Justice O'Neill and a Tribunal of Inquiry has been established under Mr Justice Charleton. One Disclosure is a case where the individual concerned has not responded to multiple attempts to seek their consent to a course of action.

In addition to the cases referred to above there have been a small number of other cases which did not specifically cite the Act, but might be inferred to have been Protected Disclosures. These have been dealt with in the same way.

There were three such cases during 2015/2016. Two cases were referred by the then Minister to GSOC (one under section 102(5) of the Garda Síochána Act and one under section 102(7) of the Garda Síochána Act. The latter allows GSOC the discretion to decide whether investigation is merited. Both cases are still with GSOC. The third case gave rise to a request to the Garda Commissioner for a report. The report received was considered by the then Minister to have adequately dealt with all concerns raised.

Correspondence was also received by the then Minister from a Deputy in November 2016. The Deputy stated that he was officially making information relating to An Garda Síochána known to the then Minister under the Protected Disclosures

legislation. The correspondence was not considered to constitute a Protected Disclosure. However, given that the allegations therein were clearly serious, the then Minister decided to request a report from the Garda Commissioner under section 41 of the Garda Síochána Act.

Department of Justice and Equality

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