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# FIFTH EVALUATION ROUND

Preventing corruption and promoting integrity in  
central governments (top executive functions) and  
law enforcement agencies

## EVALUATION REPORT

# IRELAND

Adopted by GRECO at its 91st Plenary Meeting  
(Strasbourg, 13-17 June 2022)



Group of States against Corruption  
Groupe d'États contre la corruption

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## **I. EXECUTIVE SUMMARY**

1. This report evaluates the effectiveness of the framework in place in Ireland to prevent corruption amongst persons with top executive functions (ministers, senior civil servants and advisers) and members of the police (An Garda Síochána). It aims to identify areas for improvement and positive developments that should be sustained with a view to assisting the Irish authorities in strengthening their prevention efforts in line with GRECO standards.

2. The Standards in Public Office Commission (Standards Commission) is an independent body which plays a central role in the promotion of integrity standards and prevention of conflicts of interest in respect of a wide range of public officials, including ministers, the Attorney General, special advisers and senior civil servants. The Standards Commission has published guidance in several relevant areas such as conflicts of interest, gifts and hospitality, and lobbying after leaving government. This unique position of the Standards Commission calls for reinforced resources and powers to supervise the implementation of integrity standards. Moreover, the report encourages the ongoing reform of the legislative framework on integrity standards to be carried out while taking full account of GRECO's recommendations.

3. While there are a number of prevention policy documents, they lack the necessary focus on the specific exposure to corruption of persons with top executive functions (PTEFs). The report underlines that any risk assessment and subsequent policy should pay particular attention to PTEFs. Integrity checks should be carried out before a PTEF joins government, and systematic briefings and/or training on integrity should be organised after their appointment. There are already integrity standards in legislation and guidance, but the report calls for codes of conduct geared towards PTEFs, covering relevant topics (conflict of interest, contacts with lobbyists and third parties, secondary activities, gifts and hospitality, confidential information, post-employment restrictions, etc.), supplemented with concrete examples and appropriate supervision and sanctions in case of breach of the code.

4. The report also points out that there should be more transparency regarding contacts of PTEFs with lobbyists, requiring regular public reports of meetings by PTEFs themselves. Their statements of interests should contain quantitative data and liabilities as well as systematic substantive controls. Post-employment restrictions should also be tightened, covering not only lobbying activities but also employment, with appropriate control by the Standards Commission and sanctions where needed.

5. Regarding An Garda Síochána, while it is already equipped with a Code of Ethics, it should be revised or supplemented in order to cover all relevant integrity topics (such as conflict of interest prevention, gifts, contacts with third parties, secondary activities, and confidential information), illustrated by real-life examples contained in practical guidance. Training should be strengthened based on the code as supplemented and made compulsory for new recruits and serving personnel alike.

6. In addition, information technology systems should be further strengthened to better monitor integrity breaches. Whilst preserving the integrity of ongoing investigations, access to police information should be improved. Moreover, regular checks on authorised secondary activities should take place to ensure that no conflict of interest has arisen with time. The report supports reform towards greater independence and resources for the mechanism dealing with complaints against the Garda.

## II. INTRODUCTION AND METHODOLOGY

7. Ireland joined GRECO in 1999 and has been evaluated in the framework of GRECO's First (in December 2001), Second (in December 2005), Third (in December 2009) and Fourth (in March 2014) Evaluation Rounds. The resulting Evaluation Reports, as well as the subsequent Compliance Reports, are available on GRECO's website ([www.coe.int/greco](http://www.coe.int/greco)). This Fifth Evaluation Round was launched on 1 January 2017.<sup>1</sup>

8. The objective of this report is to evaluate the effectiveness of the measures adopted by the authorities of Ireland to prevent corruption and promote integrity in central governments (top executive functions) and law enforcement agencies. The report contains a critical analysis of the situation, reflecting on the efforts made by the actors concerned and the results achieved. It identifies possible shortcomings and makes recommendations for improvement. In keeping with the practice of GRECO, the recommendations are addressed, via the Head of delegation in GRECO, to the authorities of Ireland, which determine the national institutions/bodies that are to be responsible for taking the requisite action. Within 18 months following the adoption of this report, Ireland shall report back on the action taken in response to GRECO's recommendations.

9. To prepare this report, a GRECO evaluation team (hereafter referred to as the "GET"), carried out an on-site visit to Ireland from 22 to 25 October 2021, and reference was made to the responses by Ireland to the Evaluation Questionnaire (Greco(2016)19rev), as well as other information received, including from civil society. The GET was composed of Ms Alexia Kalispera, Senior Counsel of the Republic A', The Law Office of the Republic (Cyprus), Mr Jan Králik, Legal Adviser, Recovery Plan Section, Government Office (Slovak Republic), Ms Kätlin-Chris Kruusmaa, Adviser, Analysis Division, Criminal Policy Department, Ministry of Justice (Estonia) and Ms Catherine S. Bruno, Assistant Director, Office of Integrity and Compliance, Federal Bureau of Investigation (United States of America). The GET was supported by Mr Gerald Dunn from GRECO's Secretariat.

10. The GET had meetings with representatives of the Department of the Taoiseach, the Department of Justice, the Department of Public Expenditure and Reform, and An Garda Síochána, notably the Garda Commissioner. It also held hearings with representatives of the Standards in Public Office Commission, the Officer of the Comptroller and Auditor General, the Policing Authority, the Garda Síochána Inspectorate, and the Garda Síochána Ombudsman Commission. It met representatives of academia, journalists and civil society, including Transparency International Ireland.

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<sup>1</sup> More information on the methodology is contained in the Evaluation Questionnaire which is available on GRECO's [website](http://www.coe.int/greco).

### III. CONTEXT

11. Ireland has been a member of GRECO since 1999 and has undergone four evaluation rounds focusing on different topics related to the prevention of and fight against corruption. In short, 75% of recommendations were implemented in the First Evaluation Round (specialised anti-corruption bodies; immunities), 85% in the Second Evaluation Round (identification, seizure and confiscation of corruption proceeds; public administration; prevention of legal persons beings used as shields against corruption; tax and financial legislation to counter corruption; links between corruption, organised crime and money laundering), and 70% in the Third Evaluation Round (incriminations; transparency of party funding).

12. In the Fourth Evaluation Round, dealing with corruption prevention in respect of parliamentarians, judges and prosecutors, the picture is mixed as currently only 45% of the recommendations have been fully implemented, while 20% are partly implemented and 35% remain not implemented so far. However, the compliance procedure under that round is still on-going. It is noteworthy that some aspects that remain to be addressed concern members of parliament and are also problematic for persons with top executive functions as will be developed in this report.

13. The overall perception is that the level of corruption in Ireland is relatively low and stable. The country ranked 13 out of 180 countries in Transparency International's 2021 Corruption Perception Index with a score of 74 (out of a total score of 100 – where 0 corresponds to countries where there is a high level of corruption and 100 to countries with a low level of corruption). This represents a slight improvement compared to 2020 where it occupied rank 20, but matches the ranks occupied in 2019 and 2018. According to Special Eurobarometer 502 (2020), Ireland has high percentages of respondents who agreed corruption is a problem in response to questions related to business and corruption, such as the proximity between business and politics, and in some cases higher percentages than the EU average, for example on the need of political connections to succeed in business. To the question "Do you think that the giving and taking of bribes and the abuse of power for personal gain is widespread among any of the following?", the respondents in Ireland were 43% in mentioning politicians (slightly below the EU member states average of 49%) and 30% in citing the police (higher than the EU member states average of 26%).

14. Two broad-ranging reports have been commissioned by the authorities in recent years, partly in reaction to corruption scandals or identified weaknesses in the system. The first one led to the publication in 2020 of a Review of Structures and Strategies to Prevent, Investigate and Penalise Economic Crime and Corruption whose aim was to assess the extent to which various state bodies involved in the prevention, detection, investigation and prosecution of fraud and corruption are working effectively together, and identifying any gaps or impediments in this regard. This report was produced by an independent review group chaired by the former director of public prosecutions, James Hamilton. It issued a broad range of recommendations, some of which are relevant to persons with top executive functions as mentioned later in this report. The second one concerns An Garda Síochána and culminated in the publication in 2018 of the report on the Future of Policing in Ireland. This forward-looking document was produced by an independent commission tasked to cover all aspects of policing, including composition, recruitment and training; the culture and ethos of policing; and structures for governance, oversight and accountability. Both reports have been broadly endorsed by the authorities with implementation to follow.

#### **IV. CORRUPTION PREVENTION IN CENTRAL GOVERNMENTS (TOP EXECUTIVE FUNCTIONS)**

##### System of government and top executive functions

15. Ireland is a republic and a parliamentary democracy. The system of government remains broadly that established following Ireland's independence in 1922, with a written Constitution establishing a system of government based on a separation of powers between a legislature, executive and judiciary. The functions and powers of the Parliament, Government and the judiciary derive from the Constitution and also from law. The Constitution sets out that all powers of Government are derived ultimately from the people.

##### *The President*

16. The President is the Head of State. S/he is elected to serve a seven-year term to a maximum of two terms. The President is independent of the Houses of Parliament (Houses of the Oireachtas) and is not ordinarily answerable to them. The President may, however, be impeached for "stated misbehaviour" and removed from office in a process involving charge and investigation by Parliament. No President has ever been impeached. The Constitution provides in Article 12.6 that the President shall not be a member of either House of Oireachtas.

17. Despite the independent nature of the office of the President, the powers and functions conferred on him/her are exercisable only on the advice of the Government, with limited exceptions provided by the Constitution (Art. 13.9, Constitution).

18. The powers and functions conferred on the President by the Constitution include:

- the appointment of the Prime Minister (Taoiseach) on the nomination of the popularly elected Lower House of Parliament (Dáil Éireann or Dáil);
- the appointment of members of the Government on the advice of the Prime Minister and with the prior approval of Dáil;
- the signing and promulgation of all Bills presented to him/her for signature;
- the summoning and dissolution of Dáil on the advice of the Prime Minister;
- Supreme Commander of the Irish Defence Forces;
- granting pardons; and
- the appointment of judges.

19. While the President is the titular Supreme Commander of the Defence Forces, under the Defence Act of 1954, military command is exercised by the Government through the Minister for Defence who manages and controls the forces.

20. The President's discretion to act independently is limited to where the Constitution provides that s/he shall act in his/her absolute discretion or after consultation with or in relation to the Council of State.<sup>2</sup>

21. There are few circumstances where this independence of action applies: the two most important relate to the dissolution of the Dáil and the referring of Bills to the Supreme Court. While the Constitution allows the President to refuse to dissolve the Dáil on the advice of a

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<sup>2</sup> The Council of State is established by the Constitution of Ireland to advise the President of Ireland in the exercise of many of his/her discretionary, reserve powers.

Prime Minister, this has never happened and, should the President do so, it does not provide for him/her to become involved in the process of forming a government. As to the possibility for the President of referring a bill to Supreme Court, after consulting the Council of State, for it to carry out a constitutionality test, this has been used on numerous occasions by various Presidents.

22. The other independent functions include the appointment of a Committee of Privileges; the abridging the time for consideration of a Bill by the Upper House of Parliament (Seanad Éireann or Seanad); and the reference of a Bill to the people. All of these are contingent upon a prior request from a majority of at least one House of Parliament. These three functions have never been exercised.

23. GRECO agreed that a head of State would be covered by the 5<sup>th</sup> evaluation round under the “central government (top executive functions)” where that individual actively participates on a regular basis in the development and/or the execution of governmental functions, or advises the government on such functions. These may include determining and implementing policies, enforcing laws, proposing and/or implementing legislation, adopting and implementing by-laws/normative decrees, taking decisions on government expenditure and taking decisions on the appointment of individuals to top executive functions.

24. In view of the above, noting that the President of Ireland is not actively and regularly involved in the exercise of executive powers and has essentially ceremonial functions, the GET does not consider that the President falls within the ambit of this evaluation round.

### *The Government*

25. The executive power of the State is exercised by or on the authority of the Government. The duration of the Government is linked to the term of the Dáil, which has been fixed in law to five years unless early dissolution is decided by the President on advice of the Prime Minister. The Government must consist of not more than 15 members and not fewer than seven, i.e. the Prime Minister (Taoiseach), the Deputy Prime Minister (Tánaiste) and between five and 13 Ministers. The Prime Minister, Deputy Prime Minister and Minister for Finance must be members of the Dáil and the other Ministers must be members of the Dáil or Seanad, with no more than two being members of the Seanad. There are currently 15 ministers (including the Prime Minister and Deputy Prime Minister), four of whom are female (26.7%). In this connection, the GET calls the attention of the Irish authorities to [Recommendation Rec\(2003\)3](#) of the Committee of Ministers of the Council of Europe to member states on balanced participation of women and men, which outlines that the representation of either women or men in any decision-making body in political or public life should not fall below 40%.

26. The Prime Minister is nominated by the Dáil and appointed by the President. Ministers are nominated by the Prime Minister and, following Dáil approval, are appointed by the President. Ministers of State are nominated by the Prime Minister and appointed by the Government.

27. There is no formal procedure for removing a Prime Minister from office. However, a Prime Minister who loses a confidence motion and ceases to retain the support of the majority of the Dáil must resign from office, unless on his/her advice, the President dissolves the Dáil and on reassembly of the Dáil following the general election, the Prime Minister secures the



support of a majority in the Dáil.<sup>3</sup> If a Prime Minister resigns from office, the other members of the Government are also deemed to have resigned from office.<sup>4</sup> The Prime Minister may, at any time for reasons which to him/her seem sufficient, request a Minister or the Attorney General to resign, and if they fail to comply with the request, their appointment is terminated by the President on the advice of the Prime Minister.<sup>5</sup>

28. The Government is responsible to the Dáil.<sup>6</sup> Under the current standing orders of the Dáil, in a normal week where it sits for three days, the Prime Minister is subject to various forms of oral questioning on the floor of the Dáil for one hour and fifty minutes on Tuesday, and again on Wednesday, with the Deputy Prime Minister or a substitute minister subject to oral questioning for one hour on Thursday. In addition, every Minister is subject to 90 minutes of oral questioning on the floor of the House, approximately once every five weeks. The Prime Minister and Ministers may also be asked an unlimited amount of written parliamentary questions by members of the Dáil.<sup>7</sup> In addition, Ministers and senior officials regularly attend meetings of parliamentary committees and answer questions on policy developments and the implementation of policy.<sup>8</sup>

29. The nomination of individuals to be members of the Government and the assignment of those individuals to Departments is at the sole discretion of the Prime Minister. The functions, responsibilities and titles of Government Departments are set out in the Ministers and Secretaries Acts and related statutory instruments.

30. With the Government's approval, statutory functions may be delegated by Ministers to the Minister(s) of State in their Department, but any such function may still be carried out by the Minister. Ministers of State are appointed by the Government on the nomination of the Prime Minister. They are appointed to one or more Departments to assist the Minister(s). They must be members of Parliament (Oireachtas). There are currently 20 Ministers of State, of which five are female (25%). Three Ministers of State also attend Government meetings.

31. The Attorney General is chosen by the Prime Minister to advise the Government on legal matter (Art. 30, Constitution). S/he holds office only as long as the Prime Minister by whom s/he was nominated stays in office. S/he is the legal adviser to the Government and is therefore the chief law officer of the State. Although not formally a government member, s/he attends cabinet meetings, where needed. S/he has always been selected among barristers or been granted the title upon appointment. Given their role as the legal adviser to the Government, the GET considers the Attorney General to be a PTEF.

32. There are no integrity checks for persons contemplated for a post of minister or minister of state ahead of their appointments or right upon it. Such checks would serve the purpose of managing possible conflicts of interest beforehand or organising for certain areas of the ministerial portfolio be dealt with by another minister in case of potential conflict of

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<sup>3</sup> Article 28.10, Constitution.

<sup>4</sup> Article 28.11.1, Constitution.

<sup>5</sup> Article 28.9.4, Constitution.

<sup>6</sup> Article 28.4.1, Constitution?

<sup>7</sup> In 2019 approximately 47 000 written parliamentary questions were answered, while in 2020 approximately 38 000 written parliamentary questions were answered.

<sup>8</sup> Due to restrictions as a result of COVID 19, Dáil sittings were reduced to two days a week on 13 January 2020. In addition, it was agreed by all parties that the parliamentary questions system would be temporarily suspended. An alternate system of written answers to questions relating to COVID 19 was put in place during this time. On 10 March 2020, parliamentary questions returned with one session a week for the Prime Minister and one session for line Ministers. The normal three-day sittings returned on 11 May 2020.

interest. Those checks could be carried out by government services and/or the Standards in Public Office Commission, for example based on their annual statements of interests which they are required to submit as parliamentarians (all Government members being parliamentarians). Similarly, the Attorney General should undergo an integrity check as part of his/her selection. Therefore, **GRECO recommends laying down rules requiring that integrity checks take place ahead of or right upon appointment of Ministers, Ministers of State and the Attorney General in order to identify and manage possible conflicts of interest.**

33. The organisation of, and distribution of business amongst Departments of State, the designation of members of the Government to be the Ministers in charge of the said Departments, the discharge of the functions of the office of a member of the Government during his/her temporary absence or incapacity, and the remuneration of the members of the Government is to be regulated by law (Article 28.12, Constitution).

34. The Government generally meets once a week. It meets and acts as a collective authority, is collectively responsible for the Departments of State administered by its members, and its discussions are confidential.<sup>9</sup> All proposals from Ministers to develop legislation are subject to approval by the Government collectively. Government decisions are generally taken on the basis of formal submissions brought to Government from one or more members of Government.

35. Decisions on issues relevant to the running of individual Government Departments are the responsibility of the respective individual Ministers. Generally speaking, all decisions with regard to the day-to-day running of Government Departments are taken by relevant Ministers whilst significant decisions will be taken by Government. The [Cabinet Handbook](#) sets out some guidance to Ministers on the requirement to keep Government informed of issues and what types of issues require Government approval: ministers must inform Government of proposals they intend to announce and, if necessary, seek their approval (e.g. legislation proposals; significant new or revised policies and strategies); they must at all times support Government decisions in public debate.

36. There is no specific appeal mechanism against Government decisions. However, the State can be sued in the Irish courts as can individual Ministers, and there is a wide scope for the judicial review of the actions of public authorities including Ministers. Judicial review is a commonly used legal remedy which lies against persons or bodies exercising public functions (including Ministers and the Government).

37. There is a variety of appeal mechanisms in respect of Ministerial decisions provided for in law. For example, a decision by the Minister for Further and Higher Education, Research, Innovation and Science on the granting of Technological University status is subject to an appeal to an Appeals Board in accordance with the Technological Universities Act 2018. Several other statutory agencies and office holders such as the Ombudsman and Information Commissioner have powers to investigate the actions of Government Departments.

38. In each department, senior management is headed by a Secretary General with overall competence. Together they steer policies within the department, in accordance with the government programme. They are therefore instrumental in shaping departmental policies for implementation and to assist the responsible Ministers and Ministers of State, who are the

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<sup>9</sup> Article 28.4

ultimate decision makers. They are appointed by the Government, following a competitive process, most commonly for a period of seven years, which may be extended. As such, they are closely associated with executive functions and the GET considers them as PTEFs.

39. The role of Special Advisers is to assist a Minister by providing advice, monitoring, facilitating and securing the achievement of Government objectives and performing other functions as directed by the Minister that do not involve the exercise of any specific powers conferred on the Ministers. The appointment of Special Advisers is provided for under the Public Service Management Act. Special Advisers are accountable to the Minister and are appointed to them by the Government. They are recruited without a competitive process. The appointment of a Special Adviser ceases when a Minister leaves office. Each Minister can appoint up to two advisers and in some cases a Minister of State can appoint one. There is no cap on the number of special advisers that may be appointed by the Prime Minister and the Deputy Prime Minister. There is currently a total of 60 advisers. Given their direct influence on decision making at government level, even if they do not directly take decisions themselves, the GET considers that special advisers are PTEFs.

40. While Special Advisers are required to submit a statement of interests within 60 days of their appointment, there are no integrity checks prior to their being hired. There appears to be a practice whereby, after appointment, they would meet the Department’s Secretary General and discuss possible conflicts of interest. However, there is no rule and therefore no guarantee that this is followed across Government. Similarly, there does not appear to be integrity checks prior to appointing Secretaries General. **GRECO recommends laying down rules requiring that Secretaries General and Special Advisers undergo integrity checks as part of their recruitment in order to avoid and manage possible conflicts of interests.**

*Remuneration of persons with top executive functions*

41. In the 4<sup>th</sup> quarter of 2020, the average gross annual salary in Ireland was €44 044. The annual rates of remuneration of Members of the Government, the Attorney General and Ministers of State are as follows:

|   |            |
|---|------------|
| Prime Minister  | €217 106 * |
| Deputy Prime Minister   | €200 263*  |
| Minister  | €183 923 * |
| Attorney General  | €182 815   |
| Minister of State   | €141 657 * |
| * Includes an annual salary of €100 193 received as a member of the Dáil. Where a Minister or Minister of State is a Senator, the amount is lower as a Senator’s salary is €70 870. |            |

42. Additional benefits are available to Ministers as members of the Dáil in the form of the Public Representation allowance, details of which were provided in the Fourth Round Report in 2014. They are also eligible for certain travel and subsistence arrangements. Information on the expenses paid to Ministers is available to the public, and these expenses cease when the individual is no longer a member of the Houses of the Oireachtas.

43. The annual rates of remuneration of Secretaries General of Government Departments range from €194 399 to €297 869.

## *Anticorruption and integrity legislation*

44. In Ireland, policy for the prevention of corruption and promotion of integrity among PTEFs is set in a number of pieces of legislation including the Ethics Acts ([Ethics in Public Office Act 1995](#) and the [Standards in Public Office Act 2001](#)), the [Regulation of Lobbying Act 2015](#) (see paras. 72-80) and the [Criminal Justice \(Corruption Offences\) Act 2018](#).

45. The principal objective of the Ethics Acts is to demonstrate that those who are participating in public life do not seek to derive personal advantage from the outcome of their actions. To meet this objective, a statutory framework has been put in place to regulate the disclosure of interests and to ensure that other measures are taken to satisfy the broad range of obligations arising under the legislation. The legislation is founded on the presumption of integrity but recognises that specific measures should exist to underpin compliance.

46. The Criminal Justice (Corruption Offences) Act 2018 provides for the forfeiture of office, position or employment by an Irish official following conviction or indictment for certain corruption offences under this Act.

47. Comprehensive protections for whistleblowers are in place in Ireland in the form of the Protected Disclosures Act 2014. The Protected Disclosures (Amendment) Bill 2022 was published in February 2022 and is to amend the 2014 Act to give effect to Directive (EU) 2019/1937 on the protection of persons who report breaches of European Union law (“the Whistleblowing Directive”).<sup>10</sup> The Bill is currently before Parliament and is expected to be enacted in the summer. A number of distinct disclosure channels for reporting are available – internal, “regulatory” (prescribed persons/bodies), to the relevant Minister in the case of workers employed in public bodies, and external (including publicly) – which the worker can access to acquire protection. Reporting channels will be further enhanced by the proposal in the 2022 Bill for the establishment of a new Office of the Protected Disclosures Commissioner in the national Ombudsman’s office. There is also provision in the legislation for public disclosures; however, they can only be done directly in limited circumstances, including where evidence is likely to be concealed or destroyed or the matter is of an exceptionally serious nature. All public bodies are obliged under the Act to have procedures in place to deal with protected disclosures and made available to their workers.

48. The 2020 Programme for Government committed to the reform and consolidation of the Ethics legislation. To that end, the Department of Public Expenditure and Reform is currently undertaking a review of the Ethics Acts which is to be finalised in the course of 2022. Legislative consolidation and amendments to the Ethics Acts is to follow the review.

49. A process of overhauling the statutory framework for ethics in public office was initiated in 2015 with the Government’s introduction of a Public Standard Bill. However, this was shelved after a protracted legislative process that failed to be completed before the 2020 general election. The newly elected Government made a further commitment to reform and consolidation of the Ethics legislation and, as a first step it is undertaking a review of the statutory framework. The GET regrets that overhaul of the statutory framework has been delayed so much with no clear reason to account for it, according to all interlocutors met on site, with the result that it did not go through the previous parliament and had to be restarted.

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<sup>10</sup>In 2021 Ireland was ranked joint second in the world in an evaluation of whistleblower protections by the International Bar Association and Government Accountability Project.

It calls on the Irish authorities to speed it up the new process in order to arrive at a bill that takes full account of the recommendations contained in this report.

### *Anticorruption and integrity policy*

50. In November 2017, the Government of the day published a suite of regulatory, corporate governance and law enforcement measures aimed at enhancing Ireland's ability to combat corporate, economic and regulatory crime. This included a commitment to "review and strengthen anti-corruption and anti-fraud structures in criminal justice enforcement", with a multi-agency Review Group. All the State bodies involved in the detection, prevention, investigation and prosecution of fraud and corruption were part of the Group together with relevant Government Departments. The Group conducted a public consultation. The [Review of Structures and Strategies to Prevent, Investigate and Penalise Economic Crime and Corruption](#) was published in December 2020.<sup>11</sup> It contains a number of recommendations focusing primarily on structural, resourcing and legislative measures to enhance the capacity of agency and multi-agency enforcement and the prevention of corruption and white-collar crime offences. A cross-government [implementation plan](#) was published in April 2021 setting out a timeline for the implementation of all recommendations arising from the report, such as the development of a multi-annual strategy for combatting economic crime and corruption and an accompanying action plan.

51. While there is no specific risk assessment process for PTEFs, all government departments and offices are required to have a pro-active management-led Risk Management Strategy as part of their governance framework. Managing risk requires a systematic, timely and structured approach with clearly defined risk management structures, processes and responsibilities. Departments' risk management systems should provide for monitoring and reporting at various levels of management. From its on-site meetings with civil society interlocutors, the GET noted that public procurement was an area which ought to be looked into,<sup>12</sup> an area typically sensitive to conflicts of interest, including at Government level.

52. Accountability of PTEFs has become an increasingly sensitive topic for the public in GRECO member states. The GET considers that any risk assessment at Government level should include a focus on PTEFs as their involvement in the decision-making process at the highest level of the State makes them more sensitive to certain corruption risks. Therefore, **GRECO recommends that any risk assessment carried out at Government level identifies risks specific to persons with top executive functions in order to inform corruption prevention policies applying to them.**

### *Institutional framework*

53. The Standards in Public Office Commission (hereafter, Standards Commission) is an independent body established in December 2001 by the Standards in Public Office Act 2001. The Chairperson must be a judge or former judge of the High Court, Court of Appeal or Supreme Court, who is appointed by the President following a resolution passed by both Houses of the Oireachtas. There are four ex-officio members - the Comptroller and Auditor General, the Ombudsman, the Clerk of the Dáil and the Clerk of the Seanad. The final member

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<sup>11</sup> Prepared by a multi-agency Review Group chaired by Mr James Hamilton.

<sup>12</sup> See also the above-mentioned [Review of Structures and Strategies to Prevent, Investigate and Penalise Economic Crime and Corruption](#).

is a former member of either Dáil or Seanad, who is appointed by the Government following a resolution passed by both Houses of the Oireachtas.

54. The Standards Commission has supervisory roles under four separate pieces of legislation: the Ethics in Public Office Act 1995, as amended by the Standards in Public Office Act 2001 (Ethics Acts), the Electoral Act 1997 (as amended), the Oireachtas (Ministerial and Parliamentary Offices) (Amendment) Act 2014, and the Regulation of Lobbying Act 2015. Its principal functions are to publish guidelines, to give advice and to investigate and report in relation to possible contraventions of the Ethics Acts. These functions of the Standards Commission relate to office holders (including Ministers and Ministers of State), the Attorney General, special advisers and public servants.

55. The Standards Commission is supported by a secretariat composed of civil servants, which is provided by the Office of the Ombudsman. That office also provides shared services. Funding to the Standards Commission is provided through the vote for the Office of the Ombudsman. While it does not report to a Minister, its funding comes from government budget processes. The 2021 budget allocation for the Office was €1.964 million. The estimates for 2021 provided for a staffing complement of 23 people assigned full time to the Standards Commission, however there were three vacancies at the end of 2021.

56. As further developed in the report, the GET considers that the Standards Commission should be given powers to investigate possible breaches of integrity standards within its remit as well as to impose sanctions where breaches have been established and should be adequately resourced for this purpose (see paras. 60, 118 and 129).

#### *Ethical principles, rules of conduct*

57. Section 10 of the Standards in Public Office Act 2001 provides for codes of conduct to be drawn up for certain specified categories of person. The codes, which are published by the Standards Commission, set out the standards of conduct and integrity expected to be observed by the persons to whom they relate in the performance of their official duties and connected matters. The relevant codes published by the Standards Commission are:

- (i) The [Code of Conduct for Office Holders](#) (as prescribed under the Ethics Acts) includes Ministers of Government, Ministers of State and the Attorney General (if a parliamentarian).
- (ii) [The Civil Service Code of Standards and Behaviour](#) includes Secretaries General and Special Advisers.
- (iii) The [Codes of Conduct for Oireachtas Members](#).

58. Section 25 of the Ethics in Public Office Act 1995 requires the Standards Commission to draw up and publish guidelines on compliance with the provisions of the Ethics Acts. These guidelines are intended to assist office holders (Ministers, Ministers of State and the Attorney General) and public servants (Special Advisers and Secretaries General) in their understanding of the statutory obligations placed on them by the Ethics in Public Office Acts 1995 and 2001. The Codes of Conduct and Guidelines for Office Holders and Public Servants are published on the Standards Commission's [website](#). In circumstances where the Standards Commission holds an investigation in relation to the conduct of a relevant person under the Ethics Acts, the investigation hearings are generally held in public, and the investigation reports are published in the public domain with an accompanying press release.

59. While there are codes of conduct applying to all PTEFs, the GET notes that none of them are specific to the role of PTEFs in Government. These codes apply across the board and indiscriminately to all office holders, civil servants and parliamentarians. Moreover, the Cabinet Handbook mentioned earlier does not directly tackle integrity matters.

60. The GET underlines the benefits of adopting codes of conduct targeted at the different categories of PTEFs to factor in the specificities of the government decision-making process and the connected vulnerabilities. They should cover all the relevant integrity issues tackled in this report (conflict of interest, contacts with lobbyists and third parties, secondary activities, gifts, confidential information, post-employment restrictions, etc.). Importantly, such codes of conduct should be accompanied by practical guidance providing real-life examples of situations where risks present themselves to PTEFs and how to defuse them (what steps to take, whom to contact, etc.). They could draw on the guidelines prepared by the Standards Commission on the Ethics Acts for Officers Holders with a focus on the challenges faced by PTEFs. The GET was informed that the adoption of such codes was envisaged as part of a future Public Standards Bill and that the Standards Commission would be consulted. Moreover, proportionate sanctions should be defined to respond to breaches of the codes, with investigations being entrusted to the Standards Commission and their outcome being made public. Finally, such codes should be made known to the public in order to show what standards PTEFs are expected to respect and be held accountable for. **GRECO recommends (i) that codes of conduct for persons with top executive functions covering all relevant integrity matters (conflicts of interest, contacts with lobbyists and third parties, secondary activities, gifts and hospitality, confidential information, post-employment restrictions, etc.) and with proportionate sanctions be adopted, together with practical guidance, and (ii) that they be made easily accessible to the public.**

#### *Awareness*

61. The Standards Commission writes to office holders when they are appointed to inform them of their obligations under the Ethics Acts and under the Code of Conduct for Office Holders and of their right to seek statutory binding advice as to those obligations in any particular circumstance. At the beginning of each year, it writes to all members, including office holders, to provide copies of the forms for Statements of Registrable Interests (hereafter, statement of interests) and to remind them of the guidelines and their right to request advice.

62. The Standards Commission gives advice to office holders, on a confidential basis, on the interpretation of their obligations under the Ethics Acts. Office holders are required to act in accordance with the advice given (section 25, 1995 Act). In addition, advice is to be given on request to an office holder in relation to the application or otherwise of the Code of Conduct for Office Holders to any particular case or circumstance relating to him/her or to any conduct or proposed conduct of the person (section 10, 2001 Act). Office holders may also seek more informal guidance, which is not binding. Where the Standards Commission considers that there has been or may be a breach of the Acts by an office holder, it may decline to give advice. Over the past five years it has given advice to PTEFs on an average of ten times per year. Advice under section 25 about the disclosure of interests provisions under the Ethics Acts is available to the Attorney General, Secretaries General and Special Advisers from the Standards Commission. Advice on the Codes of Conduct for special advisers and Secretaries General is available for the HR units in the relevant Government Departments.

63. While acknowledging the work already carried out by the Standards Commission, the GET considers that each PTEF should systematically receive briefings and/or practical training on integrity standards applying to them, not only upon taking up office but also at regular intervals, especially where new standards arise. This should be based on the future code of conduct for PTEFs and accompanying guidance (see para. 60). Such activities are essential to truly promote and develop a culture of integrity at the top level and avoid blind spots in PTEFs' knowledge of standards applicable to them. In our democracies, the integrity of politicians and their close collaborators, notably in the Executive, has become a major preoccupation of citizens.

64. The GET welcomes the fact that ministers and ministers of state, as office holders under the Ethics Acts, have access to confidential advice on integrity standards applicable to them. However, it notes that other PTEFs (Attorney General, Secretaries General and special advisers) can receive advice from the Standards Commission only in respect of statements of interests. The GET considers that all PTEFs should have equal access to confidential advice from the Standards Commission concerning all integrity standards to be included in the future code of conduct for PTEFs.

**65. GRECO recommends that (i) briefings and/or practical training on integrity standards contained in the code of conduct for persons with top executive functions systematically take place upon taking office and on a regular basis thereafter; and (ii) the Attorney General, secretaries general and special advisers, like ministers and ministers of state, have access to confidential advice on all relevant integrity standards.**

#### Transparency and oversight of executive activities of central government

##### *Access to information*

66. The Freedom of Information Act 2014 provides for public access to records held by government Departments, unless one of the exemption or exclusion provisions contained in the legislation applies. The 2014 Act provides, for example, that in appropriate circumstances information obtained in confidence by the public body, or information relating to deliberations may be exempt. As a rule, a record relating to decision-making process will be released once the decision is made, but for each record consideration is given to whether a particular harm can reasonably be anticipated to occur if the record is released. Decisions to refuse access to records are subject to review by an independent body, the Office of the Information Commissioner, with an onus on the public body to show that its decision is justified. As such, while in general Cabinet records are confidential, this is subject to certain exceptions: (i) in accordance with provisions contained in Freedom of Information legislation relating to factual information and provisions relating to Government records which are more than five years old; (ii) under National Archives legislation when they are more than 30 years old; (iii) on foot of a judicial order for disclosure.

67. The Secretary General to the Government provides the Government Press Secretary with a briefing after each Government meeting on such matters as the Prime Minister (or the Minister chairing the Government meeting) authorises for release to the media. The Press Secretary then briefs political correspondents. Agendas, memoranda, decisions and minutes of Government meetings can be released on foot of a Freedom of Information (FOI) or Access to Information on the Environment (AIE) request. Some decisions are also made public through press releases and policy documents.



68. Other transparency measures include the publication of government estimates and expenditure, publication of ministerial diaries, and a successful Open Data initiative which has been ranked 1<sup>st</sup> in the [EU Open Data Maturity Survey](#) over the past three years.

#### *Transparency of the law-making process*

69. Formal public consultation on draft laws is not required by law, however it is often carried out as a matter of practice. Moreover, ministers will frequently consult stakeholders, industry representatives, trade unions and civil society groups on relevant legislative proposals, for instance at an early stage in the form of green papers. Any consultation would usually be published, e.g. in a press release from the relevant Minister/Department. In September 2018, a single [public consultations portal](#) was launched to establish an easily accessible portal to provide details of all public consultations at local, regional and national levels.

70. The processes for making secondary legislation, known as statutory instruments, varies according to the provisions of the parent primary legislation. Some statutory instruments must be presented in draft to the Houses of the Oireachtas and approved before being formally signed into law by the responsible Minister. However, this pre-authorisation process is relatively rare. Most commonly, statutory instruments are made by a Minister and become law immediately but may be annulled by either House of the Oireachtas within 21 sitting days. Formal consultation on draft statutory instruments is required in some cases, usually with a specified stakeholder or stakeholders. Though not required by law, Ministers will frequently consult stakeholders, industry representatives, trade unions and civil society groups on relevant legislative proposals.

71. Civil society groups and other stakeholders met by the GET were satisfied with the current practice of public consultations regarding government bills. The GET notes that, while detailed guidance exists, there are no binding rules as to which bills should entail public consultation or the exact timeframe to follow, especially the minimum time given to stakeholders for providing comments. Setting out clear rules on the holding of public consultation for all but specific exceptions, and a timeframe for public consultations would provide a guarantee that practice stays consistent in providing enough time for commenting on substantive government bills. The GET encourages the authorities in this direction.

#### *Third parties and lobbyists*

72. Measures to prevent undue influence on PTEFs are reflected in the Regulation of Lobbying Act 2015 (hereafter, Lobbying Act). The Lobbying Act provides for a web-based Register of Lobbying to make information available to the public on the identity of those communicating on specific policy, legislative matters or prospective decisions with designated public officials (DPOs), which include the following PTEFs: Ministers, Ministers of State, Special Advisers and Secretaries General. The Attorney General is not a DPO.

73. While the Act does not prohibit or restrict contact with third parties who may try to influence the decisions of DPOs, it does provide transparency on who is communicating with the DPO when the communication falls under the broad definition of “relevant matter” which signifies specific policy, legislative matters or prospective decisions, as per the Regulation of Lobbying Act (section 5(9)). A person must register and report if they are carrying on lobbying

activities: communicating either directly or indirectly with a DPO about a “relevant matter”. This includes in-house lobbyists and consultant lobbyists.

74. The following are notably exempted from the reporting obligation: communications by or on behalf of an individual relating to his or her private affairs about any matter other than the development or zoning of any land apart from the individual’s principal private residence; communications requesting factual information or providing factual information in response to a request; communications the disclosure of which could pose a threat to the safety of any person or to the security of the State; communications by or on behalf of a commercial state body made to a Minister who holds shares in, or has statutory functions in relation to, the body, or to DPOs serving in the Minister’s department, and which are made in the ordinary course of the business of the corporate, i.e. relevant to the Minister’s role as shareholder.

75. Part 4 of the Lobbying Act gives the Standards Commission the authority to investigate and prosecute contraventions of the Act by lobbyists and to levy fixed payment notices for late filing of lobbying returns.

76. In 2018, the Standards Commission published a Code of Conduct for persons carrying on lobbying activities. The purpose of the Code is to govern the behaviour of lobbyists by setting out the principles to ensure such activities are conducted transparently and ethically. According to section 6 of the Code of Conduct, lobbyists should not create a sense of obligation or place elected or appointed public officials in a conflict-of-interest situation by proposing any offer, inducement or reward (directly or indirectly) which might cause this public official to breach any law, regulation, rule or standard of conduct applicable to them. The Code came into effect on 1 January 2019. However, the Standards Commission has no statutory authority to investigate, report on or prosecute breaches of the Code.

77. The Department of Public Expenditure and Reform has recently concluded an extensive review of the Lobbying Act. In mid-July 2021, the Government approved the preparation of amendments to the Act to take account of the review recommendations. In particular, it is intended to amend the Act to make failure to comply with the post term employment restrictions in Section 22 a relevant contravention and offence under the Act.

78. The aforementioned Codes of Conduct provided for under the Ethics Acts also refer to the obligations placed on Ministers, Ministers of State, Special Advisers and Secretaries General with regard to avoiding improper influence in the performance of their functions. According to the Code of Conduct for Office Holders, while contact between office holders and lobbyists is to be expected, such dealings should be conducted so that they do not give rise to a conflict between public duty and private interest (paragraph 2.2.5). As said before, breaches of this code do not lead to any form of sanction, hence limiting its deterrent effect.

79. While the GET welcomes the fact that the law provides for some level of transparency around contacts between lobbyists and PTEFs, this is built exclusively around a requirement for the former to register on a Register of Lobbying and make information available to the public on the identity of PTEFs with whom they have been in contact with concerning specific policy, legislative matters or prospective decisions. Moreover, the GET notes that there is a detailed list of contacts that are exempted from reporting. While noting that there is guidance by the Standards Commission, the GET nonetheless considers that the Irish authorities should consider removing the exemption for lobbyists to report requests for factual information as

they may be difficult to differentiate in practice from contacts likely to influence government decisions; removing this exemption would clear any ambiguity.

80. That being said, the focus of this report is on PTEFs and standards applying to them. In this respect, the GET notes that, in the Regulation of Lobbying Act, the onus of reporting contacts with PTEFs is entirely on lobbyists, who are the only ones required to report contacts. In order to increase the accountability of PTEFs, the GET considers that they should also be required to publish at regular intervals accounts of the lobbyists and third parties seeking to influence government that they have met, and the topics discussed. This would achieve a balance on obligations weighing on both sides and would give PTEFs a higher sense of responsibility regarding their contacts with lobbyists and more generally third parties seeking to influence government. GRECO has already had the opportunity to say that, in countries with a comparatively smaller population, the proximity between, on the one hand, PTEFs and, on the other, lobbyists and influential third parties calls for proper practical guidance on how to differentiate strictly private exchanges from meetings that may influence, or may be seen as seeking to influence, the decision-making process. Additionally, the GET considers that the Attorney General, as the chief legal adviser to the Government should also be covered by these rules, which is currently not the case. For these reasons, **GRECO recommends that rules be laid down to govern (i) contacts between persons with top executive functions and lobbyists/third parties that seek to influence the public decision-making process; (ii) the disclosure of such contacts, the names of the persons met and the subject-matters discussed; and that (iii) the Attorney General be covered by these rules.**

#### *Control mechanisms*

81. While the Standards Commission has completed a number of investigations on breaches of codes of conduct/ethics in the past five years, none of them have involved a PTEF and there are no investigations ongoing currently.

82. The Government is responsible to the Dáil (article 28.4.1, Constitution). A substantial portion of parliamentary time is spent in scrutinising the Government and in critically reviewing Government policies and holding the Government to account (see para. 28). Oireachtas Committees also meet regularly to discuss policy issues. In addition, the Parliament scrutinises Bills put forward by the Government. Ultimately, the Parliament can pass a vote of no confidence in the Government.

83. Parliamentary inquiries have a role as a control mechanism applicable to government decisions and policy making. There have been seven parliamentary inquiries in the State, some of which included a role in holding the Government to account. For example, the DIRT Inquiry (2000) was a parliamentary inquiry into tax evasion, which, *inter alia*, looked at the role of the Department of Finance and Government.<sup>13</sup> An inquiry can be initiated by a Dáil Committee into any matter relevant to holding the Government to account and, in this context, the Committee may record evidence, report evidence, make findings of fact including findings that directly impugn the good name of an office holder or former office holder of the Government, a Secretary General of a Department and civil servants. If it is provided for in the terms of reference setting up the inquiry, it will be able to compel people to attend before it, and documents to be provided to it.

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<sup>13</sup> The inquiry had the power to compel documents and did so from various institutions including the Department of Finance (7 648 documents received) and the Department of the Prime Minister (773 documents received).

84. The [Public Financial Procedures](#) outline the framework underlying the financial management of the State and the specific role of the Accounting Officer (usually at Secretary General level). The [Comptroller and Auditor General \(C&AG\)](#) is responsible for the audits of the accounts of government departments/offices. The C&AG is required by law to issue opinions on the accounts of government departments and public bodies which are audited by him/her, and may publish reports on important matters selected at his/her discretion relating to value for money and the administration of public funds. In addition, s/he is required to authorise, under the comptroller function, the release of public money from the Exchequer for purposes specified by law.

85. In addition, the Parliament exercises budgetary oversight and should the Parliament fail to ratify certain financial decisions, this can result in a loss of confidence in the Government and subsequently the formation of a new Government is required. Committees of the Houses of the Oireachtas play a role in examining audits and other reports. For example, the Committee of Public Accounts examines the accounts presented following audits carried out by the C&AG and reports of the C&AG from his/her other work. This Committee can require individuals from relevant Departments, up to and including the Secretaries General in their capacity as accounting officers, to attend before it to answer questions on the relevant accounts or reports. Also, the Committee on Budgetary Oversight examines and reports to the Dáil on the State's overall fiscal position, public expenditure policy and Exchequer receipts policy. Other sectoral committees frequently hear from PTEFs on reports relating to their functions, which can include matters related to audits or inspections. In December 2018 the then Minister for Justice and Equality appeared before the Joint Committee on Justice and Equality to discuss the Commission on the Future of Policing in Ireland.

### Conflicts of interest

86. The general rules and procedures concerning conflicts of interest for PTEFs are set out in the Ethics Acts, the aforementioned codes of conduct and the Guidelines on compliance with the provisions of these Acts. The Ethics Acts provide a framework for the disclosure of interests by, *inter alia*, Ministers, Ministers of State, the Attorney General, special advisers, and Secretaries General.

87. PTEFs are required to submit a Statement of Registrable Interests annually in respect of the prior year. In addition to the annual disclosure of interests. They are also required to disclose to an appropriate person circumstances where they become aware of a material interest, on their own part or on that of a connected person, in a matter relating to the performance of a function of their office.<sup>14</sup>

88. The GET was told that ministers would normally inform of any ad hoc conflict of interest on a particular issue on the government agenda and step aside from the decision-making process. However, it could not be confirmed to the GET that this would systematically take place. Therefore, the GET considers it important that all PTEFs, and not only ministers, be required to declare ad hoc conflicts of interests before a decision-making process in which they are involved is initiated on a particular topic and that they step aside from this process. The need for such a withdrawal could be declared to the Standards Commission and disclosed in order to increase transparency around the exercise of government. **GRECO recommends**

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<sup>14</sup> Ministers and Ministers of State (section 14, Ethics in Public Office Act 1995 as amended); Secretaries General (section 18 of the Act) and Special Advisers (section 19 of the Act).

**that ad hoc conflicts of interest of persons with top executive functions be declared to the Standards Commission before a decision-making process starts and that the person concerned withdraw from the process where needed.**

#### Prohibition or restriction of certain activities

##### *Incompatibilities, outside activities and financial interests*

89. According to the Code of Conduct for Office Holders, office holders (including Ministers, Ministers of State and the Attorney General) should not engage in any activities that could reasonably be regarded as interfering or being incompatible with the full and proper discharge by them of the duties of their office. Office holders should not hold company directorships carrying remuneration. An office holder should not carry on a professional practice while an office holder but may make arrangements for the maintenance of a practice until such time as s/he ceases to be an officer holder and returns to the practice. Office holders should not take any part in the decision-making or management of the affairs of a company or practice.

90. Under the Civil Service Code of Standards and Behaviour, civil servants may not engage in, or be connected with, any outside business or activity which would in any way conflict with the interests of their Departments, or be inconsistent with their official positions, or tend to impair their ability to carry out their duties as civil servants. They should inform their Human Resources Management Section of any intention to do so. Any case in which the propriety of undertaking a particular business could be open to question must be referred by the civil servant concerned to the Secretary General. A civil servant who, in the course of his or her official duties, comes into contact with any matter affecting any commercial undertaking in which he or she has an interest, must immediately disclose the nature and extent of that interest to the Secretary General or Head of Office. Unless the Secretary General or Head of Office considers it unnecessary, another civil servant should be assigned to deal with the matter. The Civil Service Code of Standards and Behaviour also deals with payment for work on behalf of outside bodies where that work arises as a consequence of their official position. Structures are in place in order to ensure that management in the individual's organisation are notified and that any potential conflict is handled appropriately. These standards also apply to special advisers.

91. As regards holding financial interests, the obligations for PTEFs are covered by the requirement to furnish an annual statement of interests (above relevant threshold values, where applicable) that include a remunerated profession, shares or other investments and interest in land. Ministers, Ministers of State and the Attorney General are also obliged to comply with the Code of Conduct for Office Holders which provides that they should not take any part in the decision-making or management of the affairs of a company or practice and should dispose of, or otherwise set aside for the time-being, any financial interests which might conflict, or be seen to conflict, with their position.

##### *Contracts with state authorities*

92. The following must be included in the statement of interests of PTEFs: any contract for the supply of goods or services to a Minister of the Government or a public body during the appropriate period, to which the person concerned was a party or in which s/he was interested in any other way, directly or indirectly, if the aggregate value of the goods or

services supplied to a Minister of the Government or a public body during the appropriate period exceeded €6 500.

### *Gifts*

93. According to section 2(1) of the 1995 Act “gift means a gift of money or other property excluding a donation (within the meaning of the Electoral Act 1997)”.<sup>15</sup> Under the Ethics Acts, Ministers, Ministers of State and the Attorney General are required to disclose gifts by the same person in excess of EUR 650 in a calendar year on their statements of interests. Excluded from this requirement is a gift given to the person, for purely personal reasons, by a relative or civil partner or friend of the person or of his/her spouse or civil partner or child or of the spouse’s child, unless acceptance of the gift could have materially influenced the person in the performance of his/her official functions.

94. Office holders must surrender gifts given to them by virtue of office that have a value in excess of €650 or an aggregate value of €650 in a single calendar year. Any such gift must be surrendered and disclosed, unless it is given as a donation (in which case the Electoral Acts apply); by a friend or relative and for purely personal reasons; by virtue of an office other than the Ministerial one. In addition, the Corruption Offences Act provides that a gift given to an official by or on behalf of a person with an interest in the office holder’s functions is presumed to be received corruptly. Such gifts are therefore prohibited.

95. According to the Code of Conduct for Office Holders, office holders (including Ministers, Ministers of State and the Attorney General) should not accept offers to meet the costs of travel facilities and/or commercial accommodation in connection with official activities (including of a spouse/partner if so accompanied) where such offers are made by private citizens or private enterprises. Discretion may be used where an office holder is the official guest of another Government or official body, or of a not-for-profit representative organisation. Office Holders are to be particularly sensitive of acceptance of gifts or hospitality from friends, or connected persons, as defined in the 1995 Act, where such persons have, or are likely to obtain, a benefit or suffer a loss arising from a decision made, or to be made, by an office holder or by the Government, of which the office holder is aware.

96. The Guidelines for Office Holders produced by the Standards Commission provide additional guidance in relation to the acceptance of gifts. The Standards Commission has recently completed an [Information Notice for Office Holders](#) in relation to gifts.

97. According to the Civil Service Code of Standards and Behaviour, civil servants (and by extension special advisers) should not receive benefits of any kind from a third party which might reasonably be seen to compromise their personal judgement or integrity. Their actions must not give rise to any actual or potential conflict of interest. Under the Prevention of Corruption Acts 1889 to 2001 as amended by the Ethics in Public Office Act 1995, the corrupt giving of gifts to, or receipt of gifts by, civil servants is a criminal offence punishable by imprisonment and/or fine. Money, gifts or other consideration received by a civil servant from a person holding or seeking to obtain a contract from a Government Department is deemed to have been received corruptly unless the contrary is proved. In addition, the Criminal Justice (Corruption Offences) Act 2018 provides that a gift given to an official by or on behalf of a

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<sup>15</sup> Under section 23A(1)(i) of the Electoral Act 1997 (as amended), members of parliament, including when they are Ministers and Ministers of State, cannot accept a donation in excess of €1 000 from a particular person in a calendar year. This provision mitigates against undue influence by political donors.

person with an interest in the office holder's function is presumed to be given and received corruptly.

98. Regarding hospitality, it is accepted that civil servants, and special advisers, should not be put in a position where they cannot accept what are regarded as normal courtesies in business relationships. However, in their contacts with outside organisations or persons, every care must be taken by civil servants to ensure that their acceptance of hospitality does not influence them, and could not reasonably be seen to influence them, in discharging their official functions.

99. A register of interests is compiled by the Clerk of the Dáil annually which contains information on the disclosure of gifts for office holders (see para. 121). This register is published on the Oireachtas website. While the Standards Commission holds the statements of interest for special advisers, it does not compile any of the information for statistical purposes.

100. While noting the ban established in the Corruption Offences Act on any gifts influencing a PTEF, the GET considers that the amount for disclosure could be lowered. In any event, given the sensitivity of the issue of gifts and hospitality at government level, the GET considers it important that the future code of conduct for PTEFs and the accompanying guidance (see para. 60) present in sufficient detail the dos and don'ts regarding the acceptance and reporting of gifts and hospitality. This could be done based on the guidance already published by the Standards Commission, with a specific focus on PTEFs.

#### *Misuse of public resources*

101. The Code of Conduct for Office Holders explicitly highlight the responsibilities of office holders (Ministers, Ministers of State and the Attorney General) in terms of the use of public resources. The Public Financial Procedures outline the framework underlying the financial management of the State and the specific role of the Accounting Officer (usually at Secretary General level) in respect of public resources.

102. The Quigley Report, which was published in 2005, highlighted the need for special care in cases where a proposed consultancy comprises an element of direct service to a Minister or Minister of State, particularly in the public relations or communications area, and/or where a Minister or a Minister of State suggests the name of a person or enterprise as being suitable. Following publication of this report, additional guidelines to be followed in such cases were approved by the Government and are published in the Cabinet Handbook. The purpose of the guidelines is to ensure that there can be no suggestion of impropriety on the part of a Minister in the procurement of services or the giving of contracts in certain circumstances.

#### *Misuse of confidential information*

103. The Official Secrets Act 1963 provides that a person in public office who communicates official information without authorisation is punishable by a fine or up to seven years' imprisonment. It states that a person who contravenes or attempts to contravene any provision of the Act is guilty of an offence.

104. Section 7(2) of the Criminal Justice (Corruption Offences) Act 2018 provides that an official, including PTEFs, who uses confidential information obtained in the course of his/her office, employment, position or business for the purpose of corruptly obtaining a gift,

consideration or advantage for himself or herself or for any other person is guilty of an offence. However, the GET is aware of allegations whereby a PTEF is suspected of having leaked official information to a third party outside government, which is currently under investigation. This demonstrates that rules on handling confidential information ought to be included in a future code of conduct for PTEFs and the accompanying guidance, as already recommended, and this issue be covered by briefings and training (see para. 65).

105. The Civil Service Code of Standards and Behaviour states that all civil servants, including those who are retired or on a career break, should avoid improper disclosure of information gained in the course of their official work.

#### *Post-employment restrictions*

106. All PTEFs are subject to a one-year “cooling-off” period, during which they cannot engage in lobbying activities or be employed by, or provide services to, a person carrying on lobbying activities involving any public service body with which the person was connected during the period of one year before leaving their government role ([Regulation of Lobbying Act 2015](#), section 22). The Standards Commission has prepared a Guidance Note on the “cooling-off” period, which is available on the [lobbying website](#).

107. It falls on PTEFs to seek consent from the Standards Commission prior to taking up an offer of employment. If the person considers that there is a possibility that lobbying activities might arise during the person’s cooling-off period, then the Commission's consent must be sought before accepting the offer of employment. Should previously unforeseen circumstances arise where lobbying activity is anticipated after the person has commenced the employment, s/he should seek the consent of the Standards Commission to stay in the position.

108. A PTEF can apply to the Standards Commission for consent to waive their cooling-off period. The Commission may give consent without conditions, with specific conditions attached, or refuse consent.<sup>16</sup>

109. None of the aforementioned post-employment restrictions apply to the Attorney General as there is no statutory provision under the Regulation of Lobbying Act or related provisions in the Codes of Conduct under the Ethics Acts in relation to this position

110. Moreover, there are no enforcement provisions associated with post-employment restrictions. The Standards Commission has no authority to investigate or prosecute breaches of the Act.

111. The Code of Conduct for Office Holders, applicable to Ministers, Ministers of State and the Attorney General, stipulates that, in taking up appointments on leaving office, they should be careful to avoid any real or apparent conflict of interest with the office they formerly occupied. They should act in a way which ensures it could not be reasonably concluded that an office holder was influenced by the hope or expectation of future employment with the firm or organisation concerned or that an unfair advantage would be conferred in a new

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<sup>16</sup> Since 2015, the following applications relating to PTEFs have been received: 2016 - one application (Special Adviser); 2017 - five applications (three Special Advisers, Secretary General and Government Press Secretary); 2018 - two applications (Special Advisers); 2019 – two applications (Special Advisers); and 2020 – eight applications (Special Advisers). Anonymised summaries of all cases are included in the Annual Reports<sup>16</sup> for each year.



appointment by virtue of, for example, access to official information the office holder previously enjoyed. However, this is not an enforceable rule.

112. Section 20 of the Civil Service Code of Standards and Behaviour, which applies to Secretaries General, Assistant Secretaries but also Special Advisers (although they are not civil servants) provides that they must not, within 12 months of resigning or retiring from the Civil Service, accept an appointment, or particular consultancy project, where the nature and terms of such appointment could lead to a conflict of interest or the perception of such, without first obtaining the approval of the Outside Appointments Board (OAB) or the Secretary General or Head of Office as appropriate. Departments/Offices are required to advise persons leaving or retiring from the civil service of their requirements under the Civil Service Code of Standards and Behaviour. Since inception, the Board has received 10 applications to date: six applications were approved, one was part-approved, two were not pursued further by the applicant, and the time limit of one year expired in the remaining case. Approvals were subject to conditions. The types of conditions attached to approvals relate to a cooling off period before the take up of an appointment and a requirement to refrain from involvement with bodies or clients, with whom the applicant had an involvement at an official level before leaving.

113. Additionally, Secretaries General and Assistant Secretaries must, within 12 months of resigning or retiring, obtain the approval of the Outside Appointments Board before taking up any outside appointment.

114. Draft legislation (the Public Sector Standards Bill), which commenced the legislative process in January 2016 provided, *inter alia*, for the establishment of the Outside Appointments Board on a statutory basis. However, a new review of the statutory framework is currently being undertaken by Department of Public Expenditure and Reform in order to inform legislative proposals for reform in 2022, taking the Public Sector Standards Bill as its point of departure.

115. The GET notes that there are rules on post-employment restrictions to ensure that no conflict of interest takes place either in the perspective of obtaining employment or after accepting employment following departure from government. While this is commendable, the system suffers from several weaknesses that would need to be addressed to ensure its full effectiveness.

116. Insofar as ministers are concerned, the GET notes the prominent role played by the Standards Commission for restrictions on preventing lobbying employment for all PTEFs during a one-year cooling off period to prevent them from engaging in lobbying in their previous area of competence. First of all, the GET considers the length of the cooling-off period not only appropriate but necessary, and therefore the possibility of waiving it altogether does not appear advisable. Secondly, the GET is of the view that restrictions should not only cover the specific area in which a PTEF was involved in government decision-making, but more generally of the cabinet as a whole. Furthermore, an important drawback of the current system is that the Standards Commission is neither empowered to investigate possible breaches of the rules nor impose sanctions. The only sanction provided is reputational damage, and it is not effective enough as the Standards Commission only publishes anonymised cases in its annual activity reports. The GET understands that this is addressed in the Regulation of Lobbying (Amendment) Bill; the draft bill is to be published in summer 2022. The system therefore appears rather weak in its current setting. Moreover, the Attorney

General, although the chief legal adviser to the Government and as a such a PTEF, is not covered by the Regulation of Lobbying Act, which should be remedied, as previously noted (see para. 80).

117. As to the possibility of taking employment in areas where a former minister had to take decisions, the GET notes that there is no statutory framework as this is only mentioned in the Code of Conduct for Office Holders. Therefore, there are no checks, investigations or sanctions, which considerably limits the deterrent character of the system. This is also linked to the idea already expressed that there should be an enforceable code of conduct for PTEFs (see para. 60). The GET was informed of a minister becoming the chief executive of an association which had lobbied him when he was in Government. He indicated that he would not lobby Government during the statutory cooling off period. However, the GET considers it a case in point that risks around employment immediately after leaving Government are not limited to lobbying. Employment can be seen as being the result of favours that the person with top executive functions might have granted to his/her future employer whilst in government, in particular, but not exclusively, in their area of competence. As for civil servants, which includes Secretaries General and special advisers, it is positive that a separate process applies with the necessary approval before taking appointment of another body, the Outside Appointments Board. However, this body has no statutory basis and cannot investigate breaches or impose sanctions.

118. In view of the above, the GET considers that post-employment restrictions applicable to PTEFs ought to be strengthened. While it is positive that a statutory one-year cooling-off period is imposed on PTEFs for lobbying roles, the GET finds that the system would gain in effectiveness without the current possibility of waiving this period, which appears to be of an adequate duration; by broadening the scope to contacts with the whole cabinet; and by entrusting the Standards Commission with supervisory and sanction powers. As to employment in private entities after leaving government, the current rules should be made enforceable and supervisory and sanctions powers should also be given to the Standards Commission. Moreover, the GET considers that the system would gain in clarity if the same procedure applied to all PTEFs and the same body was in charge with supervision for both lobbying and employment. Therefore, **GRECO recommends that post-employment restrictions be strengthened, in particular (i) by making rules on taking employment after leaving office enforceable for all persons with top executive functions (PTEFs); and (ii) by ensuring that the Standards Commission be given the powers to investigate and impose sanctions in case of breaches of the rules on lobbying and taking employment after leaving government for all PTEFs.**

#### Declaration of assets, income, liabilities and interests

##### *Declaration requirements and review mechanisms*

119. All PTEFs are required under the Ethics Acts to make annual statements of interests that could materially influence them in performing their official duties. They may also make/amend statements at any time during the year if their interests change, if they receive advice that they must disclose an interest or if they have failed to comply with a requirement to disclose an interest.

120. All disclosures, in the form of a written statement of interests, are required to be made on an annual basis to cover the calendar year from 1 January to 31 December. The statement

should cover any period of time served in the position from the date of appointment to the following 31 December and should be furnished to the relevant authority not later than 31 January of the following year.

121. Registrable Interests of Ministers/Ministers of State are submitted to the Standards Commission. Should they have no interests to submit, they are required to submit a statement (“nil statement”) to the Clerk of Dáil Éireann or of Seanad Éireann. Interests in Oireachtas Proceedings for Ministers/Ministers of State are submitted to the Clerk of the Dáil or the Seanad. Additional Interests of Ministers/Ministers of State are submitted to the Clerk of the Dáil or the Seanad who then forwards the statements to the Standards Commission and the Prime Minister. Interests in relation to performance of certain functions by Ministers/Ministers of State are submitted to the Prime Minister and the Standards Commission. Statements of Interests by Ministers/Ministers of State are published each year by the Clerk of the Dáil in the Register of Interests of Members. The Register is available on the Oireachtas website.

122. Interests of the Attorney General are submitted to the Prime Minister and the Standards Commission. Interests of Secretaries General are submitted to the Secretary General of the Department of Public Expenditure and Reform. Interests of Special Advisers are submitted to the relevant Minister and the Standards Commission. Statements relating to interests that could materially influence the person in the performance of his/her functions as a Special Adviser are available to the public on request.

123. Interests held by PTEFs that they are required to be disclosed are specified by the Ethics Acts. The Guidelines for compliance by PTEFs with the provisions of the Ethics Acts, published by the Standards Commission, provides more detailed information on each of the disclosable interests:

- Occupational income, etc. (remuneration in excess of €2 600 during the reference period);
- Shares, bonds, debentures, or other investments in any particular company or enterprise undertaking, with an aggregate value in excess of €13 000 at any time during the appropriate period;
- A directorship or shadow directorship of any company held by the person concerned at any time during the appropriate period;
- Land and buildings (premises): Any interest in land in excess of €13 000 at any time during the appropriate period;<sup>17</sup>
- Gifts from the same person, given to the person concerned during the appropriate period where the value, or the aggregate value, exceeded €650;
- Property supplied or lent or a service supplied to the person concerned, once or more than once by the same person, during the appropriate period, where the consideration or price was less than the commercial consideration or price by more than €650;<sup>18</sup>

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<sup>17</sup> A person is not required to disclose information regarding his/her private home or that of a spouse or civil partner and any subsidiary or ancillary land to such home that is not being used or developed primarily for commercial purposes. Also excluded: a holiday home and any other private home used by the person or his/her family and any land that is subsidiary or ancillary to it which is required for its amenity or convenience and is not being used or developed primarily for commercial purposes.

<sup>18</sup> Also included: property lent or a service supplied free of charge where the commercial consideration or price would have been more than €650. Excluded is property supplied or lent or a service supplied to the person, as a gift for purely personal reasons, by a relative or civil partner or friend of the person or of his/her spouse or civil partner or child or of the spouse's child, unless acceptance could have materially influenced the person in the performance of his/her official functions

- Travel facilities, living accommodation, meals or entertainment supplied to the person concerned during the appropriate period free of charge or at less than the commercial price;<sup>19</sup>
- A remunerated position held by the person concerned as a political or public affairs lobbyist, consultant or adviser during the appropriate period.
- Contracts with the State.

124. It is not necessary to specify in the statement of interests the amount or monetary value of any interest or the remuneration of any trade, profession, employment, vocation or other occupation included in the statement. Liabilities are not required to be disclosed either.

125. In addition to the persons disclosing their own interests, the annual statements of interest made by PTEFs must include the interests of which they have knowledge of their spouse/civil partner, or their own child or a child of their spouse/civil partner.

126. The Standards Commission receives and holds annual statements of interest from PTEFs (except Secretaries General who submit theirs to the Department of Public Expenditure and Reform). However, it does not conduct verification of the information in the declarations; there is no legislative provision in this regard.

127. The Standards Commission can examine a complaint received in relation to, *inter alia*, failure by a PTEF to submit a statement of interests or failure to disclose all relevant information. Following an investigation of the complaint, if the Standards Commission determines that the person has not complied with their obligations under the Ethics Acts, for example by providing incomplete or inaccurate information in a statement of interests, a report is published and made available to the public. The report is also provided to the relevant authority/public body for consideration about what appropriate action/sanction, if any, should be taken in relation to the person named in the report.

128. The GET notes that statements of interests submitted by PTEFs do not include any quantitative information on relevant interests or information on significant liabilities. It considers it important that quantitative information be provided on significant interests, as they could cloud, or be seen as clouding, their judgement in the decision-making process at government level depending on their monetary level. As regards liabilities, it points out that significant liabilities can represent a vulnerability, especially for persons entrusted with top executive functions, and can make them more exposed to corruption risks. It should be for the control body to determine what liabilities can be considered as significant and requiring publication, for instance on the basis of fixed threshold. In addition, in order to gain in clarity, the GET invites the authorities to designate the Standards Commission as the main recipient of statements of interests of all PTEFs in order to contribute to a more coherent approach regarding top executive functions. It would seem beneficial that statements of interests of Secretaries General should also be filed with the Standards Commission to allow for such checks, even if they are ultimately not disclosed. The GET understands that statements of interests are to be discussed as part of the review of the Ethics laws. It should be noted that

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<sup>19</sup> There are exceptions where the commercial price or the aggregate of it was less than €650 or where the price paid was less than the commercial price by no more than €650. Other exceptions are travel facilities, living accommodation, meals or entertainment provided within the State, in the course and for the purpose of performing the person's official functions or in the course and for the purpose of any trade, profession, employment or other occupation of the person. Are also excluded travel facilities, living accommodation, meals or entertainment supplied as a gift for personal reasons by a relative or civil partner or friend of the person or of his/her spouse or civil partner or child or of the spouse's child, unless the acceptance of such might reasonably be seen to have been capable of influencing the person in the performance of his/her official functions.

the same conclusion was made in the 4<sup>th</sup> evaluation report regarding members of parliament and, to this day, the related recommendation remains outstanding.<sup>20</sup>

129. The GET notes that the Standards Commission does not carry out substantive checks of the annual statement of interests submitted by PTEFs owing to a lack of legislative basis and additional resources would be necessary if this task were entrusted to the Standards Commission. Its investigative powers are thus underused, and the possibility of sanctions was described as weak by stakeholders met on-site, notably because it only depends on initiatives from the public. The GET considers it important that in-depth checks be carried out routinely to identify potential conflicts of interest in order to manage the situation and impose proportionate sanctions where needed. **GRECO recommends (i) extending the obligations upon persons with top executive functions (PTEFs) to disclose their interests to include quantitative data on their significant financial and economic involvements as well as in respect of significant liabilities; (ii) ensuring that statements of interests of PTEFs be subject to regular substantive checks, with proportionate sanctions in case of breach, and adequate resources be allocated to the Standards Commission to this end.**

#### Accountability and enforcement mechanisms

##### *Criminal proceedings and immunities*

130. The rules on immunity applicable to members of the Oireachtas apply to ministers, who are always parliamentarians. Generally there are no immunities or procedural privileges for member of the Oireachtas. However, under Article 15.13 of the Constitution, they are privileged from arrest in going to, or returning from, and while within the precincts of, either House, and shall not, in respect of any utterance in either House be amenable to any Court or any authority, other than the House itself.

##### *Non-criminal enforcement mechanisms*

131. The Standards Commission is responsible for the oversight of compliance with the provisions of the Ethics Acts, which set out the statutory obligations for PTEFs in relation to standards of conduct, conflicts of interest and related declarations. It also has responsibility for any related enforcement proceedings.

132. Section 4 of the Standards in Public Office Act 2001 provides for the possibility of making a complaint to the Standards Commission in relation to a “specified person” (including includes Ministers, Ministers of State, the Attorney General, Special Advisers and Secretaries General) who may have done a “specified act” that is inconsistent with the proper performance of the functions of the office or position, or with the maintenance of confidence in such performance by the general public. This provision includes making a complaint about a PTEF who has failed to submit a statement of interests or who has not disclosed all relevant information.

133. In addition, section 11(a) of the 2001 Act provides that a person who makes a statement of interest under section 18 (including Secretaries General) may be requested by the relevant person/authority to provide information relating to the statement. If the relevant person/authority considers that the person may have contravened the law, they may make a complaint to the Standards Commission under section 11(b). Furthermore, section 22 of the

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<sup>20</sup> See latest Compliance Report: GrecoRC4(2022)3, adopted at GRECO’s 90<sup>th</sup> plenary meeting on 25 March 2022.

1995 Act provides for making a complaint to the Standards Commission where a person/member considers that a person has contravened the 1995 Act relating to statements of interests. The Standards Commission may also decide to investigate a possible contravention by a person on its own initiative, however in that case it cannot appoint an inquiry officer. The Standards Commission considers that it may adopt similar inquiry procedures where no complaint has been made.

134. The procedure for examining complaints and carrying out investigations is set out in the document Procedures of the Standards in Public Office Commission in respect of its Complaints Process published by the Standards Commission and available on its website. In summary, the process for examining complaints can involve a number of stages:

- stage 1: initial assessment of complaint to see whether it falls within the remit of the law and is supported by enough evidence. The Standards Commission may decide that the subject-matter is frivolous or vexatious; not of sufficient gravity to pursue it; or refer the complaint to the appropriate body for consideration;
- stage 2: preliminary inquiry. This may involve the appointment of an inquiry officer by the Standards Commission to assist it in the performance of its functions. Unlike the powers of the Standards Commission, the inquiry officer's powers are not coercive. The inquiry officer will provide a report to the Standards Commission. The report does not contain any findings but shall if requested include an opinion as to whether there is *prima facie* evidence to sustain the complaint. Where the Standards Commission commences an investigation on its own initiative, it is precluded from appointing an Inquiry Officer to do a preliminary inquiry. However, as noted above, the Commission considers that it may adopt similar inquiry procedures where no complaint has been made;
- stage 3: investigation. Having considered the report of the inquiry officer, the Standards Commission may decide to decline to carry out an investigation on one of the grounds outlined in the Ethics Acts or it may decide or to hold an investigation hearing in accordance with section 23 of the 1995 Act, at which all the evidence is presented in relation to the alleged contravention(s). The investigation hearings conducted by the Standards Commission are generally held in public, unless there is a specific direction for the proceedings to be held in private.

135. The Standards Commission can hold a sitting for the purpose of an investigation, at which it may receive submissions and evidence as necessary. The Chairperson may direct the person who is the subject of the complaint and any other person whose evidence is required to be heard by the Standards Commission. The Chairperson may also give directions in relation to requiring any person to provide any document or thing in his/her possession as specified. Following the investigation, the Standards Commission is required to prepare a report setting out its findings. This report is sent to the person under investigation, the complainant, the Minister for Public Expenditure and Reform and, if applicable, to the Director of Public Prosecution/other parties. It is also published on the Standards Commission's [website](#).

136. The Standards Commission's report is furnished to the following competent authorities to decide on possible sanctions:

- for Ministers and Ministers of State, to the Committee on Members' Interests for Dáil or Seanad as appropriate for consideration under section 28 of the 1995 Act;
- for the Attorney General, to the Prime Minister in relation to his/her functions under the provisions of Article 30 of the Constitution;

- for Special Advisers and Secretaries General – the Minister of the relevant Department, for consideration under the Civil Service Disciplinary Code.

137. Sections 21 and 23 of the 2001 Act make provisions for members, including office holders (Ministers, Ministers of State and the Attorney General), and Secretaries General to furnish evidence of compliance with taxation legislation to the Standards Commission. Pursuant to the same provisions of the 2001 Act, the Standards Commission is required to investigate contraventions, and in cases of non-compliance to prepare and publish its findings in a report. The report is provided to either (i) the relevant Committee on Members Interests for office holders or (ii) the public body concerned for secretaries general. No reports have been published on PTEFs that would have failed to comply with the tax clearance provisions. A report would be laid before the House concerned and the Committee shall cause a Motion to be moved in that House for a resolution that such action, or actions, be taken by that House in relation to the matter. The actions detailed in section 28(2) of the Act are: (i) to require the House to take note of the report; (ii) to require the censuring of the Member concerned by the House; (iii) to require the suspension of the office holder from the service of the House; (iv) under some circumstances, the Committee may recommend that the office-holder's salary is withheld.

138. While the Commission has received more than 200 complaints over the past five years and published 16 investigation reports in the same period none of these complaints or reports are in respect of PTEFs. While the GET acknowledges the well-developed complaint mechanism, it considers that the Standards Commission's powers to control, investigate and impose sanctions for breaches of integrity standards by PTEFs should be strengthened for the system to be more efficient and not be over-reliant on sporadic complaints. It is telling that no investigations into PTEFs' possible contraventions of integrity standards have taken place, based on the current setting. This state of affairs also validates the recommendations on the need for a financially independent and stronger Standards Commission, an enforceable code of conduct for PTEFs, post-employment restrictions and statements of interests (see respectively paras 57, 61, 119 and 130).

## **V. CORRUPTION PREVENTION IN LAW ENFORCEMENT AGENCIES**

### **Organisation and accountability of law enforcement/police authorities**

#### *Overview of various law enforcement authorities*

139. An Garda Síochána (hereafter, AGS) is the primary authority responsible for policing and security. It operates under civil power and its objectives are (a) preserving peace and public order; (b) protecting life and property; (c) vindicating the human rights of each individual; (d) protecting the security of the state; (e) preventing crime; (f) bringing criminals to justice, including by detecting and investigating crime, and; (g) regulating and controlling road traffic and improving road safety.

140. AGS is governed by the Garda Síochána Act 2005 and amendments thereto (hereafter, GSA). The GSA legislates in relation to the administration, management, governance, and oversight of AGS, clarifying the function and objectives of the police service and defining the respective roles of the Garda Commissioner, the Minister for Justice and oversight bodies.

141. AGS is managed by the Garda Commissioner and Senior Leadership Team.<sup>21</sup> For policing purposes Ireland is divided into four regions. An Assistant Commissioner is responsible for the management of each. Each Region is divided into a number of Divisions commanded by a Chief Superintendent. The current 28 Divisions will transition to 19 new Divisions over time as part of the new operating model. Each Division is divided into Districts. There are a total of 96 Districts nationally commanded by a Superintendent. They are assisted by a number of Inspectors. Districts are divided into sub-districts, each normally the responsibility of a Sergeant. Each sub-district usually has one station, the strength of which may vary from 3 to over 100 Garda personnel. In some areas there are sub-stations usually occupied by one Garda member.

142. AGS is currently implementing a new Operational Model to re-organise the delivery of the policing service throughout Ireland. In addition to a reduction in the number of regions and divisions, there is to be a restructuring of Garda Headquarters and functional areas. A new Divisional/Local Policing Model, which is currently being rolled out, is to see a move from a District structure, to a geographically based Divisional/Functional model of policing. Under the new Operating Model, Divisions will increase in size, will be operationally autonomous and will see services currently delivered at a district and divisional level, being managed from Functional Areas at the Divisional level. The Garda Síochána (Functions and Operational Areas) Act 2022 was signed into law on 4 May 2022 and is to facilitate the full roll out of the new Garda Operating Model.

143. The Garda Members rank structure (chain of command) is as follows: Commissioner; Deputy Commissioner; Assistant Commissioner; Chief Superintendent; Superintendent; Inspector; Sergeant; Garda; Reserve Garda.

144. Unsworn or civilian staff are referred to as Garda Staff. However, a key recommendation of the Report of the Commission on the Future of Policing in Ireland (CoFPI) (see para. 156) is the transition of civilian staff from civil servants employed by the State to public servants employed by AGS to create a single workforce with a shared mission. This is provided for in upcoming legislation (Policing, Security and Community Safety Bill).

145. The Garda Commissioner is responsible for the general direction, management and control of AGS and is operationally independent. S/he is accountable to the Minister for Justice. While the Minister can issue to the Garda Commissioner written directives with the approval of the Government, this power may not be exercised to limit the independence of a member of AGS in performing functions relating to the investigation of a specific offence or the prosecution of an offence. Since 2005 three such directives have been issued. Their purpose was to facilitate co-operation between AGS and civil inquests and an inquiry in Northern Ireland. The directives must be laid before both Houses of the Oireachtas. In December 2018, the Government accepted a recommendation of the Report of the CoFPI that the operational independence of the Garda Commissioner be made explicit in legislation. Work is ongoing within the Department of Justice on the Policing, Security and Community Safety Bill which will, *inter alia*, give effect to this recommendation. The General Scheme of

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<sup>21</sup> The Executive Leadership Team (Garda Executive) comprises the Garda Commissioner, Deputy Commissioner Policing and Security, Deputy Commissioner Strategy, Governance and Performance and the Chief Administrative Officer. The Senior Leadership Team includes the Garda Executive, Regional Assistant Commissioners, Assistant Commissioners in specialised areas and Civilian Executives including Executive Director Strategy and Transformation, Executive Director Information and Communications Technology (ICT), Executive Director Human Resources and People Development, Executive Director Finance and Services, Executive Director Legal & Compliance, Director of Communications, and the Chief Medical Officer.



the Bill was approved by the Government and published on 27 April 2021. A first version of the Bill has undergone pre-legislative scrutiny by the Oireachtas Joint Committee of Justice and its report is expected shortly. Any recommendations from the Committee is to inform the further drafting of the Bill. Further consultation with stakeholders is also planned.

146. As at 31 March 2022, the Garda strength stood at 14 333 (14 290 WTE<sup>22</sup>), Garda Staff at 3 376 (3 156.5 WTE) and 405 Garda Reserve Members:

Figure 1 – Garda Members (Sworn Officers)

| Rank                   | At 31 March 2022 | Male          | %          | Female       | %          | WTE           |
|------------------------|------------------|---------------|------------|--------------|------------|---------------|
| Commissioner           | 1                | 1             | 100%       | 0            | 0%         | 1             |
| Deputy Commissioner    | 2                | 0             | 0%         | 2            | 100%       | 2             |
| Assistant Commissioner | 7                | 4             | 57%        | 3            | 43%        | 7             |
| Chief Superintendent   | 47               | 37            | 79%        | 10           | 21%        | 47            |
| Superintendent         | 166              | 143           | 86%        | 23           | 14%        | 166           |
| Inspector              | 399              | 326           | 82%        | 73           | 18%        | 399           |
| Sergeant               | 1 994            | 1 523         | 76%        | 471          | 24%        | 1,993         |
| Garda                  | 11 717           | 8 304         | 71%        | 3 413        | 29%        | 11 675        |
| <b>Total:</b>          | <b>14 333</b>    | <b>10 338</b> | <b>72%</b> | <b>3 995</b> | <b>28%</b> | <b>14 290</b> |

Figure 2 – Garda Reserves

| Total      | Male | %   | Female | %   |
|------------|------|-----|--------|-----|
| <b>405</b> | 300  | 74% | 105    | 26% |

Figure 3 – Garda Staff

|                              | Total        | WTE            | Male       | %          | Female       | %          |
|------------------------------|--------------|----------------|------------|------------|--------------|------------|
| Professional/Technical       | 62           | 61.2           | 37         | 60%        | 25           | 40%        |
| Administrative <sup>23</sup> | 2 969        | 2 877.7        | 797        | 27%        | 2 172        | 73%        |
| Industrial/ Non- Industrial  | 345          | 217.6          | 114        | 33%        | 231          | 67%        |
| <b>Total</b>                 | <b>3 376</b> | <b>3 156.5</b> | <b>948</b> | <b>28%</b> | <b>2 428</b> | <b>72%</b> |

Figure 4 – Administrative and Civil Service

| Grade                        | Total        | WTE            | Male       | %          | Female       | %          |
|------------------------------|--------------|----------------|------------|------------|--------------|------------|
| Chief Administrative Officer | 1            | 1              | 1          | 100%       | 0            | 0%         |
| Executive Director           | 4            | 4              | 2          | 50%        | 2            | 50%        |
| Chief Medical Officer        | 1            | 1              | 1          | 100%       | 0            | 0%         |
| Director                     | 1            | 1              | 0          | 0%         | 1            | 100%       |
| Principal Officer            | 24           | 24             | 14         | 58%        | 10           | 42%        |
| Assistant Principal          | 71           | 71             | 28         | 39%        | 43           | 61%        |
| Higher Executive Officer     | 178          | 176.6          | 70         | 39%        | 108          | 61%        |
| Administrative Officer       | 20           | 20             | 10         | 50%        | 10           | 50%        |
| Executive Officer            | 716          | 706.6          | 192        | 27%        | 524          | 73%        |
| Clerical Officer             | 1 954        | 1 873.5        | 480        | 25%        | 1 474        | 75%        |
| <b>Total</b>                 | <b>2 970</b> | <b>2 878.7</b> | <b>798</b> | <b>27%</b> | <b>2 172</b> | <b>73%</b> |

### Access to information

147. AGS became subject to the Freedom of Information Act 2014. However, the Act identifies AGS as a partially included agency “insofar as it relates to administrative records relating to human resources, or finance or procurement matters”. Only administrative records

<sup>22</sup> Whole time equivalent – Garda staff work on a number of different work-sharing patterns

<sup>23</sup> Civil service grades and other administrative posts

that relate to these areas may be considered for release to members of the public, the media, etc., through this mechanism. The Freedom of Information Office deals with all such requests.

148. Operational policing matters fall outside the Freedom of Information Act. Information on ongoing investigations may be provided to the media by the AGS Press Office. While AGS has a duty to safeguard the confidentiality and integrity of information, this must be balanced against the duty to be open and transparent wherever possible. Any updates on investigations to the media and the public are a decision between the Senior Investigating Officer of the particular investigation and the AGS Office of Corporate Communications.

149. The Garda Commissioner provides a monthly report to the Policing Authority, an independent oversight body (see para. 248), on matters including: embedding the Code of Ethics in AGS; implementing cultural change; risk management; and crime trends. This report is published on the AGS website, circulated via Twitter, and published on the Policing Authority [website](#). Furthermore, the Garda Commissioner submits an Annual Report to the Policing Authority. The Policing Authority holds at least four public meetings a year with the Garda Commissioner. These meetings can be attended by the public and media and are live-streamed and recorded.

150. The official website of AGS enables members of the public and the media to access information on such activities and other information/documents held by AGS. It contains, for example, information related to Data Protection and Freedom of Information, Commissioner's Monthly Reports to the Policing Authority, Quarterly Public Attitudes Surveys and Annual Reports. Other related policy documents available on the website include the Code of Ethics, the policy relating to Gifts, Hospitality and Sponsorship and the Protected Disclosures Policy. AGS also engages the public daily through social media channels including Facebook, Twitter and Instagram. Official Garda social media channels can be accessed directly through social media platforms or via the official AGS Website.

151. Many interlocutors met by the GET on site, including independent oversight bodies and the media, underlined that obtaining information from AGS could prove challenging, even for objective, statistical data. It was pointed out that part of the reason may be that AGS undertakes both policing and national security functions, the latter requiring a higher degree of confidentiality and possibly leading more generally to a greater culture of confidentiality within AGS. It was also put forward that the remit of the Freedom of Information Act regarding police information could be broadened, making public non-individual information released as a result of a request for information, and routinely providing more information (not sensitive to ongoing investigations). The GET considers that a reflection should be engaged on how to improve the current legal framework on access to policing information. More transparency will benefit the general trust in AGS. Therefore, **GRECO recommends that the framework on access to policing information be reviewed to make information more readily available while preserving the integrity of ongoing investigations.**

#### *Public trust in law enforcement authorities*

152. Trust in AGS is measured on a quarterly basis through the AGS Public Attitudes Survey. The [survey for 2019](#) reported that 91% of respondents had a medium to high level of trust in the Garda organisation.

### *Trade unions and professional associations*

153. AGS personnel cannot belong to trade unions (section 18(3), GSA). However, four staff associations represent AGS members at different ranks. Following legal action taken by the Association of Garda Sergeants and Inspectors (AGSI) in 2014, the European Committee of Social Rights found that the prohibition on AGS personnel from being a member of a trade union, with all the bargaining rights and powers unions have, including strike action, was a violation of the European Social Charter. The GET invites the authorities to examine the changes needed to implement the decision of the European Committee of Social Rights.

154. The Garda Representative Association (GRA), founded in 1978, represent personnel of Garda rank and currently has 11 163 members. The Association of Garda Sergeants and Inspectors (AGSI) has currently 2 200 members. The Association of Garda Superintendents has 163 members. The Association of Garda Chief Superintendents has 47 members. By contrast, civilian staff of AGS can join trade unions (FÓRSA; the Association of Higher Civil and Public Servants - AHPCS; and the Services, Industrial, Professional and Technical Union - SIPTU).

155. All Garda Associations were granted access to the industrial relations mechanisms of the State in 2020, under the Industrial Relations (Amendment) Act 2019. The Act provides that Garda members now have access, through their Representative Associations, to the services of the Workplace Relations Commission and the Labour Court to facilitate resolution of industrial relations disputes. In parallel, new internal dispute resolution mechanisms have been introduced in AGS. Additionally, the Garda Associations are entitled to bring claims to and engage with Garda Management and the Department of Justice through the Conciliation Council.

### Anti-corruption and integrity policy, regulatory and institutional framework

#### *Anti-corruption and integrity policy*

156. The Commission on the Future of Policing in Ireland (CoFPI) was established by the Government to examine all aspects of policing. It published its [Report](#) in September 2018. The Government endorsed the report and published a four-year high level implementation plan: A Policing Service for the Future. The plan was to run to the year 2022 and is built around five workstreams: Leadership and Accountability; People; Structures and Operations; Independent Oversight and Partnerships. It includes legislating for a new governance and oversight framework for policing and security aimed at improving the performance and accountability of the policing and security services to the benefit of the safety of communities. This is to be achieved by the Policing, Security and Community Safety Bill. Other key actions include building a human rights compliant mentality within AGS, a review of the discipline systems and putting in place a new industrial relations framework. The programme is set out across four key phases: (i) Building Blocks; (ii) Launching; (iii) Scaling; and (iv) Consolidation. The plan is currently in the consolidation phase and is focused the embedding of priority projects. Owing to a shift of focus to support the response to the Covid 19 pandemic, the original timeframe for delivery was extended to 2023.

157. To oversee implementation of over 150 actions contained within the Plan, a Programme Office has been established in the Department of the Prime Minister. An Implementation Group chaired independently by a former member of the CoFPI and made up of senior officials from the Government and AGS has also been established to drive and

oversee the reform. In addition, a High-Level Steering Board on Policing Reform, chaired by the Secretary General of the Department of the Prime Minister, has been formed to address any blockages to reform and is made up of the Garda Commissioner, the Secretary General of the Department of Justice, the Secretary General of the Department of Public Expenditure and Reform and also other relevant Secretaries General as required.

158. The AGS Anti-Corruption Strategy 2022-2024 is supported by five core anti-corruption pillars, with clear organisational deliverables prescribed under each pillar. These pillars are: (1) Enhance An Garda Síochána's Anti-Corruption Framework; (2) Promoting Integrity, Professional Standards and Ethical Values; (3) Counter Corruption Policies, Procedures & Processes; (4) Intelligence Led Investigations; and (5) Transformation, Agility & Innovation.

159. The GACU, which was established in November 2020 to lead anti-corruption action within AGS (see para. 163), has published three policies: (i) an overarching [Anti-Corruption Policy](#) reaffirming that AGS will not tolerate corruption; (ii) a Professional Boundaries and the Abuse of Power for Sexual Gain Policy; (iii) a Substance Misuse (Controlled Drugs) Policy.

160. Governance Boards, which are chaired by members of the Garda Executive<sup>24</sup> and composed of senior managers, are in place to drive governance across the organisation and to ensure oversight, accountability and compliance. In addition to the recommendations of external oversight bodies, the Governance Boards are informed by the findings of Garda Internal Affairs, Garda Internal Audit and the Garda Professional Standards Unit in order to provide consistency in delivering a professional and ethical policing service. AGS has recently completed a review of its corporate structures under the CoFPI plan and is in the process of implementing a revised structure

161. Due to the Covid 19 pandemic, several projects have been delayed and the priority for 2021 was to progress actions as much as possible, including the introduction of several bills, such as the Policing, Security and Community Safety Bill (set to replace the GSA). This Bill is to provide for a new governance and oversight framework to empower the Garda Commissioner to act as the true Chief Executive of AGS (supported and held to account by a corporate board) and ensure robust and transparent external oversight and effective accountability.

### *Institutional framework*

162. The Garda Professional Standards Unit (GPSU) examines and reviews, as directed by the Garda Commissioner, the operational, administrative and management performance of AGS at all levels. The GPSU is required to propose measures to the Garda Commissioner to promote the highest standards of practice in operational, administrative and management matters relating to AGS.

163. However, since its establishment in November 2020, the GACU has assumed organisational responsibility for promoting integrity and professionalism through prevention, identification and, when necessary, the investigation of wrongdoing. In order to ensure that appropriate links are developed and maintained between Divisions/Sections and the GACU, the appointment of 60 Liaison Officers has been completed. Liaison Officers are to be the direct point of contact and to liaise with the GACU in respect of individual issues/investigations from the Division/Section concerned, communications for the roll-out of the GACU, integrity

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<sup>24</sup> See footnote 20.

building and education of personnel in respect of GACU Policies in the Division/Section (see para. 191).

164. The GACU's Integrity Section is to oversee the Liaison Officers network. It has also responsibility for increasing integrity awareness, providing advice on integrity issues, publishing a "lesson learned" newsletter, developing training courses, and developing and maintaining on-line tools to support integrity building. It is actively involved in the delivery of briefings promoting integrity, internal communications and online tools to support integrity building.

165. In terms of governance framework, the Deputy Commissioner on Strategy, Governance and Performance has been appointed by the Garda Commissioner as Senior Police Leader to hold responsibility for counter corruption in AGS and report to the Garda Commissioner on strategy and policy implementation.

#### *Risk management measures for corruption prone areas*

166. In 2010, AGS introduced a formal risk management process. With greater emphasis in more recent times being placed on governance, accountability and transparency, more structured approaches to risk management have since evolved.

167. The Garda Risk Management Unit was established in 2016 and provides organisation-wide support, including training, advice and guidance. It provides support and advice to the Chief Risk Officer and the Risk & Policy Governance Board, the latter being composed of senior managers who oversee and provide strategic direction regarding risk management. The Board has responsibility for ensuring that corporate risks are managed and mitigated effectively. According to the revised approach to risk management, processes involved are overseen by the Board, the Audit and Risk Committee and the Garda Internal Audit Section.

168. On an annual basis the Risk and Policy Governance Board submit a report to the Garda Commissioner certifying the functioning and effectiveness of the risk management approach. Formal risk management is subject to regular review by the Garda Internal Audit Section and the Audit and Risk Committee. An independent external review completed by Mazars Ireland in July 2020 recognised the risk management framework as being broadly effective and fit for purpose. The review provided recommendations to further enhance and embed risk management in the organisation. The recommendations from the audit and the external review are currently being implemented as part of a project under "A Policing Service For the Future" (2019).

169. The Garda risk management framework does not involve specifically targeting any one area of risk, such as corruption. However, under Garda Risk Management processes, the organisation maintains vigilance through a three-tier approach (local, executive and corporate level) to the identification and management of risks, including those related to corruption and corruption-prone areas. Garda managers, at the local level, are asked to holistically identify vulnerabilities, including corruption risks. Risk registers are managed, maintained, reviewed and updated at local, executive and corporate levels.

170. In 2019 the Garda Síochána Inspectorate, an independent oversight body (see para. 248), conducted a review entitled "Countering the threat of internal corruption within the Garda Síochána" and the GACU completed a Strategic Threat and Risk Assessment of Corruption to guide the Anti-Corruption Strategy by highlighting gaps in current policies,

procedures and training. The key themes identified included: inappropriate association; controlled drug use and supply; misuse of ICT systems; disclosure of information; gifts and hospitality; business interests and secondary occupations; conflict of interest; and professional boundaries. The GACU is presently conducting an updated Strategic Threat & Risk Assessment of Corruption in AGS in order to assess current and emerging trends in this area.

171. In response to these recommendations, detailed work on a joint implementation plan has been developed by the Department of Justice and AGS to address recommendations contained in the Garda Inspectorate report. These recommendations relate to issues raised including substance abuse testing, notifiable associations (e.g. family member with criminal convictions), conflicts of interest, business interests, post-employment activities and gifts/gratuities/hospitality/sponsorship, the policy and governance of vetting, non-public duty, ICT control, the Property and Evidence Management System and discontinued court cases.

172. Furthermore, following the establishment of the GACU, several recommendations have already been implemented with the publication of an Anti-Corruption Policy (see above). The Garda Síochána (Functions and Operational Areas) Act 2022 contains provisions which will allow for the introduction of substance misuse testing in AGS. Other recommendations have been partially completed, including an agreement by the Criminal Justice Strategic Committee, which is composed of the leaders of all of the key criminal justice agencies, to establish a dedicated working group to consider in detail the first recommendation of the Garda Inspectorate report and to propose ways to implement it. The GACU is equipped with a Risk Management Framework to effectively identify, address, mitigate, monitor and review risks. A risk assessment of reports/complaints to assess the level of risk faced. Issues identified as falling outside the criminal and disciplinary threshold may need to be addressed through an integrity-based approach, tasked to the GACU's Integrity Building Section. This may involve briefings and training to address behavioural drift through tailored communications.

173. In addition, an Information Technology (IT) supported certified inspection process was developed to permit local management to inspect areas of concern, highlighted by risk assessment. Following a successful pilot, the IT system continues to be rolled out divisionally.

174. In order to further prevent risks, the Investigation Management System (IMS), which is currently being introduced, will maintain a full history of chain of events during an investigation. The IMS requires a supervisor to sign off on all tasks. AGS is also moving towards a peer-review system for investigations, with training underway. Moreover, the appointment of a Senior Investigating Officer (SIO) to lead investigations into serious crime, critical incidents and other incidents that are a matter of particular public interest provides an additional layer of supervision and direction to an investigation. An SIO serves to ensure an investigation is conducted in an effective and efficient manner in order to establish the facts; is independent and impartial; is conducted with promptness and diligence; is subject to public scrutiny; and is capable of leading to the establishment of the facts of the case and to the identification and conviction of those responsible.

175. During the site visit, interlocutors met by the GET underlined that the AGS IT system remained underdeveloped, which hampered the discovery of integrity breaches that would help identify risks and improve prevention. For instance, the non-systematic logging of information on minor offences makes the tracing of potential corrupt acts more difficult and the possibility of dropping possible minor offences easier. In this respect, the GET was told of

instances of frequent cancelling of speeding tickets that had been detected fortuitously after investigating other offences in the same area. It was extrapolated that similar instances probably occurred elsewhere and fell under the radar. According to interlocutors met on site, there was also a lack of rigour regarding who accessed IT databases. The system of flagging suspicious access was considered insufficient (e.g. nothing is flagged if you look from a general question, such as all arrests in a specific town, but only if you search for a specific name). Moreover, owing to a still insufficient developed IT system and culture, it was reportedly not always possible to locate where Garda personnel were during their whole working day, hence increasing risks of integrity breaches going unnoticed. That said, recent improvements have been achieved. The GET considers as positive the development of IMS to be able to keep a trace of the different stages of investigations, and the more frequent control of the PULSE database of infractions; this will usefully inform risk assessment exercises and policies. Therefore, **GRECO recommends that further measures be taken to modernise the Garda Information Technology systems and the way they are used in order to better monitor integrity breaches and inform risk assessments.**

#### *Handling undercover operations and contacts with informants and witnesses*

176. The Policy Document relating to the Management and Use of Covert Human Intelligence Sources (CHIS) is available on the Garda website, and the Code of Practice for Garda Personnel involved in the management and use of CHIS is available through the Garda Portal. An updated policy and procedure documents have been developed but have yet to be published. The Code of Practice Mission Statement states that the assessment, recruitment and use of CHIS requires the highest standards of integrity and to be conducted by experienced personnel.

177. All handlers of CHIS are vetted before appointment and undergo specific training. They must submit a contact sheet request to the Controller to obtain authorisation to meet with the source. Following contact, the details of the contact must be consigned in a contact sheet as well as the information obtained; this is recorded in a secure IT system. In addition, an independent Covert Human Intelligence Source Oversight Authority is appointed by the Minister for Justice to review and monitor the use of CHIS by AGS and make recommendations to the Garda Commissioner and report to the Minister at regular intervals.

#### *Ethical principles and rules of conduct*

178. Ethical standards in AGS are regulated in particular by the GSA; Garda HQ Directives; Garda Síochána (Discipline) Regulations 2007; the Civil Service Code of Standards and Behaviour and Civil Service Disciplinary Code, applicable to Garda Staff; and Public Procurement Guidelines for Goods and Services.

179. The Code of Ethics for AGS (established under section 17 of the GSA) applies to every person working in the Garda, at every rank or grade. It applies not only to interactions between persons working for AGS and the public, but also to interactions between colleagues within the organisation. It contains ethical commitments relating to standards in the following areas: duty to uphold the law; honesty and integrity; respect and equality; authority and responsibility; police powers; information and privacy; transparency and communication; speaking and reporting wrongdoing; leadership.

180. In 2016 the Policing Authority undertook an extensive public consultation process in the drafting of the Code and received ideas and comments from a wide range of people, including those who work in AGS, members of the public, and statutory and civil society organisations. The Code of Ethics is intended to permeate all areas of AGS. The Garda Ethics and Culture Bureau (GECB) is responsible for embedding the Code of Ethics in the organisation on an ongoing basis and reports progress on these activities to the Policing Authority on a quarterly basis.

181. Although not legally binding, the Code now underpins everything done by Garda personnel. Recruits sign a formal commitment to it, which must be reaffirmed if promoted to another role. Since its launch, an organisation-wide series of workshops was conducted to assist in inculcating it into AGS. Ongoing inculcation of the Code will be continued by the Garda Ethics and Culture Bureau. A declaration, agreeing to adhere to the nine standards and commitments in the Code of Ethics has been signed by over 95% of the organisation.

182. The Integrity at Work Pledge was first signed in 2017 and the current Garda Commissioner and Deputy Commissioner recently re-signed the Pledge in order to signal a “tone from the top” in recognising the importance of maintaining an ethical workplace and the valuable contribution of those who raise concerns about wrongdoing. The goal is that this commitment taken by senior managers will have a “trickle-down effect” to the remainder of the organisation.

183. In line with section 123 of the GSA, Statutory Instrument No. 214 of 2007, [Garda Síochána \(Discipline\) Regulations 2007](#) provided that “*Failure to comply with any specified provision of any code of ethics established under section 17 of the Act*” constituted a breach of discipline. This section was subsequently scrapped by Statutory Instrument No. 639 of 2016, [Garda Síochána \(Discipline\) \(Amendment\) Regulations 2016](#), as the lead for drafting the code was transferred to the Policing Authority, upon its creation (section 16, Garda Síochána (Policing Authority and Miscellaneous Provisions) Act 2015).

184. The GET welcomes the “tone from the top” approach taken by the current Garda Commissioner to promote integrity standards in AGS and his strong commitment to driving a culture shift in AGS. This includes, for instance, him signing the Integrity at Work Pledge and strongly encouraging Garda personnel to sign a declaration to demonstrate their adherence to the Code of Ethics guiding principles (97% of Garda personnel have done so to date). Any promotion is also to be conditional to the signing of the code and, for senior positions under the Commissioner’s direct purview, to additional vetting.<sup>25</sup> This has also been accompanied by an increase in the number of suspensions for integrity-related breaches in recent years.

185. While it is positive that the Code of Ethics for AGS has been adopted, the GET notes that it has been deprived of any enforceability, which was initially provided for by Garda Síochána (Discipline) Regulations 2007. The GET understands that great reluctance towards this was expressed by Garda associations, which further demonstrates the continuing need for a culture shift. However, the GET was also told that there were plans to introduce a parallel document on integrity standards that would explicitly connect integrity breaches to sanctions provided in legislation. This would be a positive development as it would connect the provisions of the code to existing disciplinary sanctions. At the same time, the GET is

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<sup>25</sup> Statutory Instrument 370/2021 (Regulation 13(2)(c) requires all candidates for promotion to provide a signed undertaking of commitment to the Code of Ethics in their new role.



concerned that two similar documents would coexist, bearing different names, with one being enforceable and not the other. The GET considers that this has the potential of creating confusion at a time where embedding integrity culture in AGS is being given prominence. Therefore, for the sake of clarity, the GET would consider it preferable to have only one document serving as an enforceable code. If there is another document with general principles, it should rather be presented as a statement of principles rather than a code.

186. In terms of content, the current Code of Ethics for AGS suffers several shortcomings. Firstly, it does not cover all relevant integrity matters. It provides a rather general definition of conflict of interest and does not include anything on other relevant integrity matters such as gifts, contacts with third parties, secondary activities, and the handling of confidential information. The fact that these issues might be addressed in a number of separate policy documents does not serve the objective of a code of ethics which should cover all relevant topics and make all standards accessible in one place. Secondly, the content is presented as guiding principles rather than concrete rules that would be illustrated by examples drawn from practice. According to the GET, it is therefore more of a statement of principles rather than a fully-fledged code of ethics within the meaning recognised by GRECO. While noting the Policing Authority had previously considered it too early to revise the Code of Ethics, the GET nonetheless considers that the identified issues and gaps need to be addressed.

187. Revising or supplementing the Code of Ethics and complementing it with practical guidance will be instrumental to ensure that these principles find true resonance in the day-to-day work of police members and contribute to embedding a culture of integrity in AGS. Expectations of the general public regarding integrity and accountability, including as regards policing, have grown significantly in recent years in GRECO member states. The GET heard from several interlocutors that, while change had started, progress in implanting an integrity culture in AGS was rather slow. It is therefore important that such revision should go hand-in-hand with defining practical guidance based on real-life examples. The comprehensive code and its practical guidance should also be used as the basis for future training and confidential advice should be easily available (see paras. 196). Therefore, **GRECO recommends that the Code of Ethics for Garda personnel be updated/supplemented so as to cover in detail all relevant integrity matters (such as conflict of interest prevention, gifts, contacts with third parties, secondary activities, confidential information), and be complemented with guidance illustrating all issues and risk areas with concrete examples.**

#### *Advice, training and awareness*

188. The Garda Trainee recruitment model has been updated to include reference to the Code of Ethics from the initial stage. Prospective trainees are advised that formal commitment to the Code will be a prerequisite for all successful applicants. All Garda Trainees receive a one-hour lecture in the Foundations of Policing module, which provides an overview of the professional values and ethical standards by way of a “Code of Ethics Awareness” presentation. The session outlines the purpose of the Code of Ethics and the obligation on all members to carry out their duties in compliance with the Code. The Code of Ethics arises in many different areas of training and progress reports pertaining to Garda trainees. A copy of the Code of Ethics is provided to each Garda Trainee and assessment involves: (i) an online multiple-choice exam; (ii) an assignment of 1 000 words assessing their identification of two ethical standards which they must then justify. Following an initial period of 34 weeks, an attestation ceremony is held in the Garda College during which all trainees reaffirm their commitment to the Code of Ethics.

189. In order to introduce and embed the Code of Ethics throughout the organisation, a training framework was developed which incorporates the views of the Policing Authority and the Senior Leadership Team. Workshops have been provided throughout the organisation as a forum for discussion relating to ethical scenarios and have been attended by Garda personnel, both sworn and unsworn. As of 12 October 2021, 16 529 of serving personnel have attended a Code of Ethics workshop, which represents 90.55% of the total of AGS personnel. New entrants now receive the Code of Ethics training as part of the Student Probationer Programme or the Garda Staff Induction Programme. AGS personnel are not required to update their training periodically. However, an e-learning module has been launched in April 2022 as a complement to the induction training and as a refresher module for those personnel who wish to do so.

190. An Ethics and Culture Bureau was established in 2018 to embed the principles of the Code of Ethics and key cultural behaviours in accordance with the Code of Ethics Strategy and the findings and recommendations of a recently held Cultural Audit, conducted by Price Waterhouse Cooper (PWC). The Bureau provides organisation-wide support in terms of communications, training, advice and guidance to all personnel. In addition to the display of the nine Ethical pillars on all networked desktop computers on the lock screen, a number of other promotional materials, including emails to all staff, a message from the Commissioner, a Code of Ethics video. The Garda Decision-Making Model have been utilised to re-enforce the Code of Ethics. A series of short interviews with sworn members and Garda Staff are currently being published in the newsletter for the organisation. The development of an e-learning ethics awareness is currently underway.

191. The GACU is working on the development of communication and briefing products to protect Garda Personnel from pressure to compromise their professionalism, ensuring a strong message from the top of the Organisation, supporting a culture of trust, ethical reporting and integrity. A Blended Learning Approach has been developed and all personnel is to receive online training and briefings on the GACU. In addition to the Liaison Officer of the recently created GACU, an Integrity Champion Network is to be established. Their role is to ensure information about the establishment of the GACU, and awareness of the new policies and procedures, reaches all personnel in AGS.

192. The GACU has an approved training approach that was developed in conjunction with the Garda College in 2020. Delivery of that training approach was impacted by Covid-19 restrictions. Training and communications are being led by the Integrity Building Section within the GACU. A Blended Learning Approach has been adopted with bespoke packages that are rank/grade, role and function specific. Senior Garda Management briefing sessions were completed in 2021. Section specific briefings are continually being developed. To date, 78% of all Senior Management have attended a GACU briefing. Workshops for GACU Liaison Officers, Front Line Supervisors, the Integrity Network, all personnel and AGS students will follow. Under the newly developed Professional Conduct and Ethical Behaviour Programme, approval has been granted to develop and publish lessons learned around behaviours, utilising anonymised case data from completed discipline/complaint investigations. A working group comprising the Garda Ethics and Culture Bureau, Internal Affairs and the GACU to oversee this work has been established.

193. A GACU Liaison Officer network has been established in AGS with nominated GACU Liaison Officers appointed in each Division/Section across the organisation. A central role of

GACU Liaison Officers is to act as a point of contact in terms of providing advice and guidance to colleagues within their area of responsibility on integrity-related issues, how to report wrongdoing, GACU Policies and to support the work of the GACU. A designated telephone number/email is also in place should Garda personnel wish to directly contact the GACU in confidence for advice.

194. The Standards Commission can give advice following a request from any relevant person on the provisions of the Ethics Acts. While there is no obligation to seek advice, once such advice is given a person must comply with it. There have been very few occasions over the last number of years where advice has been sought from a designated employee – one request in each of the last two years.

195. The GET acknowledges that decisive steps have been taken to streamline integrity matters in training, especially at the beginning of the career of Garda personnel. At the same time the GET considers that further efforts should be made. As already recommended, the Code of Ethics needs to be revised/supplemented to cover all relevant integrity matters in a comprehensive fashion and be accompanied by practical guidance containing real-life examples. Furthermore, given the slow pace described by a number of interlocutors in changing attitudes towards integrity standards, it is vital that training is strengthened, based on a new/updated and comprehensive code of ethics and that compulsory and sufficiently detailed training is organised for serving personnel at regular intervals to take account of any legislative or other developments.

196. The GET considers that ensuring a real culture shift on integrity within AGS will be dependent on appropriate training based on a comprehensive code of conduct, accompanied by concrete guidance, and made compulsory not only for trainees and new recruits but also for serving Garda personnel who are called upon to respect them daily and act as role models for new recruits. Therefore, **GRECO recommends (i) strengthening integrity training based on a comprehensive code of ethics and accompanying practical guidance and; (ii) introducing regular compulsory training on integrity standards for serving Garda personnel.**

#### Recruitment, career and conditions of service

197. AGS employs fulltime Garda members and Garda Staff on a permanent basis. Recruitment and promotional campaigns are carried out by way of a competitive and merit-based selection process. As to the integrity of candidates, absolute commitment to the Code of Ethics is a requirement for all members of AGS and there is also a requirement for all recruits to sign a formal commitment to the Code of Ethics. This commitment must be re-affirmed if promoted to another role within the Organisation.

198. The Public Appointment Service (PAS) is responsible for running recruitment competitions for new Garda members. The PAS is the independent, centralised recruitment, assessment and selection body for the civil service and a number of public service bodies. The PAS operates in accordance with standards to ensure fair, consistent and transparent processes through which appointments are made on merit and in line with best practice.

199. The Policing Authority, with the approval of the Minister for Justice, agrees with the PAS the competencies required for the competitions for appointments to Garda Commissioner and Deputy Garda Commissioner in terms of knowledge, ability, and suitability for appointment. Persons are appointed to the role of Garda Commissioner and Deputy Garda

Commissioner by the Government, upon the nomination of the Policing Authority, and following competition undertaken by the PAS. Aside from exceptional circumstances, the Government must accept the Authority's nominations for either Garda Commissioner or Deputy Garda Commissioner. Where the Government, for substantial and stated reasons, is unable to accept the Authority's nomination, in relation to either position, they must inform the Authority and ask that the Authority nominate another person. In such circumstances, the Authority must consider the Government's reasons and (unless the Authority disagrees with those reasons, in which case it can make a submission to the Government), must nominate another person for appointment.

200. The Policing Authority is also responsible for appointing persons to the ranks of Assistant Garda Commissioner, Chief Superintendent and Superintendent, having undertaken selection competitions. It must consult with the Garda Commissioner in determining the competencies, qualifications, training, skills, expertise or experience, which are required. The Policing Authority is also responsible for running the promotion competitions.

201. In relation to civilian staff, the Garda Commissioner may appoint such numbers as are approved by the Policing Authority with the consent of both the Minister for Justice and the Minister for Public Expenditure and Reform. Civilian staff of grades equivalent to Chief Superintendent or above must be appointed by the Policing Authority. The Garda Commissioner is responsible for the recruitment of civilian staff.

202. In 2019 AGS, in conjunction with the PAS, ran a recruitment campaign to encourage increased diversity in applicants. It was run across mixed media and incorporated in a poster campaign in various languages. The Equality, Diversity and Inclusion Strategy Statement and Action Plan was published in 2020. An internal working group has been established to consider amendments currently proposed by the Department of Justice as well as other amendments which may support AGS vision to diversify its workforce profile. In 2022 a new campaign for recruitment was launched with attention being paid to attracting candidates from diverse backgrounds.

203. A new promotions and appointment process is now carried out under the remit of the PAS, rather than managed internally in AGS. The PAS carry out the selection process for suitable candidates for promotion, while the Garda Commissioner is responsible for the appointment of candidates from the panel compiled by PAS. Competitions consist of shortlisting, including psychometric testing and interview stages. Following completion, a panel of suitable candidates is established.

204. The GET acknowledges that efforts have been made to diversify external recruitment in AGS, including for candidates of various ethnicities. Efforts already made to recruit more women in AGS should be pursued and intensified. At the same time, further efforts should also be made to ensure a more balanced representation of both genders in various ranks, notably more senior ranks. The GET welcomes the fact that the two deputy commissioners and three assistant commissioners are currently female, but also notes that the selection and appointment process was external and therefore outside the usual process for promotions within AGS. The GET hopes the new promotion system will contribute to a better representation of women in all career levels in AGS. AGS currently counts 27% female personnel but, in practice, women occupy mainly low-ranking posts and struggle to move upwards to those roles that are crucial for promotion to more senior posts. **GRECO**

**recommends that further efforts be made to promote a more balanced representation of genders in all ranks as part of recruitment and internal career moves.**

205. The Garda National Vetting Bureau conducts pre-employment criminal record checks on all applications for all Garda positions. All prospective candidates to positions within AGS must also undergo security vetting conducted by the office of the Chief Superintendent, Security and Intelligence. The function of security vetting is to protect against threats from organised criminals, and other actors who seek to subvert national security. Security vetting entails the pre-employment vetting of candidates against the State's Security Databases. In some cases, an enhanced vetting will be conducted that involves further enquiries into the candidates' background, associations and affiliations with a view to ascertaining any potential security risk to include the character and vulnerability to adverse external influence.

206. AGS does not currently carry out random or targeted integrity testing. The GACU is to be responsible for the practical application of compulsory random drug testing.

207. In 2021 the GACU commenced a scoping exercise focused on the establishment of a dedicated in-career vetting function within the GACU. The exercise was guided by the Garda Inspectorate report "Countering the Threat of Internal Corruption". The In-Career Vetting Section, when established, is to focus on the vetting of serving Garda personnel. A high-level steering group was established to develop a vetting strategy for 2022-2025. Applicants for vulnerable safety and security critical roles should attract a higher level of in-career vetting. The extent of in-career vetting at each tier is to be equitable for Garda members and staff; personnel in vulnerable roles are to be subjected to re-vetting. The authorities indicate that the new vetting strategy is now in place.

208. The GET welcomes the recent introduction of strategy to carry out regular vetting during the career of Garda personnel in vulnerable roles. The GET underlines that regular vetting is a crucial prevention tool as personal circumstances can evolve over time and make a Garda member or staff more vulnerable to corruption risks for a variety of reasons (financial problems arising, for example, as a result of a mortgage or consumer loan, divorce, the illness of a relative, the bankruptcy of a spouse, etc.). The GET was told of the risks of association with organised criminal groups, which were attempting to infiltrate the Garda, as is experienced in other countries. For this reason, it considers that regular vetting should not be limited to certain roles but apply across the board. Frequency of vetting could be an adjustment variable to differentiate roles that are more exposed to corruption risks and need more frequent vetting. In the light of this, the GET invites the authorities to keep the strategy's implementation under review to ensure that it is fit for purpose and fully implemented.

209. The GET heard some concerns on site about the future Policing, Security and Community Safety Bill, which is to replace the current GSA, in respect of the recruitment of the Garda Commissioner as the role of the Policing Authority in the process would be reduced. Upon its creation, the Policing Authority was given an important role in proposing suitable candidates for appointment by the Government following the open selection process led by the PAS. However, the Policing, Security and Community Bill intends to merge the Policing Authority and the Garda Síochána Inspectorate with a mandate focused exclusively on scrutiny over AGS policing performance. A new non-executive Board of AGS will hold the Garda Commissioner to account for the performance of his/her functions and inform the Minister of Justice. The authorities indicate that the Bill is to provide that the appointment by the Government be subject to a competition to be undertaken by the PAS at the invitation of the

Minister following consultation with the Board of AGS and the new Authority. This consultative role is to be with regard to the recruitment process and the requirements relating to knowledge, ability and suitability for appointment. The selection board arranged by the PAS may include a representative of the Board and the Authority. The Policing, Security and Community Safety Bill is to include an express statement of the Garda Commissioner's independence, a principle which is currently not stated in absolute terms in legislation. The GET welcomes the fact the full independence of the Garda Commissioner is to be included in law. The GET notes that other safeguards are planned, notably with the predominant role of the PAS, but that the role of the independent authority will nonetheless be reduced. It would consider it important that the future authority designed to replace the Policing Authority is a member of the selection board of the PAS by right, as the current plan only makes it a possibility ("may include"). The GET invites the authorities to take this into account and, once in place, to keep under review the new process in order to ensure that the procedure leading to the appointment of the next Garda Commissioner does not lend itself to any risk of perceived politicisation.

#### *Performance evaluation*

210. The Performance, Accountability and Learning Framework (PALF) is a goal and competency-based performance management system to evaluate performance of law enforcement officers (LEO). Evaluations are carried out by the immediate Line Manager and reviewed and validated by a second Line Manager. A new IT system has been developed to support the implementation of PALF and each member maintains their own personal record on the system.

211. The Annual Individual Review for each member takes place between January and April each year and involves a face-to-face meeting with the Line Manager. All personnel who apply for promotion or internal lateral appointments must support their application with evidence of competence in their current role which is approved by the Line Manager.

212. A formal appeals process applies where: (i) a member has a specific difficulty with the first Line Manager assigned to them; (ii) agreement cannot be reached in relation to setting goals; (iii) agreement cannot be reached in relation to the members Annual Individual Review. Local management has the primary role in resolving any disagreements arising.

#### *Rotation*

213. For Garda members, mobility (transfer, rotation, secondment, etc) currently falls under the responsibility of Human Resource & People Management and, for Garda Staff, the Talent Acquisition function has responsibility.

214. Currently personnel usually move position on reallocation, transfer or promotion. Specific posts in AGS may require that Garda members commit to a unit for a number of years, due to the level of expert training involved. This applies in areas such as fingerprints, ballistics or driving instruction.

215. The GET notes that the setting-up of some sort of rotation has been shown to be a useful prevention tool for the most sensitive posts, coupled with more frequent vetting (see para. 208). Rotation is not to be understood as a rigid notion and can be adapted to the sectors concerned and the context. The aim is to avoid Garda members spending a significant part of their career and sometimes their whole career in a specific work or geographic area, notably

where corruption risks are higher. There are various ways of achieving a desirable rotation system, such as incentives and professional development schemes. Therefore, **GRECO recommends that an institutional system of rotation of Garda members be put in place, which could be applied, as appropriate, in areas identified as particularly exposed to corruption risks.**

*Termination of service and dismissal from office*

216. For Assistant Garda Commissioners, Chief Superintendents and Superintendents to be removed from office (section 11(3), GSA), the Policing Authority must inform the Government of a proposal to remove them. They may only be removed for reasons related solely to policing services by the Policing Authority.<sup>26</sup> Before considering the removal of a person from office, the Authority must notify the person concerned and authorise him/her to make representations as to why s/he should not be removed from office. After notification, the person can be suspended immediately.

217. The Government may also remove a person who holds the office of Assistant Garda Commissioner, Chief Superintendent or Superintendent in other circumstances. The Government must consult with the Authority before the removal from office if the reasons for removal include reasons relating to policing services.

218. In certain circumstances, the Garda Commissioner may summarily dismiss a member not above the rank of inspector. Certain conditions must be met. Where the member concerned has completed his/her probation, the consent of the Authority is required to dismiss the member.

*Salaries and benefits*

219. Starting salaries of Garda Members on ‘A’ Rate, Pay Related Social Insurance (PRSI) are as follows:

| Rank                                | Starting Pay |
|-------------------------------------|--------------|
| Garda                               | € 34,356     |
| Garda – recruited post October 2013 | €32,421      |
| Sergeant                            | € 56,034     |
| Inspector                           | € 63,783     |
| Superintendent                      | € 83 031     |
| Chief Superintendent                | € 99 051     |

220. Salary varies depending on the rank and PRSI rate paid by the Member. Periodic salary increases take place incrementally. In addition, a variety of allowances can be paid. These includes an allowance of €26 497 per year for an acting Commissioner, exam bonus for inspectors of €700, and a clerical allowance of €7 164.

*Conflicts of interest*

221. Details in relation to the obligations on public office holders under the Ethics in Public Office Act 1995 (Garda Commissioner, Deputy Commissioner, Assistant Commissioner, Chief Superintendents and Superintendents, from Chief Administrative Officer to Assistant Principal

<sup>26</sup> In particular: (a) failure to perform the functions of the office relating to policing services with due diligence and effectiveness; (b) conduct that brings discredit on the office or that may prejudice the proper performance of the functions of the office relating to policing services; or (c) removal of the person would be in the best interests of AGS.

Grade and in some cases Higher Executive Officers in Finance (Procurement)) are the same as those described for PTEFs. In addition to annual statements of interests, they are also required to make *ad hoc* disclosures of interests as they arise. If a function has to be performed, and the designated employee has actual knowledge that s/he, or a connected person, has a material interest in relation to the function, s/he (i) must furnish a statement to the relevant authority of the facts; (ii) must not perform the function unless there are compelling reasons to do so, and; (iii) must furnish a statement of the compelling reasons if s/he proposes to perform the function.

222. In addition, the Code of Ethics obliges members of the Garda workforce to declare and manage any actual or potential conflicts of interest that might impair their ability to carry out their duty or weaken public confidence in AGS. In addition, a member will not be permitted to serve at any station which lies within a specified distance of any place where the member's spouse/partner or other family member is the proprietor of any business which is conducted from a shop. The onus is on the member to supply all details in respect of family, relatives and any other interests that may exist, that may prohibit the member from serving in a specific area. An exemption from the above can be sought from the Garda Commissioner.

223. A Conflict of Interest Policy and Procedure was drafted by the GACU with the aim of preventing, mitigating and managing potential conflicts of interest, be they real or perceived, which may arise in any situation in which AGS personnel have a private, voluntary, charitable, commercial, political or other personal interest, which may exist through association.

#### Prohibition or restriction of certain activities

##### *Incompatibilities and outside activities*

224. HQ Directive 159/08 titled "Notes on Disciplinary Procedures under the Garda Síochána (Discipline) Regulations 2007" contains a comprehensive list of Prohibited Spare Time Activities. The section also empowers the Commissioner to designate other activities that may have a detrimental effect on a member of AGS discharging their duty in an impartial manner. The section instructs members to apply for permission to the Assistant Commissioner Human Resources and People Development when considering soliciting sponsorship from outside AGS.

225. Members of AGS are prohibited from engaging in any of the following activities:

- a) Holding, or being a director of a company which holds, a licence for the sale of intoxicating liquor;
- b) Holding a licence for public dancing;
- c) Holding a bookmaker's licence;
- d) Holding any licence or permit which is issued by the Circuit or District Court or the Revenue Commissioners or AGS involving gain to the holder;
- e) Managing or conducting (or assisting in the management or conducting), on an ongoing basis, of a concern or premises which is required by law to be operated under a licence, permit or certificate, the grant of which may be opposed by AGS save for the bona fide involvement by any member of AGS in the managing or conducting (or assisting in the management or conducting) of any registered club;
- f) Engaging personally in any part-time employment such as that of security officer or private investigator, in the course of which there is a likelihood that the member's office as a member of the Service or Garda powers may be called upon;



- g) Acting as agent or enumerator for a government department or semi-state body collecting statistics or carrying out a survey, except with the authority of the Commissioner;
- h) Engaging in the delivery of goods to customers of shops, supermarkets or other business premises except with the permission of the member's Divisional Officer;
- i) Engaging in business as driving instructors or tutors;
- j) Driving school buses;
- k) Acting as directors or secretaries of security firms, or being concerned in any way in security work, as a spare-time activity;
- l) Being members of a band consisting of members of An Garda Síochána, purporting to represent the band as a Garda band performing under the directions of the Commissioner;
- m) Serving summonses either as a spare time activity or otherwise than in accordance with Rule 46.1 of the District Court Rules;
- n) Selling insurance, or acting as agents or representatives of insurance or assurance companies, or other activity in connection with the insurance business, other than activity in the conduct of a member's private affairs;
- o) Engaging in, acting, or being employed as transport managers.

226. The Commissioner may also prohibit members of AGS from engaging in other spare-time activities if such they are likely to interfere with proper discharge of duties; likely to give rise to reasonable apprehension among members of the public in relation to impartiality in the discharge of duties; for good and stated reasons inappropriate for members of the Service to engage in.

227. The Code of Ethics requires the AGS workforce to declare and manage any actual or potential conflict of interest that might impair the discharge of their duties or weaken public confidence in AGS. This includes any conflict that may arise from a person or business relationship outside AGS.

228. A Conflict of Interest Policy and a Business Interests and a Secondary Occupations Policy have been drafted after determining best practices in jurisdictions with similar criminal justice processes. Anti-corruption policies are however to be introduced gradually to ensure that the message does not get lost. The associated Business Interests or Secondary Occupations Procedure document provides guidance on the requirements to seek approval for secondary activities. Once the authorisation given, it falls on the person concerned to provide full details of their activity and any material changes to the circumstances.

229. While the principle is that secondary activities are permissible, the GET notes that there is a detailed list of exceptions. Therefore, it considers that not only should there be an adequate system to authorise those activities, which appears to be the case, but also to check regularly that they still correspond to what has been authorised and/or that no conflict of interest has arisen over time. For this purpose, a proper record should be kept of all authorised activities carried out by Garda members. Moreover, practical guidance should be made available notably in connection with the code of ethics (see para. 187) and easy access to confidential advice (see para. 193) on the subject of secondary activities. Therefore, **GRECO recommends that authorised secondary activities of Garda members be duly recorded and that regular checks be undertaken thereafter.**

## *Gifts*

230. HQ Directive 032/2018 provides a Policy and Procedures on the Acceptance of Gifts, Hospitality and Sponsorship. Both policy and procedures apply to all Garda personnel. They support compliance with other documents including the Code of Ethics; the Civil Service Code of Standards and Behaviour for Garda Staff; the Garda Síochána (Discipline) Regulations 2007; and the Garda Síochána Code.

231. Part 3 of the Procedures state that a gift “includes any gratuity, any material or financial advantage or reward, any benefit which is given to Garda or civilian staff free of charge or at less than its commercial price or value as a result of, or connected to their employment by the Garda Commissioner or membership of AGS”. This section also categorises gifts as modest and significant for the purposes of this document stating that gifts of a modest value are defined as items such as diaries and pens presented by an organisation, while gifts of significant value are any gifts which reasonably exceed the threshold for consideration as modest value. It also sets out procedures that must be undertaken by Garda personnel in relation to the acceptance and non-acceptance of gifts and hospitality and including oversight by a rank appropriate “Approving Person”. In the interest of openness and transparency, the “Approving Person” is required to retain “copies of all records outlining details of offers of gifts, hospitality or sponsorship along with the decision and authorisation” and inspection/audit of the relevant register and associated applications will be made available for two internal Garda departments, namely the Garda Professional Standards Unit/Garda Internal Audit Section as required. In relation to the disposal of gifts/hospitality, the policy states that “consideration should be given to disposing of any inappropriate gift/hospitality via charities. In any event, full details, including details of disposal, must be recorded by Garda or civilian staff in the Register of Gifts, Hospitality and Sponsorship”.

232. The Gifts, Hospitality and Sponsorship Register is now published on the [Garda website](#). In 2021 an instruction to all senior managers confirmed that the Register would be published on the Garda website, and requested that all Garda personnel familiarise themselves with the relevant policy and procedure documents. A notice in that regard was also published on the AGS Portal Page. A new mailbox specifically for gifts and hospitality was established. A point of contact was sought from each area encouraging everyone to submit returns; all supported documents to be supplied; and a breakdown of approving persons to be reemphasised. The GET welcomes the increased transparency regarding the Gift, Hospitality and Sponsorship Register, which is made public. It considers that gifts and hospitality are a traditionally sensitive and complex issue, making practical guidance accompanying the revised code of ethics and easy access to confidential advice all the more important (see respectively paras. 188 and 198).

## *Misuse of public resources*

233. At tender planning stage evaluators complete a Declaration of no Conflict of Interest, which is kept on record in Garda Procurement Section. Certain conditions are set out in the Garda Code. A member will not be permitted to serve at any station which is within a specified distance from the members native area, depending on the level of service, or that of his/her spouse, or the member’s spouse/partner, or other family members, or relatives, engages in any business requiring a license or certificate, the grant of which, by a court or otherwise, may be opposed by AGS.

### *Third party contacts, confidential information*

234. Garda personnel must not disclose any information obtained in the course of carrying out their duties if they know the disclosure of that information is likely to have a harmful effect,<sup>27</sup> such as facilitating the commission of an offence; impeding the apprehension or prosecution of a suspected offender; prejudicing the security of any system of communication of AGS; divulging the identity of a witness which has not been revealed to the public.

235. A person who contravenes section 62 of the Garda Síochána Act 2005 as amended is guilty of such an offence and is liable (a) on summary conviction, to a fine not exceeding €3 000 or imprisonment for a term not exceeding 12 months or both, or (b) on conviction on indictment, to a fine not exceeding €50 000 or imprisonment for a term not exceeding five years or both.<sup>28</sup>

236. In addition, HQ Directive 56/2019 - ICT Information Security Policy and Procedures set forth requirements that all personnel is to adhere to when utilising AGS information resources. The Information Analysis Service (IAS) is a function to execute queries of the Garda "PULSE" database for reporting incidents and other applications, including audit logs. Requests for queries to be made by IAS are submitted by persons of Superintendent rank/Assistant Principal grade or above, and are authorised by Superintendent, IT Operations. A record of all information requested through IAS is kept on file.

237. GPSU personnel conduct a random electronic inspection of a dip sample of PULSE enquiries in eight Garda Districts on a monthly basis, thereby allowing all 96 Districts to be checked in each calendar year. Throughout 2018 the GPSU increased the number of random audits. A report on each monthly audit is forwarded to each District Office, highlighting checks which are deemed to be non-compliant. The GET has already expressed the view that the issue of confidential information deserves to be specifically dealt with in the revised Code of Ethics and during training as reports were made during the site visit of leaked information to organised criminal groups (see para. 187).

### *Post-employment restrictions*

238. There are no specific post-employment restrictions applicable to Garda members. The post-employment restrictions set out in the Regulation of Lobbying Act do not apply to any members of AGS. The Garda Síochána Inspectorate has highlighted that there are no restrictions on AGS members taking up employment which may bring them into conflict of interest with their former role in AGS. This is in contrast to AGS staff, who have restrictions imposed on them by the Civil Service Code of Standards and Behaviour.

239. The GET considers that the absence of any rules on post-employment restrictions for Garda members, be it in terms lobbying or employment in a sector where the member could have potentially taken decisions favourable to the future employer, ought to be carefully considered, and appropriate rules be included in the revised code of ethics. **GRECO recommends examining risks of conflict of interest faced by Garda members leaving An Garda Síochána and taking employment or offering services thereafter, and establishing rules as appropriate.**

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<sup>27</sup> Section 62, GSA.

<sup>28</sup> A person who receives any gift, consideration or advantage as an inducement to disclose the information is liable on conviction on indictment, to a fine not exceeding €75 000 or imprisonment for a term not exceeding seven years or both.

## Declaration of assets, income, liabilities and interests

240. Insofar as AGS is concerned, occupiers of designated positions relate to all post holders from Deputy Commissioner to Superintendent rank inclusive and from Chief Administrative Officer to Assistant Principal Grade inclusive, in addition to certain post holders at Higher Executive Officer Grade. The Garda Commissioner is required to make an annual return directly to the Department of Justice. In January of each year, all other personnel who occupy a designated position are contacted by the Assistant Commissioner, Governance & Accountability. The same rules as for PTEFs apply to them (see paras. 119-129). Therefore, the GET also considers that quantifiable data and significant liabilities should be reported. Providing such information should not prove sensitive considering that statements of interests of designated positions in AGS are not published; it would be relevant to identify possible vulnerabilities. Complaints of debts due by members shall be investigated with a view to ascertaining the elements of a breach of discipline as specified in the relevant section of the Schedule to the Garda Síochána (Discipline) Regulations. The review system is also comparable to PTEFs. In 2020, AGS had a 95% compliance rate.

## Oversight and enforcement

### *Internal oversight and control*

241. AGS is hierarchically structured, with each rank and grade supervised by and answerable to grades above it, up to the rank of Garda Commissioner. Statutory Instrument 214/2007, Garda Síochána (Discipline) Regulations 2007 legislates for any breach of discipline by members of AGS. Investigations relating to a member's alleged or apparent failure are to be carried out with a procedure which must be seen by all concerned to be fair and reasonable.

242. Supervisory members may deal informally with disciplinary breaches of a minor nature by way of advice, caution, or warning, whichever action is deemed appropriate having regard to the facts of the incident. A member not below the rank of Superintendent, who has not been involved in any capacity in connection with an earlier aspect of the case, can be appointed to investigate an alleged less serious breach of discipline and interview the member concerned, and, where a member is found in breach, deal with the matter by way of advice, caution, warning, reprimand or reduction in pay. Serious breaches of discipline may be investigated by a member not below the rank of Inspector and be dealt with by a Board of Inquiry: it may be subject to dismissal; requirement to retire or resign as an alternative to dismissal; reduction in rank; or reduction in pay not exceeding four weeks' pay.

243. Currently investigations into corruption within AGS are led by the Garda National Bureau of Criminal Investigation (GNBCI). The Bureau was established in response to the proliferation of serious and organised crime in 1997. The GNBCI operates the Criminal Investigation Department (CID) that undertakes some criminal investigations into allegations of serious misconduct of members of AGS. The GNBCI is subject of the same oversight as any other section by independent oversight bodies (Policing Authority, Garda Inspectorate, Garda Síochána Ombudsman Commission) as well as the Garda Professional Standards Unit and Garda Internal Audit.<sup>29</sup>

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<sup>29</sup> Prior to the establishment of GACU, investigations of internal corruption were undertaken by GNBCI. GACU will incrementally assume responsibility for all such investigations as recommended by the Garda Síochána Inspectorate in its report, Countering the Threat of Internal Corruption

244. An appeal mechanism following the imposition of a disciplinary sanction also exists and is prescribed by the Garda Síochána Discipline Regulations, 2007. The appeal process usually takes the form of the Garda member indicating his/her request to appeal the decision. In cases of less serious breaches of discipline, if the original discipline investigation was conducted by a Superintendent, the appeal will be heard by a Chief Superintendent. If the discipline investigation was in respect of a serious breach of discipline and the member is found in breach at a Board of Inquiry, the Appeal Board has the authority to reduce, increase and affirm the original penalty imposed. An appeal board consists of a chairperson who is usually an Assistant Commissioner, a Representative Body official and a barrister or solicitor. A member who has lodged an appeal may bring witnesses who can speak on his/her behalf. The appeal board will, *inter alia*, examine if the original board failed take certain matters into account.

245. A legal review of the existing regulations, commissioned by AGS, made recommendations on how the system could be revised and strengthened in accordance with good practice in policing organisations in other jurisdictions. The Garda Commissioner subsequently submitted proposals in October 2020 for the development of new conduct and performance regulations to the Department of Justice, highlighting recurring issues and making recommendations for improvement. Much of the implementation of the new discipline system will be carried out in tandem with the introduction of the Policing, Security and Community Safety Bill. The proposed changes to the existing disciplinary regulations will provide for: separate regulations to address performance and conduct; a less complex set of regulations; and a greater scope for early intervention in performance and conduct matters.

246. However, a number of the recommendations contained in an internal review may be suitable for introduction by way of interim Regulations in advance of major changes to the discipline processes. Drafting and consultations on the interim Regulations has commenced.

247. The AGS Policy Framework initiative, under the ownership of Assistant Commissioner Governance and Accountability, and operated by the Policy Governance Co-Ordination Unit (PGCU), provides internal oversight of policy and procedures. The role of Garda Internal Audit Section is to advise the Garda Commissioner in relation to financial and property controls in place within the Garda Síochána. It does this by conducting periodic and systematic audits of Garda Divisions, Districts, Sections and Units; and by undertaking thematic audits and value-for-money reviews.

#### *External oversight and control / Complaints system*

248. The GSA provides for the independent oversight of AGS through:

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

249. AGS is held accountable and reports in respect of the implementation of its annual Policing Plan through detailed monthly performance reports, provided to the Minister for Justice and to the Policing Authority, in addition to the ongoing oversight activities of the Policing Authority generally and the deeper focus on specific issues as they arise. These reports provide context for each initiative, in addition to information on progress made; risks and issues arising; and corrective actions in respect of each activity undertaken by the organisation as set out in the Plan. The year-end report is utilised to underpin the Annual Report published publicly on the Garda website.

250. The Authority has a statutory function to “oversee the performance by the Garda Síochána of its functions relating to policing services”. This includes:

- Approving the three-year AGS Strategy Statement and Annual Policing Plan, subject to the consent of the Minister for Justice;
- Setting annual Policing Priorities and performance targets for AGS, subject to the consent of the Minister for Justice;
- Holding monthly meetings with the Garda Commissioner, including meetings in public at least four times each year, as required by statute;
- Building independent sources of evidence to assess performance through engagement with a broad range of stakeholders;
- Reviewing arrangements and mechanisms within AGS;
- Reporting and providing advice to the Minister for Justice; and
- Monitoring and assessing the measures taken by AGS in relation to recommendations made in reports of the Garda Síochána Inspectorate and other third-party reports.

251. While the Authority is responsible for oversight of the performance by AGS of its policing services, under section 26(3) of GSA, the Garda Commissioner is accountable to the Minister for Justice for the performance of the Commissioner’s functions and those of AGS.

252. The Inspectorate is independent in the exercise of its functions, which are:

- to carry out inspections or inquiries in relation to any particular aspects of the operation and administration of AGS. These inspections can be carried out either (a) on the Inspectorate’s own volition, if it considers it appropriate to do so, or (b) at the request of the Authority (in respect of a matter relating to policing services) or the Minister;
- to submit to the Authority or the Minister, as the case may be (a) a report on those inspections or inquiries, and (b) if required by the Authority (in relation to policing services) or the Minister, as the case may be, a report on the operation and administration of AGS during a specified period and on any significant developments in that regard during that period. Any report prepared by the Inspectorate can, where appropriate, contain recommendations for any action that the Inspectorate considers necessary;
- to provide advice to the Authority and the Minister with regard to best policing practice.

253. Moreover, “A Policing Service for the Future” is a four-year plan developed to implement the recommendations of an independent report produced by the Commission on the Future of Policing in Ireland in 2018 (see paras. 156-161). In support of the implementation of the plan, AGS reports monthly to the Department of the Prime Minister. As already mentioned, the Policing, Security and Community Bill intends to merge the Policing Authority

and the Garda Síochána Inspectorate with a mandate focused exclusively on scrutiny over AGS policing performance, policing governance being dealt with by a new internal Board of AGS.

254. The Garda Síochána Ombudsman Commission (GSOC) was established as an independent oversight body for the Garda Síochána in 2005 and became operational in 2007. GSOC is an independent agency of the Department of Justice. Much of its administration is done through the Department. GSOC is funded from the vote of the Department for Justice. GSOC has advocated for the designation of GSOC as a fully independent body with its own voted financial resources and an autonomous Accounting Officer answerable to the Public Accounts Committee in its own right. GSOC's allocation for 2020 amounted to €11 181 000. GSOC is accountable to the Oireachtas (parliament).

255. GSOC is led by three Commissioners, appointed by the President, on the nomination of Government and the passage of resolutions by the Oireachtas. GSOC's principal function is to deal with complaints from the public about alleged misconduct by Garda members. GSOC can also conduct investigations following a referral of a matter by the Garda Commissioner, the Minister for Justice, the Policing Authority or of its own volition.

256. Members of the public who are directly affected by what they believe is misconduct by a member of AGS may complain to the GSOC. They may also make a complaint if they are a witness to such behaviour. GSOC operates a daily screening meeting to identify complaints where immediate action might be necessitated.

257. GSOC is an investigative agency and has no power to impose criminal sanctions or to discipline Garda members. At the conclusion of a GSOC investigation, a file setting out the outcome of GSOC's investigation can be sent to the Director of Public Prosecutions, recommending consideration of a criminal prosecution or the Garda Commissioner recommending consideration of a disciplinary action, as appropriate. GSOC cannot mandate the Garda Commissioner to take disciplinary action and has no role in the disciplinary process conducted by the Garda Commissioner. A person whose complaint relates to a disciplinary matter, investigated by AGS and unsupervised by GSOC, can request that GSOC review the investigation if they are not satisfied with the outcome. In such cases GSOC officers conduct a review in order to establish whether the investigation was comprehensive enough and the outcome appropriate. However, the matter is not re-investigated. Complainants may also seek a review through the Court's judicial review mechanisms.

258. For less serious breaches of conduct, GSOC allow AGS to carry out the investigation and issue disciplinary proceeding if required. GSOC can also supervise complaints investigations carried out by AGS on its behalf. The complainant is usually interviewed about the conduct of the Garda member who will subsequently be required to provide his/her account of the incident. A senior officer, usually of Superintendent Rank, will make a decision on whether there was in breach of discipline. From January up to October 2021, 400 complaints were dealt with locally or unsupervised by GSOC, 16 complaints were supervised by GSOC, and 478 complaints were criminal cases dealt with directly by GSOC.

259. Since its creation, GSOC has dealt with close to 20 000 complaints from the public, some 900 referrals from AGS and other investigations undertaken at the request of the Minister for Justice or at its own initiative. GSOC investigators also carry out non-criminal investigations, i.e. investigations of alleged breaches of the Garda Discipline Regulations. In 2020, 150 cases of this nature were opened by GSOC (compared to 148 in 2019). GSOC

investigators also supervise disciplinary investigations returned to AGS for investigation; 106 such cases were opened in 2020 (105 in 2019).

260. The reform plan *A Policing Service for our Future* recommends that a new independent complaints body should supersede GSOC and also recommends that complaints about the police be routed through the new body to determine what action needs to be taken. The proposed new independent oversight arrangements would also cover non-sworn personnel. The report also recommends that, in circumstances where “a complaint raises serious issues about standards of policing and police integrity, it requires independent investigation. Such issues would include potential breaches of law, violations of human rights or corruption, or which might appear to indicate a widespread or systemic problem within the police”.

261. In addition, the complaints system available to citizens in relation to contraventions of the Ethics Acts, for which the Standards Commission is responsible, is available. The legislation does not provide for an appeals process in relation to complaints. The process for making a complaint to the Standards Commission is published on its website. The Standards Commission publishes reports of all investigations it carries out on its website, along with its investigation procedures. Press releases are issued relating to ongoing investigation hearings, which are generally held in public.

262. The GET takes note of the ongoing reform process concerning the complaints system. Under the current system, AGS is required to transfer to GSOC all complaints that it receives from members of the public. However, it is not required to notify GSOC of allegations of wrongdoing that come to its attention by other means. This leads to many allegations being dealt with entirely within AGS. Insofar as complaints from members of the public are concerned, it appears that GSOC deals essentially with the most serious complaints that would amount to a criminal offence or serious disciplinary breach, particularly because of a lack of adequate resources. Some interlocutors met during the site visit have highlighted that the current system where a significant number of breaches are dealt with within AGS and are not supervised by GSOC results in very uneven penalties for similar infractions. In addition, the GET considers that it would be beneficial that the independence of GSOC be further affirmed by ensuring a budget independent from that of the Department of Justice, which is responsible for AGS. The GET considers that the above would contribute to making the complaints mechanism more effective. Therefore, **GRECO recommends that the ongoing reform process regarding the complaints mechanism be completed with regard to the complaints body’s independence and resources and guaranteeing a strengthened role in the complaints process.**

#### *Reporting obligations and whistleblower protection*

263. Garda Members are obliged to account for any act done or omission made by the member while on duty when directed to do so by a member of a higher rank (section 39, GSA). In addition, the Garda Code of Ethics states that speaking up against wrongdoing or poor practice identifies or prevents harm, fraud, corruption and injustice. In case of failure to account, dismissal by the Garda Commissioner can be envisaged (section 14(1) GSA and Regulation 39, Garda Síochána (Discipline) Regulations 2007 as amended).

264. In 2019, AGS launched a new Garda Decision-Making Model, which applies to all decisions made by Garda members and staff, from spontaneous incidents and daily duties to planned operations and strategic planning. The Model supports and empowers all Garda



members and staff to rigorously oppose unprofessional, unethical, illegal or corrupt behaviour or decisions. The Garda Decision-Making Model online learning module has been a mandatory for all Garda members and staff since April 2021.

265. Garda personnel may also report a suspected corruption to the GACU directly via email, phone, post, confidential reporting line and the submission platform. In addition, Garda personnel also have the option to make protected disclosures directly to GSOC or the Minister for Justice under the Protected Disclosures Act 2014 which applies to Garda personnel. There are also a number of other reporting mechanisms including a legal advisor, a trade union representative or other responsible person.

266. The Garda Commissioner has nominated Transparency International (Ireland) as the responsible person to receive protected disclosures. Transparency International (Ireland) promotes supportive environments for workers to raise concerns of wrongdoing via a “Speak Up Helpline”, and by affording legal advice from a solicitor within the Transparency Legal Advice Centre (TLAC). There are four internally appointed confidential recipients, appointed by the Commissioner and one external recipient, appointed by the Minister.

267. Members of the Garda Senior Leadership Team have completed an Integrity at Work training course on whistleblowing and the Protected Disclosure Act 2014 facilitated by Transparency International (Ireland).

268. The Garda Commissioner also issued a document entitled *‘Policy/Procedures Document for the Making of Protected Disclosures’* to encourage workers to raise concerns of relevant wrongdoing. The Garda Commissioner is committed to ensuring that the provisions of Part 3 of the Protected Disclosures Act 2014 (protections) are fully complied with where a protected disclosure is made, including that the person will not be penalised for having made the disclosure or be at risk of losing their employment and those who penalise or retaliate against them will be subject to disciplinary proceedings. A discloser, who believes that they are being subjected to penalisation as a result of making a disclosure under the policy, should notify the Protected Disclosure Manager immediately, who will cause the matter to be appropriately investigated. The Protected Disclosures Act 2014 applies broadly to all workers.

269. There is immunity from civil liability under Section 14 of the Act for employees who make protected disclosures. In a prosecution of a person for any offence prohibiting or restricting the disclosure of information, it is a defence for the person to show that the disclosure is, or is reasonably believed by the person to be, a protected disclosure. However, the disclosure of a wrongdoing under the Act does not confer any protection or immunity on a worker in terms of their involvement in the wrongdoing.

270. The GSOC is a prescribed body for members of AGS making a protected disclosure. The legislation applying to the protection of persons making a protected disclosure is the Protected Disclosures Act 2014. All Garda employees may contact the GSOC in writing via post or email or in person via telephone or direct contact. If a relevant wrongdoing exists, the GSOC will determine if an investigation of the disclosure is required in the public interest.

271. The Protected Disclosures Act 2014 favours tiered reporting. Where possible, the preferred option is for a disclosure to be made internally to an employer. Disclosure can also be made to a prescribed person, a minister, a legal advisor, or a trade union representative. A third tier of disclosure can be made to other persons, such as a journalist (although different

considerations apply as to whether such disclosures fall under the terms of the Protected Disclosures Act, 2014). Anonymous reports received by GSOC are also considered to determine whether the information contained within such reports may be from a Garda worker. If it is considered that there is sufficient information to warrant an investigation, and it is believed that such reports emanate from a Garda worker, they are forwarded to the Protected Disclosure Unit for investigation.

272. In determining whether a disclosure made under the Protected Disclosures Act, 2014 warrants investigation, the Commission must apply a public interest test. Where a relevant offence has not been made out the Commission can, nevertheless, determine that the information provided merits an independent investigation by GSOC pursuant to section 102(4) of the 2005 Act.

273. GSOC's website has a dedicated page for Garda workers where details of the protected disclosure scheme operated by GSOC are outlined. AGS has also circulated GSOC's direct disclosure email address to their personnel. GSOC has provided training to Garda personnel of all ranks up to Chief Superintendent on the operation of the scheme.

274. GSOC had seen an incremental increase year on year in the number of disclosures made under the Protected Disclosures Act, 2014. From 1 July 2014 to 31 December 2020 disclosures continued to be received under the provisions of sections 7 and 8 of the Protected Disclosures Act, 2014 bringing the total number on hand to 86. Of these, GSOC received 19 disclosures in 2020 and 11 cases were closed in 2020, leaving a total of 75 remaining as of 31 December 2020. The GET encourages the authorities to pursue their efforts to promote the protection of whistleblowers from within AGS.

#### *Criminal proceedings and immunities*

275. Members of AGS do not enjoy any immunities or procedural privileges different to those enjoyed by any other person vis-à-vis criminal proceedings. The only exception to this is where a member of AGS is being summoned to Court, the summons must be signed by the Judge and not by the Court Clerk.

#### *Statistics*

276. The following is a breakdown of investigations notified to the Garda Síochána Internal Affairs Section into corruption-related allegations. Investigations were commenced in accordance with the Garda Síochána (Discipline) Regulations 2007 as amended. The cases listed only refer to internal investigations.

|   |           |           |          |          |
|---|-----------|-----------|----------|----------|
| Corrupt/improper practice                     | 9         | 9         | 4        | 3        |
| Falsehood/prevarication                       | 1         | 2         | 1        | 0        |
| Fraud/theft                                   | 5         | 5         | 2        | 0        |
| Public monies/public property                 | 2         | 3         | 1        | 0        |
| S.T. activity [IRL: what does ST stands for?] | 1         | 1         | 0        | 0        |
| Improper use of Pulse database                | 7         | 8         | 1        | 1        |
| <b>2018 Total</b>                             | <b>25</b> | <b>28</b> | <b>9</b> | <b>4</b> |
| Corrupt/improper practice                     | 4         | 7         | 0        | 1        |
| Falsehood/prevarication                       | 2         | 2         | 2        | 0        |
| Fraud/theft                                   | 4         | 5         | 2        | 2        |

|                                |           |           |           |           |
|--------------------------------|-----------|-----------|-----------|-----------|
| Public monies/public property  | 1         | 1         | 1         | 0         |
| S.T. activity                  | 1         | 1         | 1         | 0         |
| Improper use of Pulse database | 6         | 6         | 5         | 1         |
| <b>2019 Total</b>              | <b>18</b> | <b>22</b> | <b>11</b> | <b>4</b>  |
| Corrupt/improper practice      | 7         | 14        | 2         | 4         |
| Falsehood/prevarication        | 3         | 3         | 2         | 0         |
| Fraud/theft                    | 6         | 6         | 0         | 1         |
| Public monies/public property  | 2         | 4         | 1         | 1         |
| S.T. activity                  | 0         | 0         | 0         | 0         |
| Improper use of Pulse database | 8         | 8         | 5         | 5         |
| <b>2020 Total</b>              | <b>26</b> | <b>35</b> | <b>10</b> | <b>11</b> |

277. GSOC does not retain specific corruption statistics. However, allegations of corruption have been identified by GSOC as an area of concern facing AGS. A risk analysis of 2020 GSOC data identified the following types of allegations as areas of particular concern: abuse of authority; disclosure of / improper use of information; corrupt or improper practices.

278. Following further analysis of GSOC data it was also noted that allegations in respect of abuse of powers and authority have increased over the last three years (2018 to 2020). The following is a sample of the types of corruption-related cases investigated by GSOC:

- GSOC are conducting an investigation into the alleged unlawful disclosure of information concerning a public official to journalists who allegedly came into possession of confidential police information from an internal ICT system. As a consequence of the information released into the public domain the senior public official was dismissed from his/her post. The investigation is ongoing.
- A member of a sporting organisation alleged that an AGS member disclosed sensitive information about him/her to a third party which could have had long lasting consequences for him/her. The Garda Síochána member was charged with unlawful disclosure of information and offences under the Data Protection Act.
- In 2017, GSOC commenced an investigation in the public interest after being informed by the Garda authorities of potential misappropriation of funds connected to a series of policing projects which were co-funded by the Department of Justice and the European Commission. Based on the content of reports completed by the Head of the Internal Garda Audit Unit, GSOC expanded the investigation to encompass concerns raised over financial practices and management at the Garda Training College. The investigations are ongoing.
- GSOC also commenced an investigation in the public interest into allegations of disclosure of confidential information, where information provided by a witness subsequently appeared in the media. The investigation is ongoing.

## **VI. RECOMMENDATIONS AND FOLLOW-UP**

279. In view of the findings of the present report, GRECO addresses the following recommendations to Ireland:

*Regarding central governments (top executive functions)*

- i. laying down rules requiring that integrity checks take place ahead of or right upon appointment of Ministers, Ministers of State and the Attorney General in order to identify and manage possible conflicts of interest (paragraph 32);**
- ii. laying down rules requiring that Secretaries General and Special Advisers undergo integrity checks as part of their recruitment in order to avoid and manage possible conflicts of interests (paragraph 40);**
- iii. that any risk assessment carried out at Government level identifies risks specific to persons with top executive functions in order to inform corruption prevention policies applying to them (paragraph 52);**
- iv. (i) that codes of conduct for persons with top executive functions covering all relevant integrity matters (conflicts of interest, contacts with lobbyists and third parties, secondary activities, gifts and hospitality, confidential information, post-employment restrictions, etc.) and with proportionate sanctions be adopted, together with practical guidance, and (ii) that they be made easily accessible to the public (paragraph 60);**
- v. that (i) briefings and/or practical training on integrity standards contained in the code of conduct for persons with top executive functions systematically take place upon taking office and on a regular basis thereafter; and (ii) the Attorney General, secretaries general and special advisers, like ministers and ministers of state, have access to confidential advice on all relevant integrity standards (paragraph 65);**
- vi. that rules be laid down to govern (i) contacts between persons with top executive functions and lobbyists/third parties that seek to influence the public decision-making process; (ii) the disclosure of such contacts, the names of the persons met and the subject-matters discussed; and that (iii) the Attorney General be covered by these rules (paragraph 80);**
- vii. that ad hoc conflicts of interest of persons with top executive functions be declared to the Standards Commission before a decision-making process starts and that the person concerned withdraw from the process where needed (paragraph 88);**
- viii. that post-employment restrictions be strengthened, in particular (i) by making rules on taking employment after leaving office enforceable for all persons with top executive functions (PTEFs); and (ii) by ensuring that the Standards Commission be given the powers to investigate and impose sanctions in case of breaches of the rules on lobbying and taking employment after leaving government for all PTEFs (paragraph 118);**

- ix. **(i) extending the obligations upon persons with top executive functions (PTEFs) to disclose their interests to include quantitative data on their significant financial and economic involvements as well as in respect of significant liabilities; (ii) ensuring that statements of interests of PTEFs be subject to regular substantive checks, with proportionate sanctions in case of breach, and adequate resources be allocated to the Standards Commission to this end (paragraph 129);**

*Regarding law enforcement agencies (An Garda Síochána)*

- x. **that the framework on access to policing information be reviewed to make information more readily available while preserving the integrity of ongoing investigations (paragraph 151);**
- xi. **that further measures be taken to modernise the Garda Information Technology systems and the way they are used in order to better monitor integrity breaches and inform risk assessments (paragraph 175);**
- xii. **that the Code of Ethics for Garda personnel be updated/supplemented so as to cover in detail all relevant integrity matters (such as conflict of interest prevention, gifts, contacts with third parties, secondary activities, confidential information), and be complemented with guidance illustrating all issues and risk areas with concrete examples (paragraph 187);**
- xiii. **(i) strengthening integrity training based on a comprehensive code of ethics and accompanying practical guidance and; (ii) introducing regular compulsory training on integrity standards for serving Garda personnel (paragraph 196);**
- xiv. **that further efforts be made to promote a more balanced representation of genders in all ranks as part of recruitment and internal career moves (paragraph 204);**
- xv. **that an institutional system of rotation of Garda members be put in place, which could be applied, as appropriate, in areas identified as particularly exposed to corruption risks (paragraph 215);**
- xvi. **that authorised secondary activities of Garda members be duly recorded and that regular checks be undertaken thereafter (paragraph 229);**
- xvii. **examining risks of conflict of interest faced by Garda members leaving An Garda Síochána and taking employment or offering services thereafter, and establishing rules as appropriate (paragraph 239);**
- xviii. **that the ongoing reform process regarding the complaints mechanism be completed with regard to the complaints body's independence and resources and guaranteeing a strengthened role in the complaints process (paragraph 262).**
280. Pursuant to Rule 30.2 of the Rules of Procedure, GRECO invites the authorities of Ireland to submit a report on the measures taken to implement the above-mentioned recommendations by 31 December 2023. The measures will be assessed by GRECO through its specific compliance procedure.

281. GRECO invites the authorities of Ireland to authorise, at their earliest convenience, the publication of this report.

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## About GRECO

The Group of States against Corruption (GRECO) monitors the compliance of its member states with the Council of Europe's anti-corruption instruments. GRECO's monitoring comprises an "evaluation procedure" which is based on country specific responses to a questionnaire and on-site visits, and which is followed up by an impact assessment ("compliance procedure") which examines the measures taken to implement the recommendations emanating from the country evaluations. A dynamic process of mutual evaluation and peer pressure is applied, combining the expertise of practitioners acting as evaluators and state representatives sitting in plenary.

The work carried out by GRECO has led to the adoption of a considerable number of reports that contain a wealth of factual information on European anti-corruption policies and practices. The reports identify achievements and shortcomings in national legislation, regulations, policies and institutional set-ups, and include recommendations intended to improve the capacity of states to fight corruption and to promote integrity.

Membership in GRECO is open, on an equal footing, to Council of Europe member states and non-member states. The evaluation and compliance reports adopted by GRECO, as well as other information on GRECO, are available at: [www.coe.int/greco](http://www.coe.int/greco).