

SUBMISSION FROM
THE ASSOCIATION OF GARDA
SERGEANTS AND INSPECTORS
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POLICING AUTHORITY CODE OF EHTICS

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Introduction

An Garda Síochána as a corporate body are receptive to change which improves the service delivered to the public. Many of these changes impact on Sergeants and Inspectors as the first line supervisors and managers.

The Association of Garda Sergeants & Inspectors (AGSI) have time and again shown their commitment to change. We have willingly altered our work practice with a view to supporting management initiatives and improve services to the communities we serve.

Considering this it would not be in the nature of AGSI to reject a new proposal such as the Code of Ethics for the Garda Síochána as proposed by the Policing Authority. Nonetheless it would also be remiss of us to embrace any proposals without expressing our views or concerns, particularly where we see the proposals as having an impact on our membership.

A Code of Ethics

*'In each case codes (of ethics) carry general obligations and admonitions, but they are far more than that. They often capture a vision of excellence, of what individuals and societies should be striving for and what they can achieve. In this sense codes (they).....are some of the most important statements of civic expectation.'*¹

If this is accepted the ability to reach the civic expectation can only be achieved where the code of ethics is not aspirational but achievable. In that instance any code should:

- (1) Avoid vagueness
- (2) Set achievable standards
- (3) Appropriately supported

Avoid Vagueness

AGSI have considered the proposed code of ethics and we see a number of areas that are vague.

AGSI are unsure how the consistent and committed adherence to the Code will be measured and taken into account in evaluation of performance and of suitability for

¹ Stuart C. Gilman, Ph.D. ETHICS CODES AND CODES OF CONDUCT AS TOOLS FOR PROMOTING AN ETHICAL AND PROFESSIONAL PUBLIC SERVICE: Comparative Successes and Lessons, 2005

advancement. It will be necessary in our view to outline a set of criteria against which this can be measured. Adherence cannot simply be presumed by the absence of complaints against an individual. There must be some tangible criteria against which adherence can be evaluated.

Set out hereunder are some of the examples of vagueness in this code:

‘it may be referred to and relied upon in court and discipline proceedings’

‘I will declare any potential conflict of interest that might impair my ability to carry out my duty or weaken public confidence in the Garda Síochána’

‘I will not use social media and mobile communications in a manner that may be perceived as discriminatory, bullying, or victimising. I will also make sure that I never use these communications in a way that may cause another person to consider that I may be unsuitable to carry out my duties impartially and professionally.’

‘I will do whatever I can in my role to protect and support the physical and mental wellbeing of staff that I work with.’

Set Achievable Standards

The Code must recognise that in some instances the standard required is within the capacity of an individual but in other instances the standard is a corporate standard. For instance ‘I will respect, uphold and obey the law’ is a standard an individual can and must strive to uphold. On the other hand ‘I will make accommodation for an individual’s needs where necessary’ may in some instances be a corporate responsibility to provide necessary access to services.

Additionally it may not be possible to achieve the standards required without appropriate training and in that instance a Garda employee may need to be provided with the training before they can reasonably be expected to achieve the standard.

Set out hereunder are some examples of areas within the Code where it will be difficult for individual members to achieve the standards set out:

‘I will appropriately declare and manage any potential conflict of interest, actual or perceived, that might impair my ability to carry out my duty or weaken public confidence in the Garda Síochána. This includes any conflict that might arise from a relationship or from any business activity outside of my work in the Garda Síochána.’

‘Where I have the opportunity, I will take active steps to improve relationships with vulnerable communities.....’

Appropriately Supported

Discipline is an outlined consequences of failing to reach the required level of expectation. AGSI recognise that discipline is a necessary deterrent, however we do not view it as the first and only way of encouraging people to strive for high standards.

In this regard and as referred to earlier training is a key element. In addition to training there needs to be a mentoring and coaching programme. This programme should aim to support those people who need additional assistance to reach the standards expected within the Code.

Discipline should only be considered as a last resort and should never be considered where a Garda employee can show, in the first instance, that there was a training deficit and in the second instance where training and mentoring was not available.

Honesty and Integrity

AGSI accept that honesty and integrity of the Garda Síochána is critical and that members of the force must act in the public interest at all times.

One point of note to AGSI is contained in this section; 'I will not abuse my power or position and will have the courage to oppose and report any such abuses.'

To support delivery of this element of the code, AGSI believe it is essential to develop a comprehensive set of guidelines outlining what is anticipated might result in a conflict of interest and communicate it widely within the Garda organisation.

Respect and Equality

The draft proposal required members to 'show appropriate understanding and empathy'. This is in AGSI's view too vague and subjective. *Who* makes the determination that the understanding and empathy are appropriate?

It is practically impossible to draft guidelines to cover all scenarios when a member would be expected to show understanding and empathy. People are by their nature different and consequently everyone's response to a particular situation will be different.

Imagine a situation where a Garda attends the scene of a Sudden Infant Death. A member with no children will have a significantly different response to a person with young children. Equally a person who has been impacted (not necessarily directly) will be different to that of someone with no experience. A distraught parent may view the person's reaction as unsympathetic, lacking in compassion or non-empathetic.

'I will be sensitive to the vulnerabilities of individuals, for example because of their age or because of a disability. I will be sensitive to the difficult circumstances individuals may find themselves in when in contact with the Garda Síochána.'

A person presenting at a counter in a Station seeking to speak privately to a Garda will be accommodated where possible with that opportunity. However, the only places available may be an interview room which is usually used to interview suspects and is not welcoming and friendly.

A person in a wheelchair may not even be able to gain access to the station public office let alone a private room.

In these instances the problem does not lie with the Garda member receiving the persons but the organisation but any complaint will and often is levied at the public face of the Garda organisation, the Garda or Sergeant.

The objective of improving relationships with individuals and communities could be perceived as not being worked towards where a busy Garda attends the scene of an incident, takes details and leaves. While Gardaí may wish to foster relations or promote a positive engagement the opportunity invariably does not present itself where resources are low and workloads are high.

The ability to foster relations must be driven by Garda management. Time must be set aside for members to work on this relationship building.

To support delivery of the code in this area, AGSI propose the following in respect of this section:

- Develop core training programme for new students and existing members and deliver it in a comprehensive training programme
- Identify standards that could be realistically achieved
- Identify situations which would benefit from the deployment of people who are particularly skilled in this area and where appropriate deploy these as first interveners'
- Provide a coaching and mentoring process for members who are identified as having a difficulty in this area
- Where there is a requirement for the appropriate reception areas in stations to support people in stations which require sensitivity and understanding make the delivery of this accommodation a corporate goal and do not hold individuals responsible for failing to deliver in this area
- Make the implementation of a community policing strategy an organisation goal and ensure Senior Management at District level implement station initiatives and or deploy community policing initiatives to support this goal.

Authority and Responsibility

The hierarchical nature of policing makes it difficult for individuals to take a stand against managers. There is, in AGSI's view a requirement to be loyal to an individual manager rather than to the organisation. Members who have an aspiration for promotion find it difficult to speak out because of the impact such a course of action will have on their career prospects.

Asking people to take responsibility for their actions is essential to ensuring their police powers are delivered in a proportionate, lawful and ethical way. In order for individuals to

be in a position to deliver on this expectation there is a corporate responsibility on Garda management to enable them in this regard.

To support delivery of the code in this area, AGSI propose the following in respect of this section:

- Develop a core training programme for new students teaching them coping skills in this and deliver it as part of training.
- Implement a training programme for existing members to develop/improve coping skills in this area.
- Put in place a process which allows member to make complaints without fear of repercussions
- Develop roles profiles for each role so member understand clearly where their responsibilities lie but equally where others responsibilities lie also
- Develop and implement an effective continuous development programme (CPD)
- Make CPD part compulsory for ALL ranks
- Ensure members are trained on new complex policing matters through face to face programmes which delivers the organisations position on:
 - Roles
 - Responsibilities
 - Powers
- Examine the need for an accessible legal advice service on a 24/7 basis to ensure members can check with legal expertise where they need advice/guidance
- Support the process with a comprehensive internal communications process which is reinforced on an ongoing basis

Police Powers

Gardaí use their powers on a daily basis to safeguard the public and themselves.

Unauthorised or unlawful use of policing powers cannot be condoned in civil society, under any circumstances. On the other hand, Gardaí must not be afraid to use these powers to effectively police society. To create a situation of fear in the legitimate use of police powers would undermine the rule of law.

There is significant oversight in the use of Garda powers, which include:

- Examination by the Garda Síochána Ombudsman Commission

- Examination by courts when cases are brought before them
- Internal examination by Garda authorities, including prosecution and or discipline proceedings
- Civil summons by individuals aggrieved
- Civil suit by individuals aggrieved

It is against this background that Gardaí operate on a daily basis and consequently are mindful of the need for the appropriate use of police powers.

Unfortunately when police powers are exercised the person impacted can often think they were exercised excessively, even though this is invariably not the case. The consequence is a scrutiny of an individual members actions which results in stress and worry for the member and their family.

To support delivery of the code in this area, AGSI propose the following in respect of this section:

- Deploy body worn cameras for all members to safeguard them and the members of the public they police
- Deploy in car camera (for external and internal recording) and voice recording capabilities to safeguard member and the public they serve
- Deploy CCTV in public areas of station and in cell areas to safeguard members and the public they serve
- Develop a core training programme for new and existing members teaching them how to achieve a successful outcome in achieving a legitimate policing objective without having to use police powers.

Information and Privacy

The Data Protection legislation governs the collection, storage and use of information coming into the possession of Gardaí.

Members should be regularly reminded of the need to comply with this legislation.

Fear in the legitimate use of information within the possession of AGS must be avoided as it must be avoided for the legitimate use of police powers. Police men and women are encouraged to have a curious nature. It is this curious nature that persuades them to pursue what appear to be vague clues and in so doing solve crimes. Curiosity does not stop at asking questions of people at vehicle stops or pursuing a piece of intelligence in a criminal investigation. It extends to enquiring into information available on information systems within the Garda organisation.

AGSI accept that this curiosity must have a legitimate foundation and must be exercised in accordance with law.

To support delivery of the code in this area members must be regularly reminded of the need to access information for legitimate purposes only.

Transparency and Communication

AGSI recognise the need for transparency and communication. We see this as having an important role in maintaining confidence in the operation of the police service, both internally and externally.

The principle of transparency and communication must operate for internal accountability as much as for accountability to the public.

To support delivery of the code in this area, AGSI believe the policy should clearly extend to Garda management providing accurate, timely and appropriate information to their employees to assist them in the performance of their duties.

Speaking up and reporting wrongdoing

AGSI accept that it is the responsibility of every employee of the Garda Síochána to challenge and report wrongdoing. AGSI also believe it is easy to address wrongdoing when that wrongdoing is being done by someone of a lower rank.

Similarly to how members could find it difficult to challenge orders that are unlawful (Authority and Responsibility) members may find it difficult to speak out and challenge wrongdoing. Challenging wrongdoing by a manager, which an individual member believes to be unprofessional, unethical, illegal or corrupt is one matter, proving it is altogether a different matter.

In the face of an allegation against management relationships can be strained, and careers damaged while an investigation is ongoing'.

To support delivery of the code in this area, AGSI propose to implement a process which allows matters to be challenged in a way to protect the good name and career of the person making the allegation while at the same time protects the good name and presumption of innocence of the person accused. In this regard appropriate training must be provided to managers and operational members alike

Leadership

In this document the requirement to show leadership refers to an individual showing good example to the adherence to the code. It goes a number of steps further in relation to supervisors and managers. It places an obligation on them to:

- Strive to make sure that staff they work with carry out their duties in a way that follows this Code.
- Are effectively supported and guided in the performance of their duties and their maintenance of the code
- Do whatever they can in their role to protect and support the physical and mental wellbeing of staff they work with

These are important and onerous tasks which cannot be taken lightly.

To support delivery of the code in this area, AGSI propose the following in respect of this section:

- Implement a HR model which gives supervisors and first line managers
 - A manageable number of people to supervise; a Garda to Sergeant ratio (and other rank ratios) must be developed and implemented.
 - Access to supervising these members appropriately; remove the practice of 'remote supervision'
 - The ability to provide supervision on the frontline at the scene of incidents
- Develop and deliver a training programme which equips front line supervisors and managers with the skills necessary to allow them monitor, manage, mentor and coach their staff
- Garda management have taken significant steps to safeguard the mental wellbeing of members with the recent implementation of free and confidential counselling service. Additional steps must now be taken to ensure where allegations of wrongdoing or breaches of the criminal code are alleged against members they are provided with the appropriate legal representation to avoid un-necessary stress and financial hardship
- Management must now examine and take steps to safeguard the physical wellbeing of members by:
 - Abolishing one man patrolling for the safety of members
 - Ensure members are adequately equipped with and trained in the use of personal protective equipment
 - High risk activities are assessed and mitigating actions implemented to minimize the risk

Conclusion

As stated earlier members of AGSI have played a pivotal role in the implementation of change initiatives within An Garda Síochána. AGSI members are key stakeholders and important influencers in the successful delivery of new initiatives.

AGSI believe it is necessary to provide as much support as possible to members to allow them achieve these standards. People should, in AGSI's views, strive to achieve the standards because it is the right thing to do, rather than being forced to reach the standards because there is a fear of discipline. To support Garda employees AGSI request:

- Training forms the foundation stone for making people aware and supportive prior to implementation of the code
- Training is provided where necessary to equip members with new skills or to improve existing skills before the implementation of the code. Training must be continuous and ongoing in this area
- Discipline must not be the first action invoked for a breach of the code of ethics; a coaching and mentoring programme will deliver better results than punitive interventions.

Unfortunately the AGSI experience is for Garda Management to embrace a new initiative wholeheartedly and to herald its implementation within the organisation. However, the investment in training members to deliver any new initiative has always been under funded and not effectively supported. In many instances the lack of a uniform application of policy has resulted in unsatisfactory outcomes for An Garda Síochána with the consequences impacting on our members through discipline and sanction.

The AGSI is disappointed that there is any reference to the discipline code in this document. There is significant oversight of An Garda Síochána in place to examine and take action when a member breaches the criminal code or fails through an act of commission or omission to do their job to the highest standard. It may be the case that failing to adhere to some elements of this Code of Ethics will amount to a breach of discipline or a criminal act. Specifically referring to this Code in criminal or discipline proceedings seems to be an unnecessary requirement.

The implementation of a mentoring or coaching process in tandem with this document would show an intention on the part of the Policing Authority and Garda Management to attempt to raise standards through education and engagement rather than through coercive practice. AGSI is calling for work in this area to commence to allow the Code of Ethics and the new policy to be rolled out in parallel.

AGSI note in the introduction to the Code of Ethics (Page 3) *'The Authority expects that arrangements will be made for everyone to whom the Code applies to make a formal commitment to its observance.'*

Section 17: (8) of the Garda Síochána (Policing Authority and Miscellaneous Provisions) Act 2015 states: *'The Garda Commissioner shall take such steps as are necessary to ensure that all members have read and understood a code of ethics established under this section and that a record is kept of the steps so taken in relation to each member.'*

Members of An Garda Síochána make a solemn declaration when appointed (Section 16 of the Garda Síochána Act, 2005).

The legislation does not require individual commitment to the Code of Ethics by each individual. AGSI see this as an-unnecessary requirement for members.