

Haddington Road Agreement

Review of An Garda Síochána

Report by

John Horgan

12 December 2016

Background

This Review of An Garda Síochána arises from a commitment in the Public Service Stability (Haddington Road) Agreement 2013-2016, that has been carried over to the Lansdowne Road Agreement, which extends to September 2018.

Appendix 3 of the Haddington Road Agreement provided:

To build upon the progress already made in the Public Service Agreement 2010-2014, a Review of An Garda Síochána will be undertaken. The following terms of reference will apply.

To review and make recommendations on the use by An Garda Síochána of the resources available to it, with the objective of achieving and maintaining the highest levels of efficiency and effectiveness in its operation and administration.

The review shall encompass all aspects of the operation and administration of the Garda Síochána including:

- the structure, organisation and staffing of the Garda Síochána;*
- the deployment of members and civilian staff to relevant and appropriate roles;*
- the remuneration and conditions of service of members of An Garda Síochána including an evaluation of annualised hours/shift pay arrangements;*
- the appropriate structures and mechanism for the future resolution of matters relating to pay, industrial relations and attendant matters.*

The Review was due to commence no later than 1 September 2013 and be completed no later than 1 June 2014. These commitments were not met.

The Official side (Department of Justice and Equality, Garda management and the Department of Public Expenditure and Reform) considered that the Garda Inspectorate, having regard to its statutory role under the Garda Síochána Act 2005, was the appropriate body to conduct the Review. The Garda Associations (Garda Representative Association (GRA), Association of Garda Sergeants and Inspectors (AGSI), Association of Garda Superintendents and Association of Chief Superintendents) took a different view but eventually the terms of reference of the Inspectorate were limited to the first two indents i.e.

- *the structure, organisation and staffing of the Garda Síochána;*
- *the deployment of members and civilian staff to relevant and appropriate roles;*

Mr. Ray McGee, formerly of the Labour Court was appointed to undertake the review of the last two indents. However, Mr. Ray McGee resigned in May 2016.

My understanding is that the four representative associations jointly nominated me as the new Chair and the two Departments agreed to the nomination.

The Inspectorate completed its work in December 2015. Its report "Changing Policing in Ireland -- Delivering a Visible, Accessible and Responsive Service" was brought before Cabinet on 8 December and published on 9 December 2015. The report made some 80 recommendations in relation to the structures of An Garda Síochána, its deployment practices, culture, human resources practices and financial management. Having regard to the far-reaching nature of some of the recommendations the Minister put in place a process to seek the views of the Garda Commissioner and other bodies to whom recommendations were directed. The Government on 19 July 2016 approved a Five Year Reform and High-level Workforce Plan for An Garda Síochána addressing the implementation of the Garda Inspectorate Report and the Programme for Government commitments in relation to the overall Garda workforce. The Inspectorate's report was also forwarded to me so that I could take it into account to any crosscutting issues.

On 6 July 2016, the Tánaiste and Minister for Justice Frances Fitzgerald TD requested me to complete the Review of An Garda Síochána by reporting on the third and fourth indents in the terms of reference. i.e.

- *the remuneration and conditions of service of members of An Garda Síochána including an evaluation of annualised hours/shift pay arrangements;*
- *the appropriate structures and mechanism for the future resolution of matters relating to pay, industrial relations and attendant matters.*

Work Plan Agreed

At my initial meeting meeting with all parties on Tuesday 19 July 2016 a work plan was agreed:

- August, September and October Visits, submissions and initiate research
- Conclude research and submissions by end October
- Draft Report November
- Circulate Final Draft 28 November
- Finalize Report on 5 December
- Report to be published on 12 December 2016

All the parties accepted this timescale. I insisted at all stages that I would produce the best report that could be produced in the timescale agreed. At various stages during our meetings I offered to bring forward the date of my report if that would be helpful. None of the parties took up this offer.

I am pleased that with the co-operation of all parties I have been able to meet the original timetable. I circulated the Final Draft on 28 November and now publish the report on the agreed date, 12 December 2016.

Familiarisation Visits

- Overall I have held 45 meetings with various parties including the familiarisation meetings detailed opposite. I estimate that the cumulative time spent in meetings and discussions came to over 140 hours. My time in drafting the various discussion papers and drafting my report came to a total of approximately 60 hours.
- During August I visited locations around the country meeting more than 200 Gardaí, Sergeants and Inspectors, Superintendents and Chiefs over nine days and approximately 60 hours.
- These meetings have been very useful and have given me a good insight into the work and working conditions and environment of those ranks. The attendees from the various grades are not proportional to the total numbers employed in those grades. However I was interested only in the weight and validity of the arguments put to me rather than the preponderance of speakers.

Location	Gardai	Sergeant/Inspectors	Total
Dublin	13	10	23
Dundalk	13	13	26
Limerick	9	9	18
Galway	12	11	23
Cork	10	15	25
Dublin	15	14	29
Templemore	Superintendents		15
Templemore	Chief Superintendents		5
Mullingar	14	10	24
Waterford	13	4	17
Total	99	86	205

THE CURRENT STATE OF PLAY: RESOURCES AND NUMBERS AT WORK

An Garda Síochána

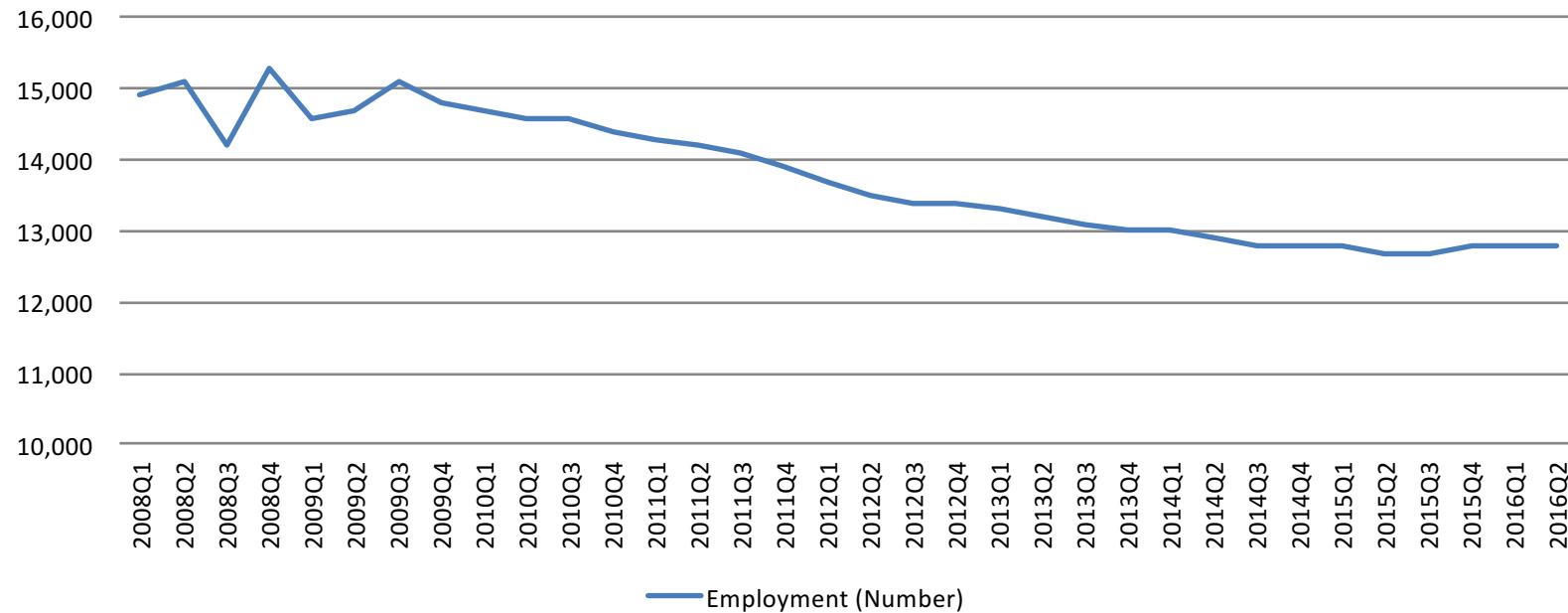
An Garda Síochána provides the citizens of Ireland with an excellent police service by any standard. This point has been made by various report and reviews over its entire history. While recent reports have identified shortcomings in particular instances, the vast majority of members of the force are dedicated to providing an impartial fair police service in line with best Peelian principles. The members of An Garda Síochána perform a difficult and often dangerous job that is unique in Irish society and all its members deserve to be rewarded appropriately.

Extract from Garda Review

Editorial Notes, November 1929

The Garda Síochána is a public service, towards the upkeep of which every citizen, rich and poor, contributes directly or indirectly. Every citizen is therefore within his rights in seeing that the service for which he pays is properly rendered. The members of the Force fully recognize these rights; they welcome honest and intelligent criticism and even if not intelligent, they tolerate it, so long as it is made in good faith.

Employment (Number)



Source CSO

CSO Garda Síochána Q3 2016

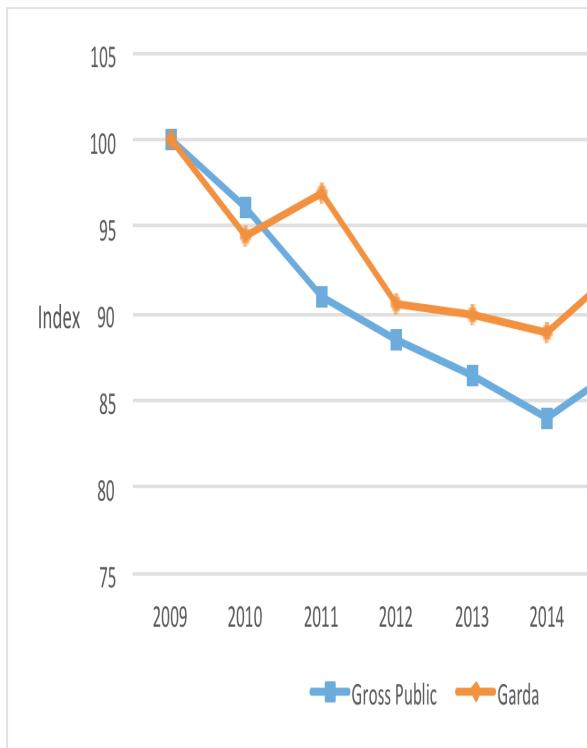
- Employment (Number) 13,000
- Average Weekly Earnings (Euro) 1,251.09 = €65,235 p.a.
- Average Hourly Earnings (Euro) 29.01
- Average Hourly Earnings excluding Irregular Earnings (Euro) 24
- Average Weekly Paid Hours (Hours) 43.1
- Average hourly irregular earnings (Euro) 4.03
- Average hourly other labour costs (Euro) 2.31
- Average hourly total labour costs (Euro) 31.32

NB Data for the latest quarter is preliminary and subject to revision.

AN GARDÁ SÍOCHÁNA

Annual changes in Gross Public Expenditure and Garda Expenditure: 2009-2016

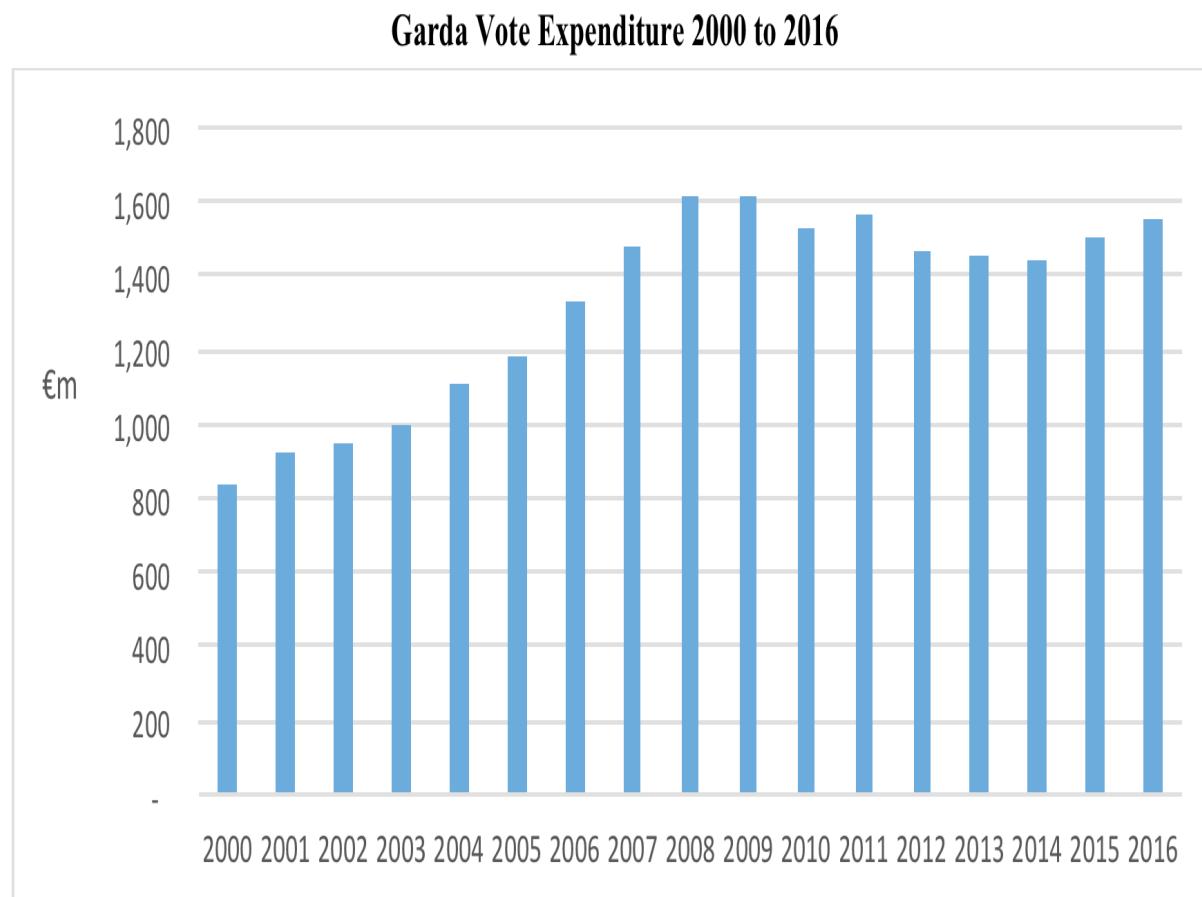
Investment and resourcing in An Garda Síochána has been prioritised relative to overall public spending



Source: DPER Databank (<http://databank.per.gov.ie/>)

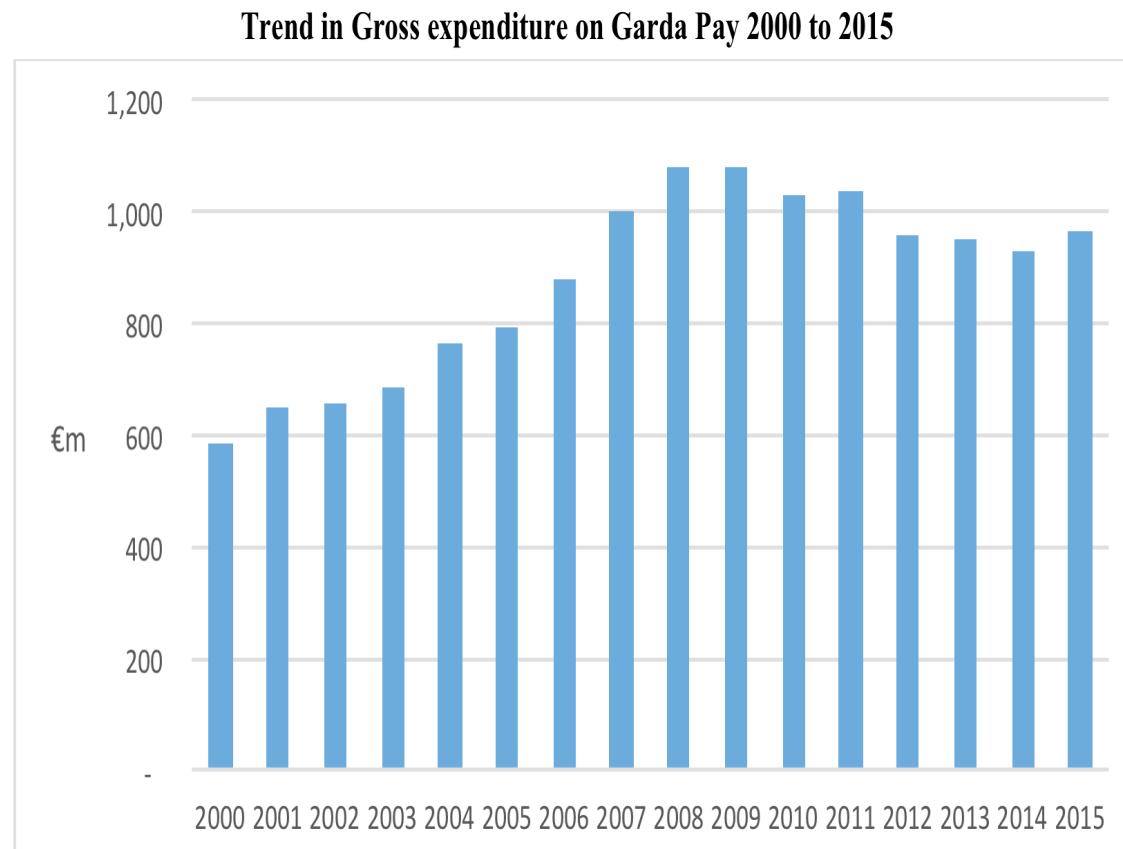
Note: Total Gross public expenditure and Garda expenditure have been converted to a base of 100 to compare the spending trends

Overall Investment Levels are Increasing and Almost at Peak Pre-Crisis Levels



Source DPER Databank (<http://databank.per.gov.ie/>)

Gross Expenditure on Garda Pay is Increasing Again, mostly driven by a Doubling in Overtime since 2014



Source DPER Databank (<http://databank.per.gov.ie/>)

Some of these increases were due to exceptional factors and were not shared equally across the members of the force.

CURRENT PAY, ALLOWANCES, PENSIONS AND COMPARISONS

In the 2016 estimate the total expenditure on An Garda Síochána will be €1,554m of which €971.7m will be pay costs and €325.5m pensions. (This is prior to any adjustment that may arise from the Ad Hoc Labour Court Recommendations [LCR] CD/16/321 and CD/16/322 dated 3 November 2016): At time of writing it was announced that the Labour Court recommendations were accepted by the GRA and AGSI but the consequential impact on Superintendents and Chief Superintendents were not known.

To give a comprehensive picture of Remuneration in AGS it is imperative to consider three elements: Basic Pay; Overtime and Allowances; and Pensions. All three are part of total compensation, and must be considered together. They are examined in this chapter.

The incremental pay scales for Gardaí, Sergeants, Inspectors, Superintendents and Chief Superintendents are shown in the following pages. I requested the Department of Justice to calculate the Post-LCR scales, but they did not do so. I have therefore estimated that each point of the scale will increase by €4,655. This is not a salary increase but a consolidation of an increased rent allowance.

Basic Pay Scales – Garda Rank

Years of Service	Current New Recruits*	Est. Post LCR*	Years of Service	Current B	Est. Post LCR*	Years of Service	Current A	Est. Post LCR*
1	€25,472	€30,127	1	€24,890	€29,545	1	€25,745	€30,400
2	€28,302	€32,957	2	€27,369	€32,024	2	€28,302	€32,957
3	€29,834	€34,489	3	€28,867	€33,522	3	€29,834	€34,489
4	€32,407	€37,062	4	€31,365	€36,020	4	€32,407	€37,062
5	€35,840	€40,495	5	€34,683	€39,338	5	€35,840	€40,495
6	€38,110	€42,765	6	€36,875	€41,530	6	€38,110	€42,765
7	€40,163	€44,818	7	€38,856	€43,511	7	€40,163	€44,818
8	€42,138	€46,793	8	€40,767	€45,422	8	€42,138	€46,793
9	€42,138	€46,793	9	€40,767	€45,422	9	€42,138	€46,793
10	€42,138	€46,793	10	€40,767	€45,422	10	€42,138	€46,793
11	€42,138	€46,793	11	€40,767	€45,422	11	€42,138	€46,793
12	€42,138	€46,793	12	€40,767	€45,422	12	€42,138	€46,793
13	€43,857	€48,512	13	€42,429	€47,084	13	€43,857	€48,512
14	€43,857	€48,512	14	€42,429	€47,084	14	€43,857	€48,512
15	€43,857	€48,512	15	€42,429	€47,084	15	€43,857	€48,512
16	€43,857	€48,512	16	€42,429	€47,084	16	€43,857	€48,512
17	€43,857	€48,512	17	€42,429	€47,084	17	€43,857	€48,512
18	€43,857	€48,512	18	€42,429	€47,084	18	€43,857	€48,512
19	€45,793	€50,448	19	€44,302	€48,957	19	€45,793	€50,448

*Garda Trainees receive an allowance of €184 a week for the 32 weeks leading to attestation. On appointment they are paid €23,171 for a period of 32 weeks

Basic Pay Scales – Sergeants & Inspectors

Years of Service	Current Inspector Rate B	Est. Post LCR*
1	€ 51,660	€ 56,315
2	€ 52,532	€ 57,187
3	€ 53,974	€ 58,629
4	€ 55,606	€ 60,261
5	€ 55,606	€ 60,261
6	€ 55,606	€ 60,261
7	€ 57,243	€ 61,898

Years of Service	Current Sergeant Rate B	Est. Post LCR*
1	€ 44,725	€ 49,380
2	€ 45,795	€ 50,450
3	€ 46,919	€ 51,574
4	€ 48,131	€ 52,786
5	€ 48,131	€ 52,786
6	€ 48,131	€ 52,786
7	€ 49,368	€ 54,023
8	€ 49,368	€ 54,023
9	€ 49,368	€ 54,023
10	€ 49,368	€ 54,023
11	€ 49,368	€ 54,023
12	€ 49,368	€ 54,023
13	€ 51,385	€ 56,040

Years of Service	Current Sergeant Rate A	Est. Post LCR*
1	€ 46,229	€ 50,884
2	€ 47,337	€ 51,992
3	€ 48,493	€ 53,148
4	€ 49,755	€ 54,410
5	€ 49,755	€ 54,410
6	€ 49,755	€ 54,410
7	€ 51,034	€ 55,689
8	€ 51,034	€ 55,689
9	€ 51,034	€ 55,689
10	€ 51,034	€ 55,689
11	€ 51,034	€ 55,689
12	€ 51,034	€ 55,689
13	€ 53,119	€ 57,774

Years of Service	Current Inspector Rate A	Est. Post LCR*
1	€ 53,404	€ 58,059
2	€ 54,305	€ 58,960
3	€ 55,794	€ 60,449
4	€ 57,483	€ 62,138
5	€ 57,483	€ 62,138
6	€ 57,483	€ 62,138
7	€ 59,178	€ 63,833

Basic Pay Scales – Chief Supt. & Supt.

At time of writing no decision had been made as to the consequences of the AD Hoc Labour Court recommendation for these grades

Years of Service	Current Chief Supt Rate B	Est. Post LCR*
1	€ 79,699	€ 84,354
2	€ 83,155	€ 87,810
3	€ 87,142	€ 91,797
4	€ 92,629	€ 97,284
5	€ 92,629	€ 97,284
6	€ 92,629	€ 97,284
7	€ 94,998	€ 99,653

Years of Service	Current Chief Supt Rate A	Est. Post LCR*
1	€ 82,278	€ 86,933
2	€ 85,853	€ 90,508
3	€ 89,976	€ 94,631
4	€ 95,653	€ 100,308
5	€ 95,653	€ 100,308
6	€ 95,653	€ 100,308
7	€ 98,100	€ 102,755

Years of Service	Current Supt Rate B	Est. Post LCR*
1	€ 66,636	€ 71,291
2	€ 68,951	€ 73,606
3	€ 70,948	€ 75,603
4	€ 72,942	€ 77,597
5	€ 74,940	€ 79,595
6	€ 74,940	€ 79,595
7	€ 74,940	€ 79,595
8	€ 77,608	€ 82,263

Years of Service	Current Supt Rate A	Est. Post LCR*
1	€ 68,835	€ 73,490
2	€ 71,228	€ 75,883
3	€ 73,291	€ 77,946
4	€ 75,354	€ 80,009
5	€ 77,377	€ 82,032
6	€ 77,377	€ 82,032
7	€ 77,377	€ 82,032
8	€ 80,116	€ 84,771

Labour Court Recommendation

In the case of individual members, the recommendation for the GRA and AGSI will provide extra remuneration of around €4,000 on average to a member of the Service over the next 12 months through:

- An increase in the value of the rent allowance by €500 bringing it to €4,655 per annum with effect from 1 January 2017
- The integration of the rent allowance in the new amount of €4,655 into salary with consequential increases in unsocial hours and overtime payments also with effect from 1 January 2017
- The introduction of a €15 premium payment per annual leave day to compensate for the uncertainty attaching to the taking of leave by Gardaí. This payment will be worth €510 per annum to a Garda with 34 days annual leave
- The implementation of a long-standing recommendation of the Garda Inspectorate through the introduction of paid 15-minute pre-tour briefing or tasking sessions with effect from 1 January 2017
- New recruits who do not currently receive rent allowance, will have it restored, in addition to the other improvements just listed. In addition, the increment freeze in place for GRA members since 1 July will be lifted and any arrears arising from increments foregone will be paid
- Source Answer to PQ Tuesday, 15 November 2016, Tánaiste and Minister for Justice and Equality.

Post LCR Scales

Rank	Minimum Point	Maximum Point
Garda	€ 30,400.00	€ 50,448.00
Sergeant	€ 50,884.00	€ 57,774.00
Inspector	€ 58,059.00	€ 63,833.00
Superintendent	TBD	TBD
Chief Superintendent	TBD	TBD
These refer to “A” PRSI scales only		

The revised salary scales that will come into effect on 1 January 2017 are in preparation and were not available to me.
I have heretofore estimated the figure above

Pension Related Deduction

- Pension-Related Deduction (PRD) is a deduction from the remuneration (pay) of pensionable public servants. It is provided for under the terms of the Financial Emergency Measures in the Public Interest (FEMPI) Act 2009, as amended. Most recently that Act has been amended in respect of PRD by the FEMPI Act 2015, which provides for an easing of the PRD burden on affected public servants by way of revised thresholds applying from 1 January 2016 and 1 January 2017. The PRD forms part of a wider set of financial emergency measures affecting public service pay and pensions directed at securing a stabilisation in the public finances.
- With effect from 1 January 2016 the rates of the deduction and the bands of remuneration to which these rates apply are as follows:
- Amount of remuneration up to €26,083 is exempt but any excess over €26,083 but not over €60,000 is subject to a deduction of 10% and any amount over €60,000 is subject to a rate of deduction of 10.5 per cent. To illustrate this it should be noted that a Garda earning €63,000 per annum is liable to a reduction of €3,700 or 5.9%. It must be pointed out that while all public servants are liable for this deduction it is not a contribution to their pensions scheme; it is simply a deduction from earnings. The rate of deduction will reduce from 1 January 2017, when the same Garda will suffer a deduction of €3,440 or €260 less than in the previous year assuming no change in earning over the two years. The benefit of these reductions in rates will be considerably greater for Gardai earning less than average earnings. It is essential that PRD is taken into account when making a comparison with earnings in the private sector as this deduction applies only to civil and public servants.

Allowances

- In addition to basic salary Gardaí are paid allowances. There are currently 54 allowances; not all Gardaí are eligible for all of them and many are mutually exclusive
- Allowances amount to a very significant proportion of the total earnings of Gardaí, Sergeants and Inspectors but form a smaller proportion of the pay of the higher ranks
- The rationale for these allowances, which were first introduced in the Garda Síochána Allowances Order 1924 and 1926, and through subsequent negotiations, reflects in part the unique nature of the work of An Garda Síochána
- Both the Conroy Commission (1970) and the Ryan Committee of Enquiry (1979) recognised this uniqueness. It has been accepted that the job cannot be done properly without incurring these allowances that are paid to members in the performance of duty. The allowances were negotiated over time and were deemed necessary to the work of An Garda Síochána. Indeed the Conroy Commission recognized the important effect these allowances had on morale and motivation. I concur with their assessment of the importance of allowances
- I accept that officials from the Department of Justice & Equality, and the Department of Finance, who presided over the initial granting or subsequent increasing of these allowances /expenses for the Garda Síochána through their own specific Conciliation and Arbitration Scheme (referred to in a later chapter) during the four decades of these negotiations, were satisfied that the allowances were in the first instance wholly necessary, given the unique nature of the organisation and the environment in which it operates.

These allowances were last examined by the Houses of the Oireachtas Committee of Public Accounts in its Report on Public Sector Allowances dated November 2012 Reference 31/CPAS/005.

I agree with the opinion of Oireachtas committee that: “The term ‘allowances’ is of itself a source of confusion and masks separate and distinct groups of compensation. The use of single term to describe completely different payments is bringing the entire system into disrepute.”

It is a source of justifiable annoyance to the member of AGS that they are often ridiculed because these allowances are widely misunderstood or misrepresented. But that it must also be said that some of these allowances do not serve any useful purpose and should be discontinued. Clearly there is a need to reform the system of allowances and to retain only those that serve a useful function.

Earnings

- According to the Central Statistics Office (CSO) the average gross pay in An Garda Síochána in Q2 of 2016 was €68k -- that is 4.7% higher than one year earlier. The average pay over the four quarters of 2015 was 3.4% higher than the four quarters in 2008
- Figure derived from DPER and given to me by the CSO show average annual earnings of €70.7k for 2016 and €69.6k for 2015, compared to €85.8k in 2009
- The figures are taken from the CSO Earnings, Hours and Employment Costs Survey (EHECS). EHECS replaced both the four-yearly Labour Costs Survey and all other CSO short-term earnings inquiries from Q1 2008
- The figures are crude averages and include all ranks

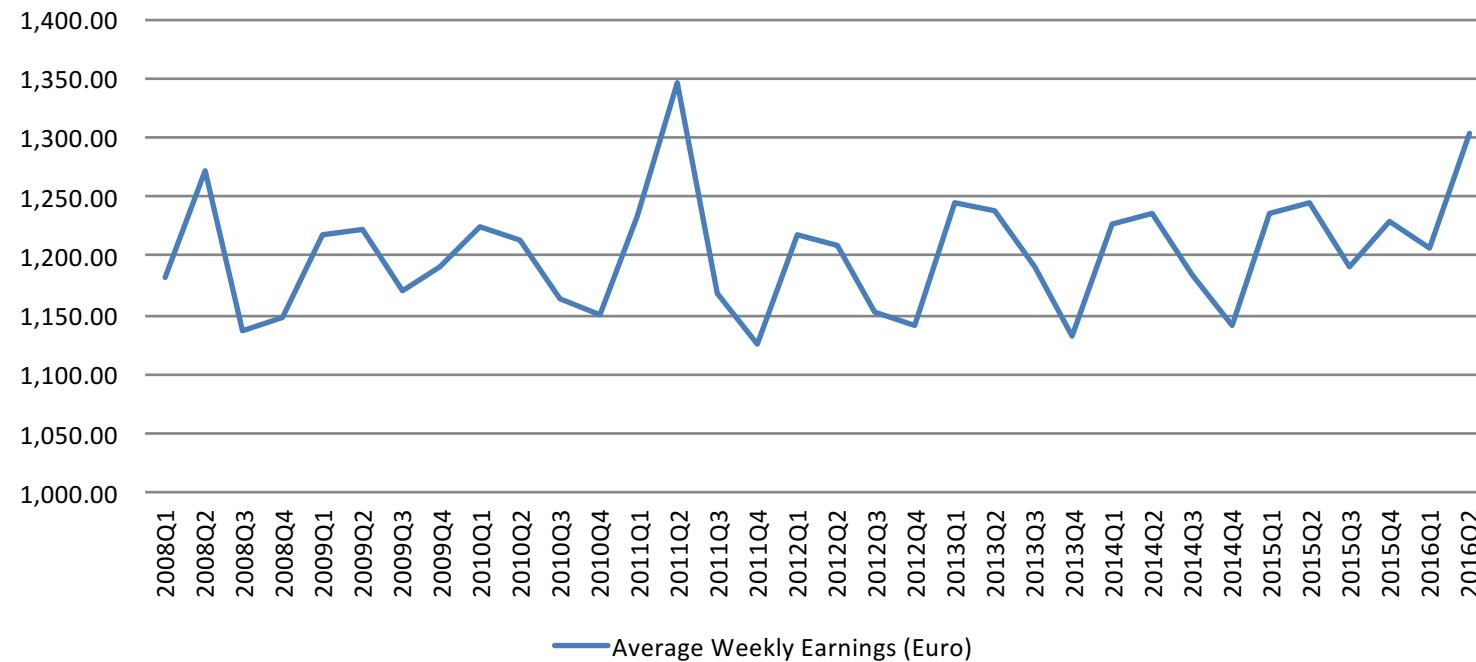
It should be noted that the figures for earnings are gross amounts before deductions for PRSI, tax and other levies. This is particularly relevant to the public sector since March 2009 when the pension levy was introduced.

The CSO cautions that changes in the composition of employees in a given sector or group has an effect on the average levels of earnings and paid hours over time. For example, if the proportion of part-time employees increases within a sector then it would be expected that the average weekly earnings and paid hours would fall in that sector even if the hourly pay rates were unchanged. Also, estimated averages do not reflect differences in characteristics of the job or the employees, and since EHECS collects aggregate data from each enterprise it is not possible to correct for such differences using EHECS data.

The CSO also points out that because many public sector employees are paid on the basis of incremental scales, recruitment, particularly at lower levels, to these sectors would generally result in a depression to average earnings. The absence of recruitment has the opposite effect. Earnings are inclusive of overtime and irregular earnings. The variability of these components can impact on trends over time. The reduction in employee numbers across the public sector will also impact on average earnings.

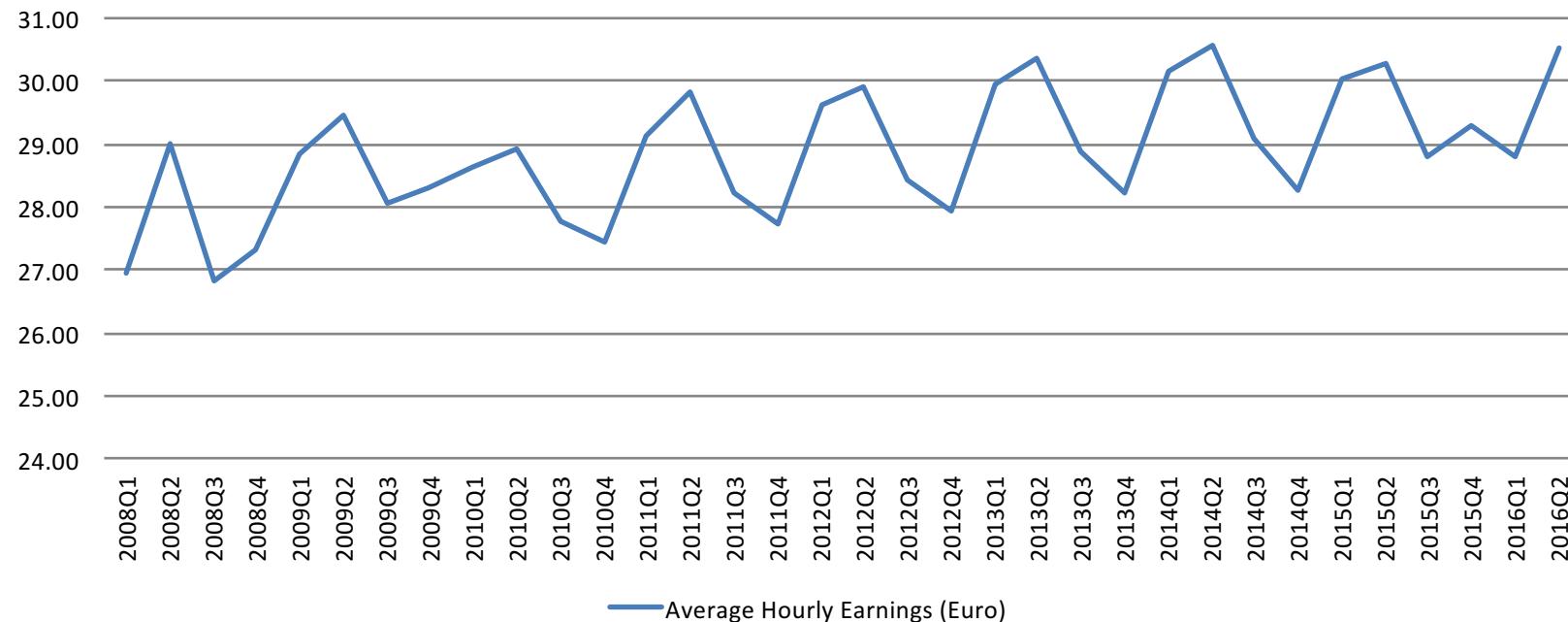
Consideration to these factors should be given when interpreting results.

Average Weekly Earnings AGS(Euro)

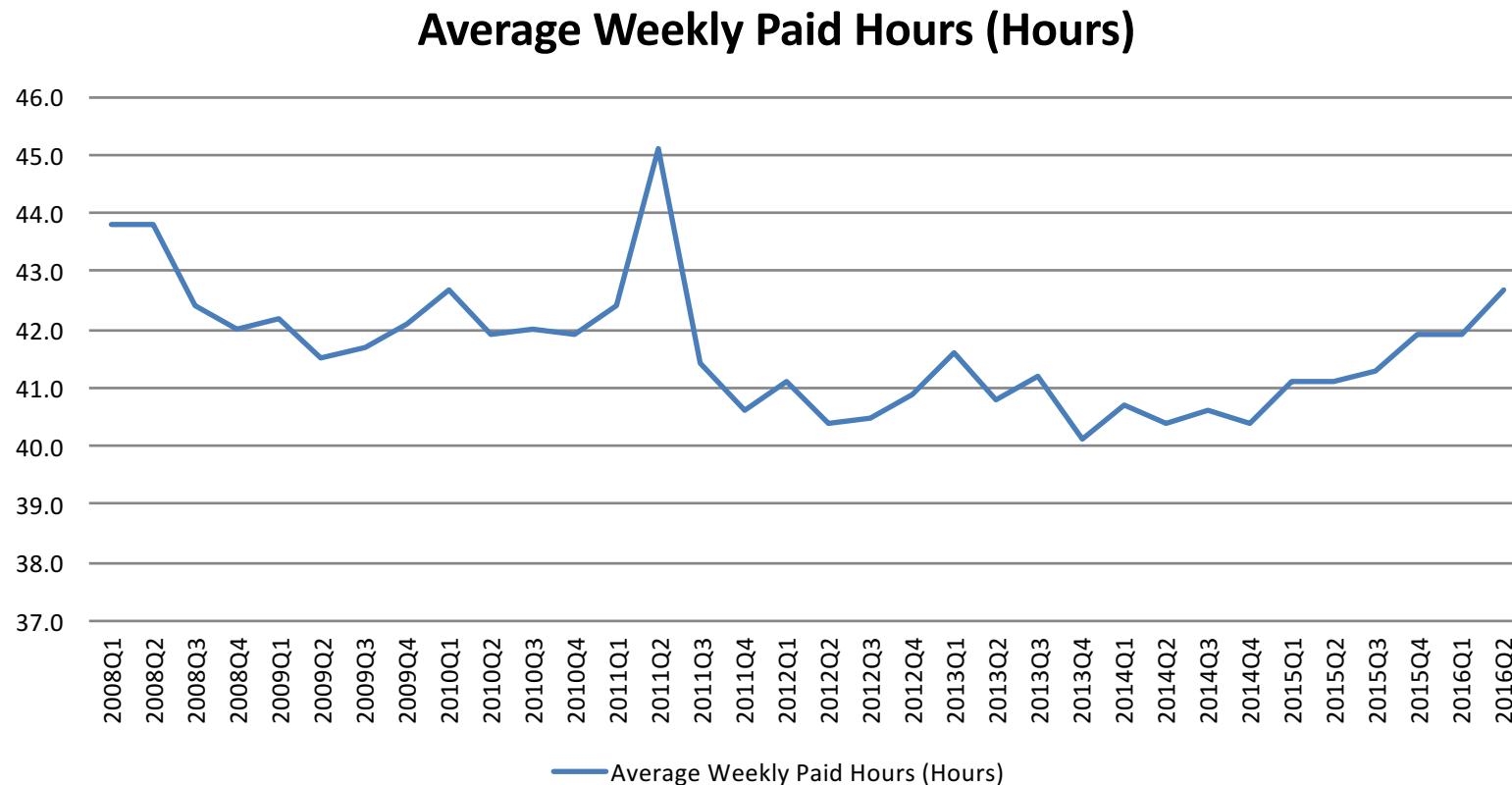


Source CSO

Average Hourly Earnings (Euro)



Source CSO



Source CSO

Payroll data for Garda Pay

I have analyzed the payroll data for 2015, as this gives the most reliable source of earning for 2015. But even here some caveats must be made in interpreting the data. In particular it must be noted that for payroll purposes 2015 was a 53-week year and this increases the figure by about 2%.

However, from payroll data we can now see a more detailed and accurate picture of the earnings for all the ranks of An Garda Síochána than is available from other sources.

All Ranks

Average Pay for all members was €63,450 in 2015

Rank (Number in Spreadsheet)	Annual Average Earnings
Garda (9791)	€63,327*
Sergeant (1922)	€72,690
Inspector (317)	€85,423
Superintendent (162)	€87,699
Chief Superintendent (44)	€101,161

*If new recruits and those who were paid arrears in 2015 are included the average for Gardaí is €62,911 and if all those who earned less than €40k (these most likely did not work a full year, for some reason) are also included the average is €60,278(1)

These figures will increase by about €4,000 in 2017 as a result of the acceptance of Labour Court Recommendation

Garda Rank Only

Distribution of Earnings of Gardaí 2015 (excluding new recruits)

- Ten percent of Gardaí earned more than €74,000
- One quarter of Gardaí earned more than €66,300
- Half of Gardaí earned more than €62,350
- One quarter of Gardaí earned less than €59,300
- Ten percent of Gardaí earned less than €54,000 but some of these appear not to have been paid for a full year

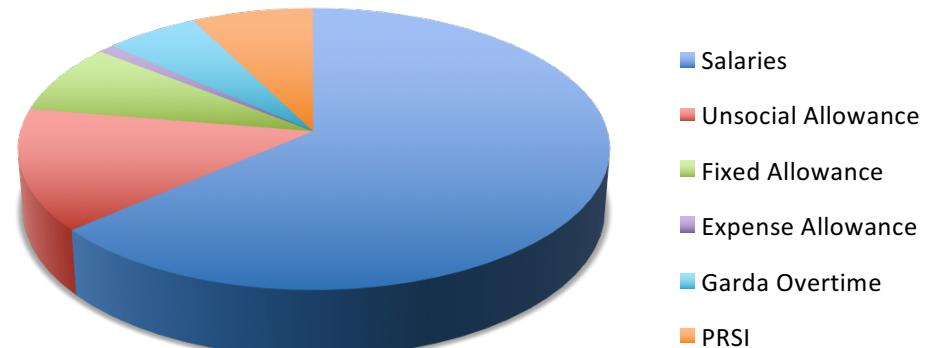
Sergeants Only

Distribution of Earnings of Sergeants

- Ten percent of Sergeants earned more than €84,700
- One quarter of Sergeants earned more than €77,000
- Half of all Sergeants earned more than €71,000
- One quarter of all Sergeants earned less than €67,300
- Ten percent of sergeants earned less than €63,000 but some of these appear not to have been paid for a full year

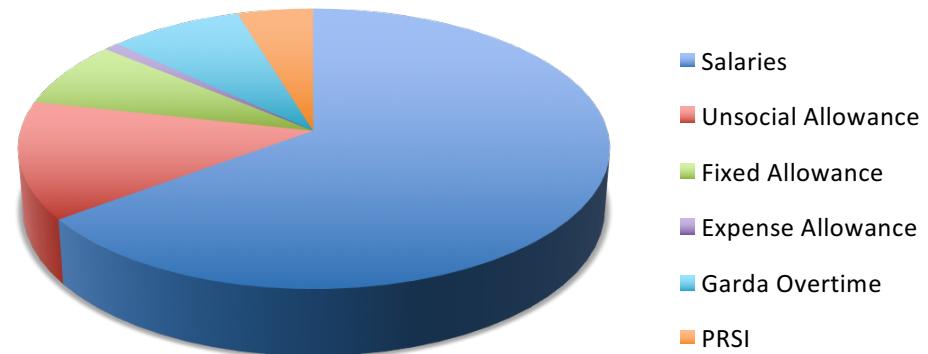
Garda Rank: Salary and Allowances Analysis (2015 Outturn)

Expenditure Category	Garda Rank
Salaries	€443,907,441
Unsocial Allowance	€97,400,560
Fixed Allowance	€56,060,362
Expense Allowance	€7,030,745
Garda Overtime	€40,491,214
PRSI	€52,609,191



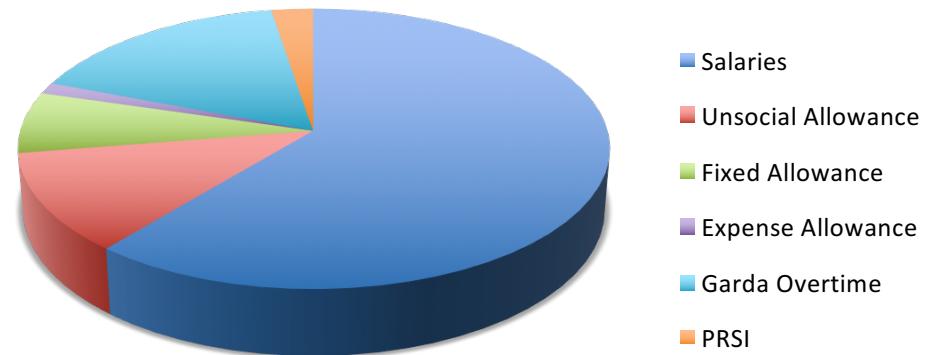
Sergeant Rank: Salary and Allowances Analysis (2015 Outturn)

Expenditure Category	Sergeant Rank
Salaries	€94,660,987.00
Unsocial Allowance	€19,848,265.00
Fixed Allowance	€11,161,408.00
Expense Allowance	€1,340,175.00
Garda Overtime	€12,108,528.00
PRSI	€6,842,655.00



Inspector Rank: Salary and Allowances Analysis (2015 Outturn)

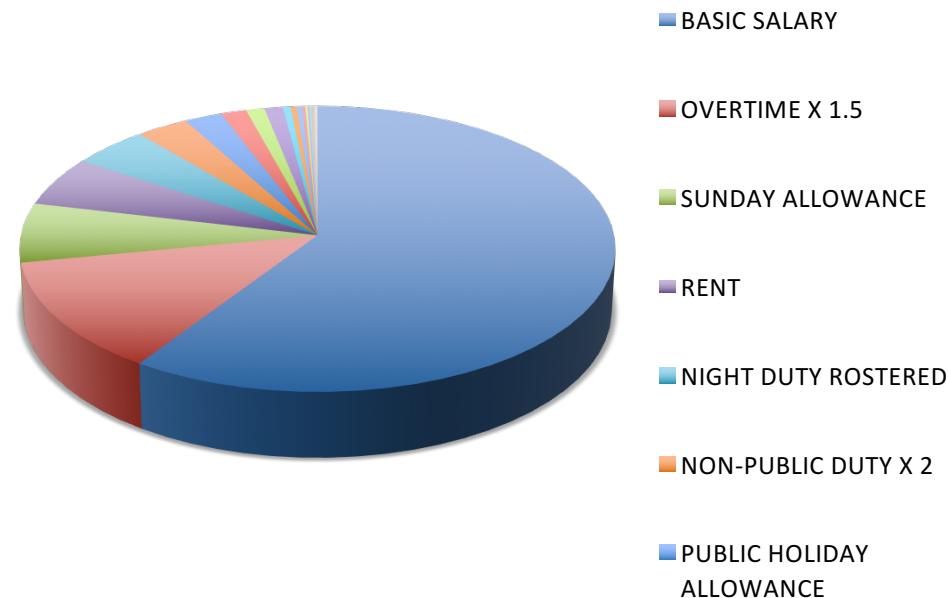
Expenditure Category	Inspector Rank
Salaries	€14,769,361
Unsocial Allowance	€2,776,087
Fixed Allowance	€1,717,844
Expense Allowance	€316,621
Garda Overtime	€4,006,857
PRSI	€625,333



Sample Garda Earnings

Garda "A": High Overtime Earner Recruited 1998 with total earnings of €75,085.58

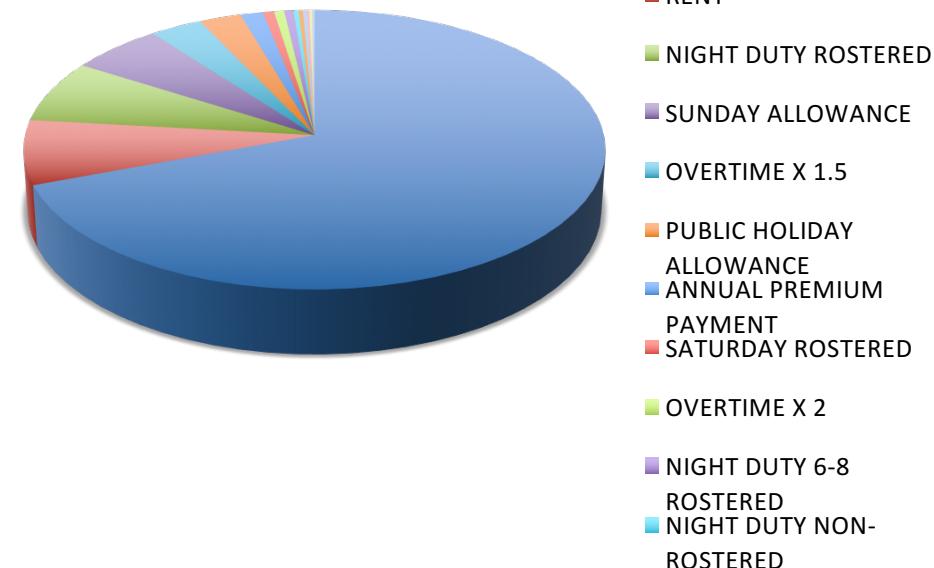
BASIC SALARY	€44,545.97
OVERTIME X 1.5	€9,486.40
SUNDAY ALLOWANCE	€5,043.00
RENT	€4,220.39
NIGHT DUTY ROSTERED	€3,438.90
NON-PUBLIC DUTY X 2	€2,337.00
PUBLIC HOLIDAY ALLOWANCE	€1,680.96
NON-PUBLIC DUTY X 1.5	€1,145.45
NIGHT DUTY 6-8 ROSTERED	€823.08
ANNUAL PREMIUM PAYMENT	€820.39
NIGHT DUTY NON-ROSTERED	€353.62
SATURDAY ROSTERED	€264.18
OVERTIME X 2	€246.00
UNIFORM ALLOWANCE G/S (N/T)	€139.39
BOOT ALLOWANCE (N/T)	€93.28
UNIFORM ALLOWANCE G/S (T)	€88.51
NON PUBLIC DUTY NIGHT DUTY 8-8	€87.13
NIGHT DUTY 6-8 NON-ROST.	€64.89
SATURDAY NON-ROSTERED	€62.16
BOOT ALLOWANCE (T)	€58.83
NON PUBLIC DUTY SATURDAY ALL	€45.06
NON-PUBLIC DUTY 6-8	€40.99
TOTAL GROSS PAY	€75,085.58



Sample Garda Earnings

Garda “B”: Working in a country area recruited in 2009 with total earnings of €56,697.48

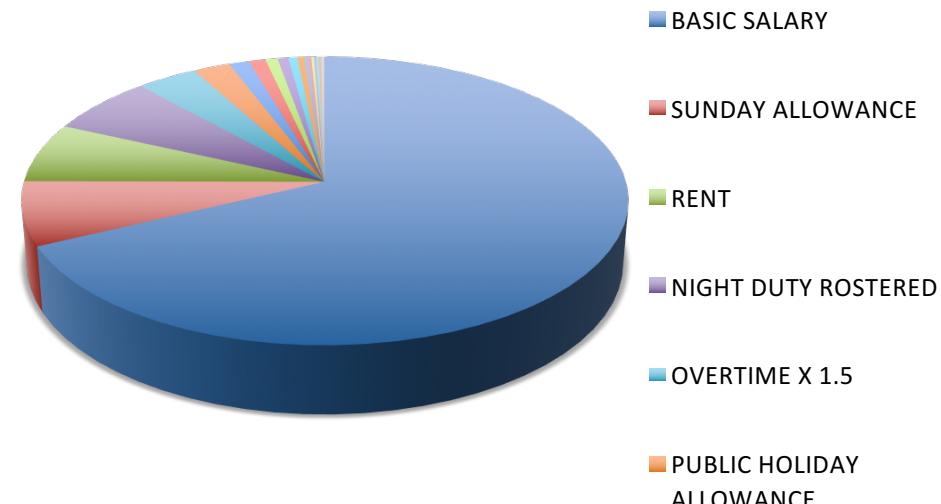
BASIC SALARY	€39,304.80
RENT	€4,220.39
NIGHT DUTY ROSTERED	€4,065.12
SUNDAY ALLOWANCE	€3,239.40
OVERTIME X 1.5	€1,828.10
PUBLIC HOLIDAY ALLOWANCE	€1,460.72
ANNUAL PREMIUM PAYMENT	€786.14
SATURDAY ROSTERED	€388.50
OVERTIME X 2	€356.27
NIGHT DUTY 6-8 ROSTERED	€322.12
NIGHT DUTY NON-ROSTERED	€175.89
NON-PUBLIC DUTY X 2	€142.51
UNIFORM ALLOWANCE G/S (N/T)	€139.39
BOOT ALLOWANCE (N/T)	€93.28
UNIFORM ALLOWANCE G/S (T)	€88.51
BOOT ALLOWANCE (T)	€58.83
NIGHT DUTY 6-8 NON-ROST.	€27.51
Total	€56,697.48

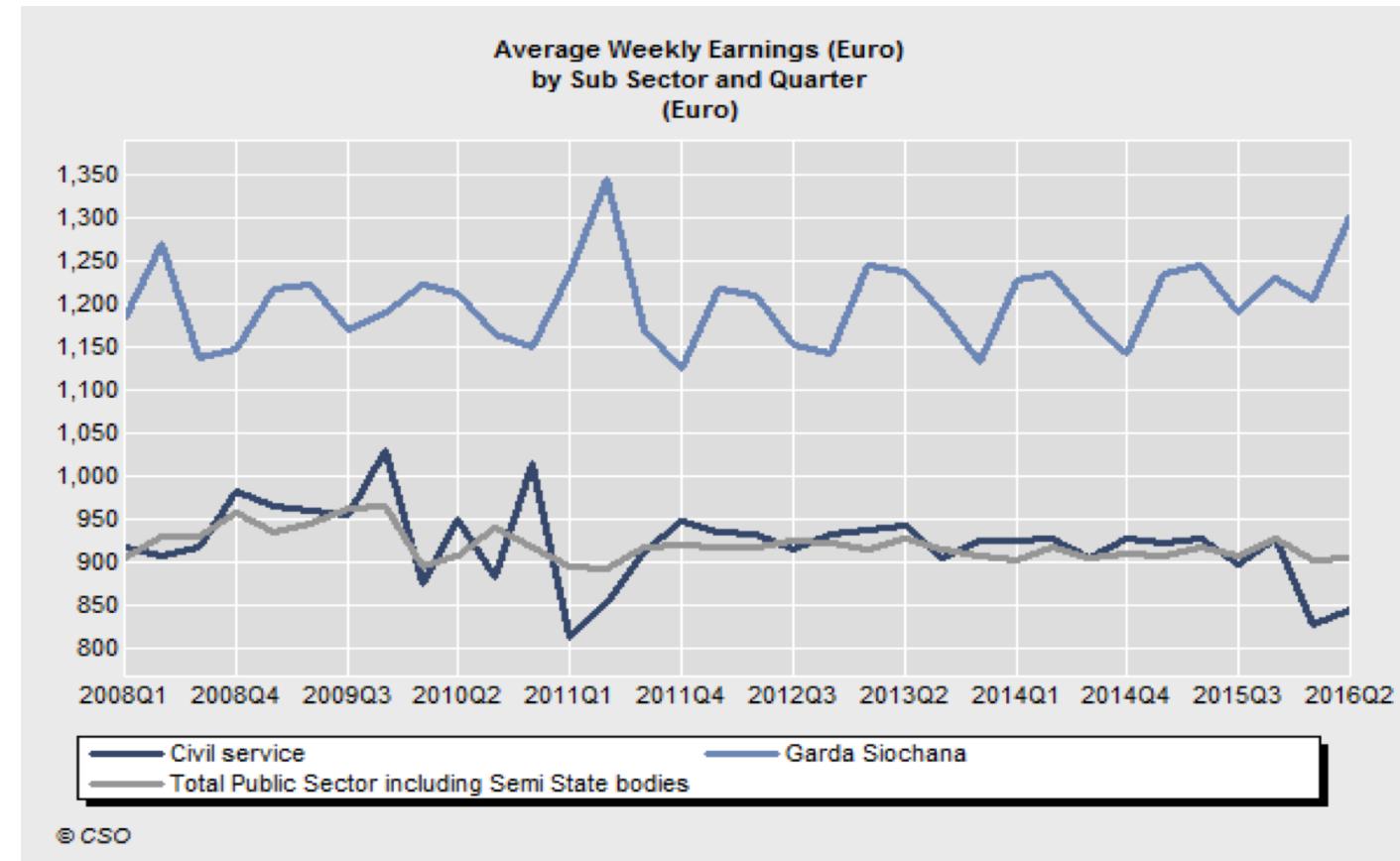


Sample Garda Earnings

Garda "C": Average earner in a town recruited in 1999 with total earnings of €63,029.74

BASIC SALARY	€42,800.15
SUNDAY ALLOWANCE	€4,522.28
RENT	€4,220.39
NIGHT DUTY ROSTERED	€4,111.64
OVERTIME X 1.5	€2,319.28
PUBLIC HOLIDAY ALLOWANCE	€1,413.23
ANNUAL PREMIUM PAYMENT	€758.88
PREM PAYMENTS - INJURY ON DUTY	€645.62
NIGHT DUTY 6-8 ROSTERED	€465.98
ILLNESS/OIB PRSI/USC PAY	€407.30
NON-PUBLIC DUTY X 1.5	€354.54
SATURDAY ROSTERED	€264.18
UNIFORM ALLOWANCE G/S (N/T)	€139.39
OVERTIME X 2	€118.18
NIGHT DUTY NON-ROSTERED	€98.48
BOOT ALLOWANCE (N/T)	€93.28
UNIFORM ALLOWANCE G/S (T)	€88.51
NON-PUBLIC DUTY X 2	€78.79
BOOT ALLOWANCE (T)	€58.83
NON PUBLIC DUTY NIGHT DUTY 8-8	€29.54
NIGHT DUTY 6-8 NON-ROST.	€19.69
NON PUBLIC DUTY SATURDAY ALL	€15.02
NON-PUBLIC DUTY 6-8	€6.56
TOTAL	€63,029.74





There is no obvious evidence that AGS earnings have fallen out of line significantly
With other public sector employees.

Garda Pensions

- In addition to annual remuneration, members of An Garda Síochána accrue pension rights each year. While it is difficult to place a precise value on these benefits, any review of remuneration must include consideration of them as they are a highly valued component of total remuneration and form a very significant proportion of total payroll cost.
- There are currently three schemes in operation. The first two are operated under the The Garda Síochána Superannuation Scheme and apply to all members who were attested before 1 January 2013. The statutory terms and conditions of the schemes are set out in the Garda Síochána Pensions Orders, 1925 to 1981, and agreements under the Garda Síochána Conciliation and Arbitration Scheme.
- There are no trustees. There is no fund.
- Expenditure under the schemes is met from current revenue and is audited by the Comptroller and Auditor General.

At 31 December 2015, the numbers of serving and retired members were as follows:

(a) Active Members (serving with An Garda Síochána): 12,816

(b) No. of persons in receipt of benefits: 10,211

(1) Retired members of the Force: 8,428

(2) Spouses (& Children) of deceased members: 1,783

(c) Former members whose entitlements have been preserved (until age 60): 375

Up until 2008, pensions were increased in line with pay increases and from the same effective date as that applying to serving members of the Garda Síochána. Since 1 January 2011 pensions may be subject to the Public Service Pension Reduction (PSPR). The Public Service Pension Reduction (PSPR) was introduced on 1 January 2011 under the Financial Emergency Measures in the Public Interest Act 2010 (“FEMPI 2010”). In all cases, the PSPR has been limited to ensure that the rate of pension does not fall below €32,500 per annum. The terms and conditions of PSPR have been revised periodically, most recently under the changes to the Public Service Pension Reduction (PSPR) which have been legislated as part of the Financial Emergency Measures in the Public Interest Act 2015 (“FEMPI 2015”). Most noticeable is the “grace period” for pension awards, which has been extended to 1 April 2019. During the grace period new retirement pensions are awarded by reference to higher salaries than the retirees actually earned (being the salaries paid just before the public service pay cuts of January 2010).

Main provisions

- Membership of the main pension scheme is compulsory for all members attested to the Force before 1 January 2013 and membership commences from date of attestation.
- The scheme is a contributory one. Periodic deductions are made from pensionable remuneration during pensionable service with the force until the date of discharge. A deduction of 1.75% of basic pay, rent allowance and pensionable Unsocial Hours Allowances is made from the weekly salary of serving members. Contribution Arrangements for members recruited after 5 April, 1995 Revised contribution conditions apply to members who were recruited after 5 April, 1995 and who pay Class A (P.R.S.I.) contributions and are in receipt of a higher rate of pay. The contribution from pay is at the rate of 1.5% of the relevant pay plus 3.5% of the relevant pay (reduced by twice the rate of Social Welfare Old Age Pension). Superannuation benefits - when co-ordinated with Social Welfare entitlements - of these members are comparable to existing members. Contributions to the Scheme are approved by the Revenue Commissioners for the purposes of Tax Relief
- The main benefits payable under the scheme are pension and retirement/death gratuity. Pension and Retirement gratuity payments are determined by:
 - total reckonable service (maximum = 40 years) and
 - pensionable remuneration on last day of reckonable service Pension and gratuity are payable for each year (and portion of a year) of reckonable service at the following rates: Pension: 1/80th of reckonable remuneration, Gratuity: 3/80ths of reckonable remuneration.
- The pension payable (other than a Special Pension) is 40/80ths (0.5) of pensionable remuneration and gratuity is 120/80ths (1.5) times pensionable remuneration. Approved service after the twentieth year of service is doubled for pension purposes. Accordingly, a member with 30 years approved service has fulfilled the service requirement to be awarded maximum superannuation benefits:- 30 years actual service = 20 + 20 (10 years doubled) ==> 40 years reckonable service Death Gratuity (payable only where death occurs prior to retirement) , the member's legal personal representative receives a minimum of 1 year's pensionable remuneration or up to a maximum of 1.5 years' pensionable remuneration. In order to be eligible for superannuation benefits (other than Death Gratuity) the member must have at least 2 years approved service. Retirement on pension requires that the member attain the age of 50 years and have at least 30 years approved service. New entrants appointed to An Garda Síochána after 1 April, 2004 cannot retire on pension until attaining 55 years of age.
- The Public Service Superannuation (Miscellaneous Provisions) Act, 2004 provided that new entrants appointed to An Garda Síochána after 1 April, 2004 cannot retire on pension until attaining 55 years of age and may retire at a later date up to 60 years of age subject to the Garda Commissioner being satisfied as to health and capability requirements.
- The retirement age for members of An Garda Síochána was extended from age 57 to age 60 with effect from 22 December, 2006.

The Garda Síochána Spouses' & Children's Contributory Pension Scheme

- The Garda Síochána Spouses' & Children's Contributory Pension Scheme came into force in respect of members retiring from 23 July, 1968. This scheme provides a pension for the spouse and/or dependent children of a member who dies in service or having qualified for a pension or preserved pension.
- The Scheme is given statutory effect by virtue of the Garda Síochána Pensions Order, 1981 and membership of the Scheme is compulsory for male members appointed on or after 1 January, 1972 and for all members appointed from 1 July, 1984.
- The Scheme is a contributory one.
- A deduction of 1.5% of basic pay, rent allowance and pensionable Unsocial Hours Allowances is made from the salary of serving members. Normally, the scheme requires contributions in respect of 40 years. Contributions outstanding at retirement/death are deducted from gratuities at the rate of 1% of basic pay in respect of each outstanding year and part thereof. Outstanding contributions are also deducted from gratuities in respect of pensionable allowances at the rate of 1% in respect of service prior to 1 March, 1985 (1/1/94 in the case of Unsocial Hours Allowances). In the case of allowances where no periodic deductions were made, deductions have to be made from gratuities for service since 1 March 1985 also, at the rate of 1.50%.
- The cost to the Exchequer of the Superannuation benefits for surviving dependents of former members of the Garda Síochána is met each year out of current revenue. Contributions to the Scheme are approved by the Revenue Commissioners for the purposes of Tax Relief.
- The scheme is a defined benefit scheme for the purposes of the Pensions Act, 1990.
- A spouse's contributory pension is normally half the late member's pension entitlement.

Single Public Service Pension Scheme

- The third scheme applies to all members o An Garda Síochána recruited after 1 January 2013 who must become a member of the Single Public Service Pension Scheme.
- The Scheme provides a pension and retirement lump sum based on career average pensionable remuneration. There is a facility for early retirement from age 55 on a cost neutral (actuarially reduced) basis. There is also a facility for early retirement on medical grounds, subject to certain conditions. A death in service benefit of twice annual pensionable remuneration is also provided . The pension is indexation linked to CPI increases.
- Accrual and Payment of benefits
- Members accrue (i.e. build up over time) referable amounts (i.e. money amounts) for pension and lump sum for each year of work or part thereof based on pensionable remuneration at that time.
- Pension: Accrual rate of 0.58% of pensionable remuneration up to a ceiling of $3.74 \times$ State Pension Contributory (SPC) (currently €45,000) PLUS (where applicable) 1.25% of pensionable remuneration above that level.
- Lump sum: Accrual rate of 3.75% of pensionable remuneration.
- Referable amounts are adjusted annually by reference to increases in CPI and aggregated referable amounts continue to be up-rated until retirement.
- Accrued and up-rated referable amounts over a complete career are added together to produce the pension and lump sum values on retirement.
- Members receive an annual benefit statement showing pension/lump sum amounts accrued to date. o Following retirement, pension is increased in line with
- rises in CPI; if CPI falls, the pension is not reduced. Member's legal personal representative will receive a capital sum (equal to twice annual pensionable
- remuneration) should the member die in service. Pensions are payable to a spouse or civil partner and to eligible children, as defined in the Scheme, in a
- case of death (before or after retirement). Scheme members ordinarily pay full social insurance contributions and are eligible to receive a State Pension Contributory (SPC) (subject to paying sufficient PRSI contributions and other criteria that may apply from time to time), in addition to occupational pension. Consequently, the SPC is taken into account when calculating pensions under
- the Scheme. This is known as integration.

The Value of Garda Pensions as part of Total Remuneration

Neither the Departments of Justice and Equality nor DPER were able to provide me with estimates of the value of the Superannuation Schemes to members of AGS.

- It is difficult to place a value on these benefits. I have, however, made some estimates of their value based on the cost of those payments in 2015
- In 2015 the cost of the Superannuation scheme was €311m, of which €36m was contributed by the 12,800 active members of the scheme. This represents less than 12% of the cost. If all members had to pay the full cost they would have had to contribute an additional €275m or €21.5k each. To fund this in after-tax income they would have to have been paid an additional €40k approximately. This is equivalent to an additional 80% of pay approximately. This would bring total remuneration of the average Garda to the equivalent of in excess of €100k before tax
- On the other hand, another way of estimating the value is to ask what contribution would be required of a person aged 20 who wishes to fund a pension of €25k payable at age 50. According to the Pensions Authority Calculator that person would be required to pay in the order of €30k per annum, or 50% of earnings each year, to achieve that goal. The value of the superannuation scheme is therefore very substantial, and is understandably important to those who benefit from it
- I realise that these estimates are rough and ready, and a more accurate valuation should be conducted on the value of these benefits. I am confident that the PSPC will do such an exercise.

THE HISTORY AND FUTURE REQUIREMENTS OF PAY DETERMINATION IN AGS

From my familiarisation meetings with Gardaí, Sergeants and Inspectors, and Superintendents and Chief Superintendents, it would appear that they do not believe that the full extent of their duties and responsibilities is taken into account in determining their pay. They feel that because of many new factors and increasing workload their basic pay scale is not reflective of the real job they perform. Sergeants additionally feel that the extra recent statutory responsibilities are not recognised in their remuneration. These feeling and beliefs were reinforced by the written and oral submissions of the representatives of all four Associations.

There is little confidence amongst members of AGS that I met in the way in which their pay is determined, but neither is there much knowledge about how it is determined.

This is understandable as up until now there is no obvious evidence that any or all of the factors that should be taken into account are in fact taken into account or given due weight in setting their basic pay scales.

It is unnecessary for me to retell the story of pay determination in its early history; it is well recounted in the works I have referenced in Appendix 3. However I do wish to point out what I consider to be unsatisfactory aspects of the two more important recent exercises, the Conroy and Ryan reports.

Conroy Report

- The Conroy report having looked at other formula opted for the “**rate for the job**”:
- 288. *It has also been submitted to us that as the duties and conditions of service of a Garda are not comparable with those of any other group or occupation, the proper principle to be applied is the "rate for the job".*
- 289. *The "rate for the job" involves (a) the consideration of the work content of the job; (b) the consideration of the conditions under which the work is carried out; and (c) the consideration of the pay scales in other employments. It also involves the assessment in money of the value of the job of a Garda bearing in mind all the conditions of employment.*
- 290. *We are of opinion that the best primary principle to adopt is the "rate for the job".*
- 291. *Among the factors which we have considered in applying this principle are the educational requirements at entry, training, perquisites, retirement and superannuation rights, the inconveniences and disabilities attached to the job (such as inability to take up spare time employment), long, irregular and uncertain hours of work, week-end and bank holiday work, liability to transfer and strict disciplinary regulations, productivity, the special position of a Garda, and the fact that his work is "sui generis".*
- 319. *Our recommendations are based on all the relevant factors making up the work content of the job of a Garda and on his value to the community.*
- 320. *In making an assessment of what should be the basic pay of a Garda we also bore in mind that a compelling case has been made that the duties and conditions of service of a policeman are unique, and have been recognised as being so in all other major investigations of police work and pay.*
- 322. *We accept the argument that police work has become more onerous, complex and demanding and demands a higher educational standard. These factors should be recognised by appropriate pay and by improvements in conditions of service.*
- Conroy rejected the use of the “Willink Formula” because
- 284. *No mathematical or logical basis has been given for the determination of the percentage increases of 45% and 25%. In the absence of any satisfactory reason for fixing these percentage increases, we do not accept the Willink Formula as a suitable formula for application in Irish conditions.*
- But then Conroy recommends rates of pay without any objective analytical, mathematical or logical assessment of the factors that should be taken into account.

The Ryan Report

- The Ryan report adopted the same approach:
- *3.95 Having weighed all these considerations, and carefully assessed all the arguments put forward in the written submissions and at the oral hearings, we recommend that the basic pay for those ranks of the Garda Síochána coming within our terms of reference should be as set out 'in Table 3.3 below.*
- Both of these approaches rely solely on the personal views of the authors of the report and give no guidance as to the relative importance they placed on the various factors that they took into account. This has the danger of being arbitrary and opaque. While in the past employees may have been prepared to accept the opinion of judges or other respected members of tribunals as fair, this is no longer the case and what is needed now is an open and transparent system in which the representatives of employees are fully involved.

Basic principles that should apply to the system of pay determination for AGS

NB These eleven principles were circulated as a working document to all participants during the course of our meetings and discussed in some detail as they apply to the PSPC.

1. It should be open and transparent

The proceedings and documents should be open to the participants and the public

2. It should be based on factual evidence

Where evidence used it should be verifiable and verified

3. It should be systematic

There should be an agreed system of evaluating/assessing the work of members of the force. This review should agree the framework and methodology to be used.

4. It should be as objective as possible

The degree of judgment/discretion should be narrowed. It should not be reliant on the good will or prejudice of the person making the decision. The Chair should be independent and acceptable to all sides.

5. It should be equally binding or not binding on both sides.

If the outcome of the process is to be binding on one side it should be binding on the other.

6. It should be fair and seen to be fair to members of An Garda Síochána and to the public..

A balance should be struck between the requirement to remunerate the members of the force and the taxpayers' ability or desire to fund same.

7. It should be subject to fixed periodic operation and review

The review of remuneration should be conducted, say, every five years and a review of the operation of the system every 20 years, i.e. after four cycles.

8. If necessary, it should be statutorily based.

For example, the system may provide that if the official side does not implement a binding decision, then a resolution of the Oireachtas may be required.

9. It should afford the Garda Representative Associations and the official side maximum possible involvement in the design and implementation of the process.

This will be achieved through working through this Review

10. It should be acceptable to and explicitly accepted by the Garda Associations and the Official side.

Once this Review is completed the Minister for Justice and Minister for Public Expenditure should indicate their acceptance of these principles and the Associations should ballot their members on the proposals. Only if all parties unambiguously accept the new system should it be implemented.

11. It should be specifically designed for An Garda Síochána and deal exclusively with Garda pay.

Conciliation and Arbitration

- Gardaí have had a mechanism for negotiating and improving their pay and conditions of employment similar to civil servants, namely a Conciliation and Arbitration scheme that is statutorily based and which was revised by agreement in March 2004 and brought into line with similar schemes in other parts of the public service.
- That Conciliation and Arbitration scheme was the negotiating mechanism established for the purpose of enabling the Minister for Justice & Equality, the Minister for Public Expenditure and Reform, and the Commissioner of An Garda Síochána on the one hand, and the Representative Associations on the other hand, to provide means acceptable to the Government and these Garda Representative Associations for the determination of claims, including pay and allowances and proposals relating to conditions of Service of members of the ranks they represent. This scheme had its shortcomings and its perceived independence was questioned. However, it should be pointed out that most of its decisions were by agreement and both sides were effectively bound by these decisions and that it brought many benefits and improvements in allowances for member of the force.

A further purpose of the C&A scheme was to secure co-operation between the State, as employer, and the members, as employees, for the better discharge of the functions of An Garda Síochána. In the view of management, this has the added effect of preserving industrial harmony, maintaining confidence in the Garda industrial relations machinery and ensuring that any variation in the terms of these agreements required that they be re-negotiated with the representative association, in line with best practice. It is only fair to point out however that in recent years the representative associations have lost confidence in this process and it has become redundant and irrelevant.

There are of course other channels of communication between Garda management and member and these are in process of being developed under the current HR plan.

Assessment of Current Arrangements

- In the sense that there is any ‘system’ of industrial relations it can be described as anarchical, in that it is disordered and is without defined rules of engagement. It is not working and both sides are dissatisfied with it. Neither is it meeting the public’s need for a dependable national police and security service. Furthermore, it does not meet the requirements of the “Eurocop” decision.
European Confederation of Police (EuroCOP) –v- Ireland Complaint No. 83/2012
- I am therefore recommending a new system that addresses all the shortcomings in the present system and which, in my view, represents fair balance of the rights and obligations of all the interested parties

RECOMMENDATIONS ON NEGOTIATION STRUCTURES

A Fundamental Confusion

- In my view, the source of many of the difficulties that have arisen in the industrial relations in AGS derive from a lack of clarity between three different processes:
 - Informing
 - Consulting
 - Negotiating
- This confusion is not unique to AGS and in my experience is common in many traditional unionised employments in Ireland. It leads to a mismatch in expectations, for example when one party to a discussion understands that the matter is for consultation only and the other believes it to be a matter for negotiation and agreement

Clarification of Processes

- It is of the utmost importance that the Associations and AGS management clarify that:
- **Information exchange** is not consultation or negotiation
- **Consultation** is a process in which management informs employees of impending changes and seeks employees' views, but management then decides the matter
- **Negotiation** occurs when one side proposes a change and both sides through discussion reach agreement

Separate Channels

- It will be important for the future that both AGS management and the Associations are clear as to which processes they are engaging in at any one time. For example, it should be clear that management policies such as the Commissioners' recent "Modernisation and Renewal Programme 2016-2021" should be a matter for consultation not negotiation
- That is not to say that there may be matters arising from it that require negotiation, but those negotiations would need to be in a separate forum and clearly delineated in advance

The Industrial Relations System in Ireland

- Historically in Ireland our system of industrial relations is based on an approach that is designed to encourage collective bargaining as the best way of setting pay and conditions of employment. It is also based on the assumption that free and independent trade unions funded by their membership should, in return for minimum standards of governance, have immunity from legal responsibility for the financial damage they cause to their employer in the conduct of strikes in pursuance of improvements in pay and conditions of employment.
- This model was designed principally for the private sector and allows capital and labour to engage in activities that damage the economic interests of the other in the hope of gaining a longer-term advantage. In other words, workers are free to peacefully withdraw their labour through concerted action and forego their opportunity to work and earn wages in the expectation that their employer will settle the dispute rather incur the loss of production and profit that a strike necessarily involves.
- Workers accept however that it is not in their interest to inflict so much damage as to put their employer out of business permanently. Neither the trade union or its members can be held legally liable for the damage caused to the employer's business but neither is the employer liable for the income lost by the employee while on strike. This is the balance that is accepted as fair in most democratic societies and it is enshrined in good labour standards worldwide.

Normalising Industrial Relations

- My approach in this report is to bring the structures and mechanisms in AGS into line with modern norms and best practice in so far as they are appropriate, but no further
- In particular, I must recognise that the unique nature of police work requires special features that must be accommodated in the AGS industrial relations system
- I do not believe the the criminal law has a role to play in industrial relations other than in the preservation of public order
- The use of the disciplinary code is similarly inappropriate in AGS industrial relations issues as peer pressure may expose individual members of AGS to impossible pressure to participate in forms of industrial actions or strikes in which they might otherwise not wish to engage

Normalizing Trade Union Status

- I recommend that members of AGS should have the right to join independent trade unions and that those unions should have the right to bargain collectively with their employer
- The current Garda Representative Association and the Association of Garda Sergeants and Inspectors are, in my view, not properly constituted or governed, as their actions over recent months have clearly demonstrated. Part of the reason for this is that they are not trade unions under Irish law and are not therefore bound by any of the minimal governance measures required of trade unions that operate in Ireland
- For example, their balloting practices and procedures for calling strikes are unclear, and appear chaotic to outside observers. I recommend therefore that the GRA and AGSI should immediately plan to become registered trade unions, with constitutions and rulebooks based on best practice in Irish trade unionism. I recommend that they seek the advice of ICTU in achieving this end

Normalizing Trade Union Status(2)

- These new unions should be funded entirely from members' subscriptions only, and all subsidies from public funds in cash or in kind should cease immediately other than the normal established practice for reasonable time off for union duties as apply throughout the civil and public service
- The Labour Affairs Division of the Department of Jobs, Enterprise and Innovation provided me on 2 December 2016 with a document that usefully outlined the practical legislative considerations to allow access to the WRC and Labour Court and for the GRA and AGSI to become trade unions. I understand that the Government has given a commitment that these changes will be put in place by end 2017

Normalizing Management Representation in Negotiation

- I also consider it unsatisfactory that in direct negotiations, the management of AGS seem to take a back seat while the Department of Justice makes the running. The Garda Commissioner is the Accounting Officer and it would therefore be more appropriate that the negotiation of pay and conditions of employment should be entrusted to the management of AGS acting, of course, with the approval of the Departments of Justice and Public Expenditure -- as applies to many other areas of the public service.

Normalizing Industrial Relations in AGS

- I have considered carefully how much of the normal model of industrial relations could or should apply to our national police service and my recommendations are based on the conclusion that members of AGS should enjoy, as far as is appropriate, the same rights as all other workers.
- The Labour Affairs Division of the Department of Jobs, Enterprise and Innovation has prepared the list of employment rights legislation that is included at Appendix 2. I recommend that members of AGS should have access to this protective legislation including the Unfair Dismissals Act 1977, and the Organisation of Working Time Act 1997.

Checks and Balances

- However it must be recognised that the checks and balances that apply in a private sector employment do not apply in the same way in the police force. When and if members of AGS withdraw their labour, they forego pay for the duration of that withdrawal but the employer does not lose the 'output'; it is the members of the public who suffer the loss. Indeed the employer saves the wages that would otherwise be paid. In the case of a monopoly national police force there is no question of the employer going out of business because of the damage caused by a strike. The normal checks and balance do not pertain. Some accommodation of these factors must therefore be built into the system to make it appropriate for our national police force.

Strikes and Industrial Action

- Strikes should not happen in the police force, especially as this is a monopoly service and the national security service is part of the police service
- The current industrial relations system is clearly not achieving the objective of avoiding strikes in the police service. It was until recently understood or assumed that as 'a disciplined force' the members of AGS could not legally go on strike and would obey the law in that regard
- Recent events have proven this wrong. For example, a ballot of members of the GRA indicated that 95.3% of its members expressed a willingness to take part in industrial action. It is clear that the vast majority of members of AGS is indeed prepared to take industrial action in pursuit of improved terms and conditions of employment. The members of AGSI in fact engaged in industrial action on two Fridays in recent weeks. In my judgment this is an unsatisfactory state of affairs in the conduct of industrial relation in AGS and must not be allowed to continue

A New Negotiation Process and Agreement

- I am therefore recommending that in future pay and conditions of employment should be determined through collective bargaining between independent trade unions representing the interests of members of AGS on the one hand and the management of AGS on the other. In Appendix 1 I have set out a procedure agreement that includes access to the Workplace Relations Commission and the Labour Court when direct negotiations are not successful. That procedure provides that all disputes can be resolved in a fair manner without recourse to industrial action of any kind by either side. I recommend that this agreement be registered with the Labour Court and that all parties agree to be bound by its provisions
- If all parties adhere to this agreement there will be no strikes or “withdrawal of labour”

Alternative Sanctions

- However, having regard to the culture of AGS, and given the recent actions of two of the representative bodies and the possibility that individual or ‘unofficial’ groups might take matter into their own hands, it is my considered view that the Minister responsible for AGS on behalf of all citizens must put in place an additional measure to ensure as far as possible that strikes do not take place. We know from history that jailing trade union officials or leaders of any kind is not politically acceptable to the majority of citizens and politicians and that sanctions will simply not be applied if there is any discretion in the application of those sanctions to members of AGS. This, I suggest, is a political reality and to pretend otherwise is naïve and foolish.
- I am therefore suggesting that an automatic sanction should be applied to any member of AGS who engages in industrial action. This would of course include ‘blue flu’ and any other measure designed to put pressure on management of AGS or the Government. The question as to the appropriate sanction is a difficult one. It is unlikely members of AGS would enforce any discretionary penalties against their own colleagues, and it would be folly to enact or amend yet another law that will not be implemented.

Loss of Pension Accrual

- One of the unique features of the ‘contract’ under which Gardaí are employed is a very valuable pension scheme; it is even more favourable than the Civil Service. It recognises the special and unique nature of police work and it is, in my view, therefore appropriate that any member of AGS who engages in industrial action should suffer an automatic reduction in his/her pension entitlement.
- I recommend therefore that the terms of the statutory Superannuation Scheme(s) be amended to provide that a member who engages in industrial action should be ineligible to accrue pension rights for a period of five years from the date on which the member engages in that action. As the provisions of the scheme are based on a statutory instrument, I do not believe this would require primary legislation.
- **I recommend that the Minister for Justice and Equality make this amendment immediately.**
- *Department of Justice and Equality raised legal concerns about this proposal, but did not accede to my request to verify that this amendment can be made through secondary legislation. The Department also raised the question of proportionality, but offered no alternative.*

Alternatives

- I recognise that the potential loss of pension accrual is an unprecedented measure and that I expect it will be resisted by the members of AGS
- However I consider that it is a reasonable measure in the context that Gardaí will have full negotiating rights and access to the Labour Court to resolve any differences they have with their employer
- During the course of my review I asked all participants to suggest any alternative effective means of ensuring that strikes or other forms of industrial action would not take place. I made it clear that I would drop this proposal if any effective alternative was put on the table but no suggestions that I considered effective were put forward
- I considered a proposal made on behalf of the Commissioner that the “ambiguity should be addressed through legislative change to copper fasten the prohibition on taking industrial action by Garda Members”. In my view the problem is not ambiguity but, as recent events have clearly shown, there is a disinclination to implement the law
- The unusual measure that I am proposing should, in my view, be part and parcel of the uniqueness of AGS only, and need not apply to any other employment

Superintendents and Chief Superintendents

- The role of Superintendents and Chief Superintendents is of critical importance to the management of the police service. Their remuneration has been reduced in line with all others of similar level. It is essential that it be restored on an equitable basis. I have shown in the tables previously what I estimate their salaries would be following the application of the Labour Court recommendation amounts to those salaries. I understand that no decision has been made on this yet but I recommend that the representative association be invited immediately to negotiate the consequential increases due to them arising from the increases to the other ranks
- These ranks have their own representative associations, they are small in membership and I do not see any need for them to change their status to that of trade unions. However I do recommend that they include in their rules and constitution a provision that they cannot engage in industrial action or strikes. These associations should also mirror the dispute resolution mechanism agreement that will be available to the other ranks and of course have access to the WRC and labour Court for the resolution of their disputes.
- Their future remuneration should be subject to review by the PSPC

PAY AND ALLOWANCE DETERMINATION IN THE FUTURE

Work Evaluation

- It should be agreed that the determination of the basic pay and main conditions of employment would be referred at regular intervals into a special expert evaluation system that would take account of the unique and special nature of police work. This would sit, say every three or five years, and do a root and branch evaluation in an open and transparent way.
- I had hoped that the framework for such evaluation would be agreed as part of my review, that is, the criteria and factors that should be taken into account would be spelled out as clearly as can be agreed in the current review. For example, the danger that members face must be acknowledged in determining pay and we would set out the parameters that should be explicitly referenced in considering this factor i.e. number and severity of injuries suffered by members in the course of duty. We would make similar pointers for the other factors that we feel ought to be taken into account. That framework would then form the basis for the regular analytical review of police pay to be undertaken by the pay determining body.
- However, it has not been possible to achieve that goal.

A Suggestion for a Way Forward

The work of members of An Garda Síochána is unique and there is no single comparable job.

This Review has attempted to set out explicitly all the factors that should be taken into consideration in determining Garda pay and to agree on the weight that should be attached to those factors. It has not been possible to achieve this goal, nor in the evolving circumstances is it necessary.

The GRA has referred me to its recent submission to the ad-hoc hearing of the Labour Court in which it set out role attributes that are indicative of the factors the underlie the uniqueness of Garda duties and responsibilities. I have examined those in detail and I entirely endorse them. It is also my opinion that the PSPC should have no difficulty in giving an undertaking to the Associations that all those factors will be given due weight in making any recommendation on the remuneration of AGS.

I therefore recommend that the Associations join with all other public sector representative bodies in referring their case for 'restoration' and subsequent evaluation to the PSPC.

Structures and Mechanisms for Resolving Disputes

- There is a need for an internal mechanism through which individual members or groups can raise issues of concern and have them dealt with expeditiously and fairly. This will require structures and resources to be established. For example, local representatives and HR/Local management should be appointed to deal with the issues raised.
- There should be a staged procedure for handling grievances.
- There should be an internal system for independently adjudicating on issues that cannot be resolved locally. This must be chaired by an agreed independent person who will give decisions/recommendations/judgments in a short space of time, say within one week of hearing the case.
- At the next level there should be access to the Workplace Relations Commission. It is envisaged that only a small proportion of cases would reach this stage. The outcomes from the WRC would generally not be binding and any unresolved issues would be referred to the Labour Court for a full hearing. The parties at the Labour Court and WRC would be An Garda Síochána and the relevant Association(s).

Structures and Mechanisms (contd.)

- It is recognised that given the nature of police service it is not appropriate that the Associations should have the same facility to strike as ordinary workers in non-essential services. It is suggested that in the light of these new procedures, the Associations agree to voluntarily undertake through a collective agreement not to engage in any form of industrial action or strike. This will be governed by an agreement registered in the Labour Court.
- This proposal also assumes that there will be an understanding that the ‘status quo post’ will apply to change. This means that where there is a change process such as ‘Modernisation’ then following an appropriate period of consultation the changes will be implemented, and worked cooperatively, while any dispute is processed through the system. This will require a significant change in behavior on both management and Associations and of course on the part of members of AGS.
- As a **minimum** any agreement would have to encompass the principles set out in the **Code of Practice on Dispute Procedures (including in Essential Services)** S.I. No. 1 of 1992

Dispute Resolution Agreement

In Appendix One I have drafted a Dispute Resolution Agreement that has the following features:

- It has stages and timelines through which disputes can be escalated
- It provides that most disputes will be resolved internally
- It provides for access to the Workplace Relations Commission and the Labour Court
- It provides that all disputes are resolved without recourse to any form of industrial action or strike in line with the 1992 Code of practice on disputes in essential services

I am recommending that with the assistance of the Advisory Service of the WRC the parties should finalise and sign this agreement with any agreed amendments by end of February 2017.

RECOMMENDATIONS ON PAY AND ALLOWANCES

Allowances

- I understand that the Labour Court has recommended that certain outstanding matters in relations to allowances should be referred back to it over the coming months.
- The Department of Justice and Equality had asked me to recommend certain changes in allowances as part of this review. I saw merit in their suggestions and I was prepared to make some recommendations. However I think it is important that for the sake of consistency, the task of reforming allowances should now be left to the Labour Court and I therefore recommend that the parties process all outstanding issues of allowances through either the ad-hoc provisions or through the new Dispute Resolution Agreement that I am recommending.

Remuneration

- My terms of reference require me to review “the remuneration and conditions of service” of AGS.
- In the early months of this review I was working towards making some substantive recommendations. The official side insisted throughout that the terms of reference precluded me from making any recommendation outside the resources currently available to AGS. This ambiguity or fudge in the terms of reference, as originally drafted as part of Haddington Road agreement terms, made my task unnecessarily difficult.
- In the event, the November hearing and subsequent recommendations from the Labour Court have rendered this aspect of my report redundant, and I am not therefore making any further recommendation for improvements in remuneration or conditions of employment in this report.

Public Sector Pay Commission

- Subsequent to my appointment the Government, on 19 July 2016, approved the establishment of a Public Sector Pay Commission.
- The Public Service Pay Commission will be advisory in nature and will provide an initial report in the second quarter of 2017. The Minister stressed that the Government will retain the ability to negotiate directly with its employees in respect of pay. The Commission will not duplicate the work of the State's existing industrial relations bodies: the Workplace Relations Commission and the Labour Court. Its role will be to provide evidence-based objective analysis on pay matters to assist Department of Public Expenditure and Reform officials in discharging their negotiation function on behalf of Government.
- The Commission has now been established and has begun its work.

The Work of the PSPC

- The Public Service Pay Commission is expected to deliver its initial report in Q2 2017. This report will provide inputs on how the unwinding of FEMPI legislation can be best managed in the context of the national finances. It will also have regard to any particular labour-market challenges the Commission identifies and to other conditions of service of public servants including tenure and pension. It is important that the four Garda Representative Associations are accommodated on an equal basis with all other public sector unions and associations and I recommend that they participate fully in this process.
- The Minister has stated that once this report is available, the Government intends to initiate negotiations on a successor Collective Agreement ahead of Budget 2018 considerations. These negotiations will deal with the full range of issues including productivity, reform and the issue of affordable increases in pay. Similarly I recommend the four Garda Associations should be accommodated on an equal basis with all other trade unions and representative Associations.

Is the PSPC the right body to advise on Garda Remuneration?

- I have discussed this question with all the participants at length during the course of my review.
- I have compared the terms of reference and methodology of the PSPC against the principles set out earlier in this report and in our discussions.
- An alternative would be to establish a separate and special body to determine pay in AGS as has recently been established for the UK Police force. This was sought by The GRA and initially I saw merit in this proposal.
- However as I have concluded that the PSPC substantially meets the requirements for a proper objective and analytical assessment of the remuneration of AGS (as set out earlier in this report) I have changed my view for the reasons outlined below.

The Reasons why PSPC is the right body to advise on Garda Remuneration

The PSPC will provide an objective analysis on the appropriate pay levels for officeholders' pay and pensions. Having regard to its terms of reference I assume that when reaching its findings on remuneration in AGS the Commission will have regard, amongst other factors, to:

- (a) The unique nature of the work of AGS
- (b) The superannuation and other benefits and security of tenure, where it applies to AGS
- (c) Pay comparisons taking account of all relevant characteristics including the unique aspects of police work
- (d) Evidence on recruitment and retention within AGS
- (e) Any other relevant matters including impact on national competitiveness and sustainable national finances and equity considerations

In progressing its work, the PSPC will utilise and analyse existing datasets and reports, as prepared and published by existing state and other agencies as appropriate. The PSPC may also undertake or commission additional research or data gathering where further information is required to comprehensively progress its terms of reference. It may also employ sectoral experts, including experts on police work.

The PSPC will invite relevant stakeholders to make submissions to the Commission to further assist its considerations and this will include representatives of Gardaí, Sergeants, Inspectors, Superintendents and Chief Superintendents.

- The PSPC must publish its findings and the evidence on which these are based
- The PSPC will not take the place of direct negotiations between Government and employee representatives
- In my view this has the potential to avoid the shortcomings of previous flawed 'benchmarking' reports

Recommendation on PSPC

- My recommendation therefore is that the four Associations should cooperate with the PSPC in an evaluation of remuneration in AGS as soon as the PSPC can reasonably accommodate such an investigation and that the outcome of that report should inform subsequent negotiations between the management of AGS and the Associations if necessary through the dispute resolution mechanisms that I am recommending elsewhere in this report.
- However, it is only fair to say that if the PSPC does not carry out its examination of the remuneration in the open and transparent way that is envisaged for it then the four Associations should review their commitment to continuing to cooperate in its deliberations.

SUMMARY & CONCLUSIONS

Recommendations not Interdependent

I am making a number of recommendation based on my analysis and review. They are not all interdependent and their implementation should not be delayed simply because all or some are not agreed by all. For example the GRA and AGSI need to decide independently if they will become Trade Unions, but their access to the WRC and Labour Court should not be conditional on that decision. This is important as otherwise I fear that refusal or delay in any one recommendation may delay the implementation of others.

Key Findings

- Remuneration of AGS is composed of three elements:
 - Basic Pay, which post-LRC recent recommendation will range from €30k-50k at Garda rank
 - Allowances & Overtime which will add a further 30 per cent
 - Pension entitlement -- a substantial and significant benefit
- Thus total compensation of average AGS member is in effect in region of €100k
- IR system is effectively broken: GRA/AGSI not appropriately constituted or governed
- AGS management not sufficiently engaged in IR

In Summary . . .

KEY RECOMMENDATIONS

- Industrial relations should be ‘normalised’
- GRA & AGSI should become trade unions
- Management of AGS should be given responsibility for IR
- AGS and representative associations should conclude dispute resolution agreement
- All should have access to protective employment law, including the right to avail of the processes of WRC and Labour Court
- All parties should agree: no strikes or other industrial action
- Any member of AGS who engages in strikes/industrial action should be ineligible for pension accrual for five years
- All parties should engage with PSPC in all its relevant work, including ‘restoration’ and other evaluations
- Recent Labour Court recommendations have pre-empted any substantive findings on pay or allowances

APPENDIX 1: DRAFT DISPUTE RESOLUTION AGREEMENT AND ACCESS TO WRC & LABOUR COURT

Draft Agreement for Dispute Resolution and Access to WRC and Labour Court

This agreement is between An Garda Síochána (AGS) on the one hand and the Garda Representative Association and/or The Association of Garda Sergeants and Inspectors and/or The Superintendents Association and/or The Chief Superintendents Association on the other hand.

The purpose of this agreement is to provide for the Associations and their members to resolve grievances related to their employment in AGS and to have access to the Workplace Relations Commission and the Labour Court for the resolution of grievances.

It is agreed that all grievances relating to remuneration and main conditions of employment may be processed through this agreement and to the WRC and Labour Court.

Grievance Process

It is recognized that it is good practice that all grievances should be resolved at the earliest possible stage of this procedure and that only unresolved issues should be escalated through its various stages.

Stage One

The member(s) should raise the grievance with his/her immediate supervisor e.g. Sergeant or Inspector and should specifically reference this procedure when doing so. If the matter is not resolved within seven days (or longer by agreement) then the matter should be escalated to Stage Two.

Stage Two

The member should contact the accredited representative of his/her Association who should immediately raise the matter in writing with the accredited local HR representative designated to deal with grievances. A meeting should be held within seven days of receipt of the written notification with a view to resolving the matter. If the matter remains unresolved 14 days after the initial meeting then (unless it is specifically otherwise agreed in writing) the matter should be referred to Stage Three.

Stage Three

The matter shall be heard by the Central Grievance Council established to hear all cases unresolved at Stage Two. The Council shall consist of a single Chairperson agreed by the AGS and the Associations. The Council will hear the case within two weeks of the case having been referred to it and shall issue a non binding recommendation on the matter within three working days of the hearing. Where the parties agree in advance to be bound by the decision of the Council then the decision of the Council will be binding on the party or parties that have agreed to be bound by the decision.

In the case of a non-binding decision or a decision that is not binding on one of the parties then the matter may be referred to the Workplace Relations Commission under any of the provisions of the WRC as may be agreed and appropriate. This stage shall be Stage Four.

Draft Agreement (Continued)

Stage Four

The provisions and the WRC shall apply to the processing of claims at the WRC. The documentation and processing of the claim at the internal stages shall be made known to the WRC, including any recommendation of the Central Grievance Council. If the matter is unresolved at the WRC it may be referred to the Labour court in accordance with the normal provisions for referral of cases to the Court. This shall be Stage Five.

Stage Five

A full hearing of the Labour Court will take place in accordance with the normal procedure of the Court. All parties will co-operate fully in ensuring that the case is heard at the earliest date offered by the Labour Court.

Where both parties agree in advance to accept the Recommendation of the Labour Court then the Court will be asked to make a binding recommendation.

Both parties recognize that the Labour Court is a Court of "Last Resort" and therefore at this stage every effort will be made by both parties to ensure that the issue is resolved on the terms recommended by the Labour Court.

Where one of the parties cannot accept the Recommendation of the Labour Court then the following provisions (adapted from the Code of Practice on Essential Services) will apply.

The Labour Court recommendation shall be implemented on the basis that an independent review would take place at five-yearly intervals to examine whether the members covered by the recommendation have been placed at any disadvantage as a result of the implementation of the recommendation and if so to advise, having regard to all aspects of the situation, including economic and financial considerations, on the changes necessary to redress the position.

Appointment of Association and HR Representatives

For the purpose of ensuring expeditious implementation of this agreement the Associations and AGS will appoint a sufficient number [to be agreed] of accredited representatives at local level so that grievances may be resolved at the earliest possible stages. These positions will not be full time but members will be released from other duties to process all grievances in the time limits set out above. All accredited representative will be given appropriate training in the handling of grievances, such training will include some joint training.

APPENDIX 2 : EMPLOYMENT RIGHTS LEGISLATION

Coverage of Garda Síochána in Employment Rights legislation (1)

Name of Act	Excluded or Included
Minimum Notice and Terms of Employment Act 1973	Section 3(1)(e) EXCLUDES members of the Garda Síochána
Protection of Employment Act 1977	Section 7(2)(b) EXCLUDES a person employed by or under the State
Unfair Dismissals Act 1977 (as amended)	A member of the Garda Síochána is EXCLUDED from the protection of the Act under section 2(1)(e)
Payment of Wages Act 1991	Definition of "employee" INCLUDES a member of the Garda Síochána or the Defence Forces ;
Terms of Employment (Information) Act 1994	Definition of "employee" INCLUDES a member of the Garda Síochána or the Defence Forces)
Protection of Young Persons (Employment) Act 1996	Definition of "employee" INCLUDES a member of the Garda Síochána or the Defence Forces
Organisation of Working Time Act 1997	Garda Síochána EXCLUDED under section 3(1) of the Act

Coverage of Garda Síochána in Employment Rights legislation (2)

Protection of Employees (Part-Time Work) Act 2001	<p>Garda Síochána not specifically referred to in definition of “employee” but definition covers</p> <p>“...a person holding office under, or in the service of, the State (including a civil servant within the meaning of the Civil Service Regulation Act, 1956) shall be deemed to be an employee employed by the State or Government, as the case may be...”</p>
Protection of Employees (Fixed-Term Work) Act 2003	<p>Garda Síochána not specifically referred to in definition of “employee” but definition covers</p> <p>“.....a person holding office under, or in the service of, the State (including a civil servant within the meaning of the Civil Service Regulation Act, 1956) shall be deemed to be an employee employed by the State or Government, as the case may be....”</p> <p>Section 17 (b) of the Fixed-Term Act specifically excludes <u>trainee</u> members of the Garda Síochána – which would appear to imply that members of the Garda Síochána who have completed their training are INCLUDED. (However, section 17 (a) of the Fixed-Term Act EXCLUDES the Defence Forces).</p>

Coverage of Garda Síochána in Employment Rights legislation (3)

Protection of Employees (Temporary Agency Work) Act 2012

Garda Síochána not specifically referred to in definition of “employee” but definition covers

“ a person holding office under, or in the service of, the State (including a civil servant within the meaning of the Civil Service Regulation Act 1956) shall be deemed to be an employee employed under a contract of employment by the State or Government, as the case may be, and....”

APPENDIX 3 SELECTED REFERENCES

Selected References

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- W.J.L. Ryan et al. *Report of Garda Síochána Committee of Inquiry* Stationery Office Dublin Prl 8016 April 1979
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- Robert K. Olson Garda Inspectorate Report *Changing Policing in Ireland* November 2015
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- Houses of the Oireachtas Committee of Public Accounts in its Report on Public Sector Allowances dated November 2012 Reference 31/CPAS/005