

## **Response to Garda Inspectorate Report** ***Responding to Child Sexual Abuse***

Since the inspection, which was carried out in 2010, a number of actions in this area are being undertaken by the Minister, the Minister for Children and Youth Affairs and the Gardaí:

- Work is under way on the Criminal Justice (Withholding Information on Crimes against Children and Vulnerable Adults) Bill. The Bill will create an offence of failing to disclose, without reasonable excuse, information to the Gardaí where a serious criminal offence against a child or intellectually disabled person has been committed and the person knows or believes that the information they hold may be of material assistance in the arrest, prosecution or conviction of the offender. The Joint Oireachtas Committee on Justice, Defence and Equality has heard submission on the Bill, and its report on the Bill was received on 18 January, 2012. A preliminary draft of the Bill has been received, and there are ongoing consultations between the Minister's Department, the drafters and the Attorney General's office. It is anticipated that the Bill will be published during this Oireachtas session.
- Work is under way on the National Vetting Bureau Bill, which will provide a statutory basis for the existing Garda vetting procedures and provide for the use of "soft information" in vetting. A preliminary draft of the Bill has been received and there are ongoing consultations between the Minister's Department, the drafters and the Attorney General's office. It is anticipated that the Bill will be published in the first half of 2012.
- Last July, the Minister for Children and Youth Affairs launched the revised Children First Guidance for the protection and welfare of children, and in September she launched the HSE's accompanying Child Welfare and Protection Practice Handbook for use by social workers and other relevant practitioners.
- The Minister for Children and Youth Affairs has received Government approval to put the Children First Guidance on a statutory basis, and her Department is working with the Attorney General's office on this.
- In April 2010, An Garda Síochána published a comprehensive policy on the investigation of sexual crime, crimes against children and child welfare, the aim of which is to combine professionalism with sensitivity and compassion in the investigation of sexual crimes. The policy results from a review of Garda work practices and methodologies for the investigation of sexual abuse cases. It set out the standards, procedures and practices to be followed; provides instructions on the assessment and management of the risk posed to the community by convicted sex offenders; and includes policy changes to the role of specialist victim interviewers. In addition, a Sexual Crime Management Unit has been established, which assists Gardaí in the investigation of such crime, promotes best investigative practice and monitors a sample of investigations to ensure they are receiving appropriate attention.

The policy is currently being reviewed in the light of developments since its publication, including the publication of the revised Children First Guidance.

### Response to Report's Recommendations

- 1. The Inspectorate recommends that the Garda Síochána take every opportunity to stress that there is no place for deferential treatment in modern Irish policing. (Chapter 2)**

In his statement following the report on the Dublin Archdiocese by the Murphy Commission of Investigation, the then Garda Commissioner set out Garda policy, saying: “[A number of inappropriate contacts and relationships between Gardaí and the archdiocese] occurred at a time when a misguided or undue deference was often shown to religious institutions and figures by many in our society. Such deference can have no place in a criminal investigation. ... Protecting vulnerable children must always be a priority for us in An Garda Síochána and we will continue to work together with the HSE and other agencies to ensure children’s safety.” An Garda Síochána reiterates its commitment to this approach.

- 2. The Inspectorate recommends that the Garda Síochána assign responsibility for all aspects of development of child protection arrangements to a member of assistant commissioner rank. The assistant commissioner should provide visible leadership and direction in the development of new organisational policies and structures, and in monitoring and evaluating the Garda contribution to the operation of national child protection guidelines. (Chapter 3)**

The Domestic Violence and Sexual Assault Investigation Unit (DVSAIU) at the National Bureau of Criminal Investigation is the national Garda unit providing a nucleus of expertise to other Garda units in the investigation of crimes of a sexual nature, including child abuse and exploration. The Children First National Guidance for the Protection and Welfare of Children has been adopted as Garda policy for the welfare and protection of children. The Guidance sets out the roles and responsibilities of the Gardaí and the HSE, which are the two agencies with statutory responsibility for child protection, and the DVSAIU monitors and evaluates the Garda contribution. The Assistant Commissioner in charge of National Support Services has responsibility for the DVSAIU and provides leadership in this area.

- 3. The Inspectorate recommends that the Garda Síochána include the promotion of inter-agency working with the HSE and the development of child protection policies, practices and procedures as a priority in the organisation’s business plans. The Garda Síochána should track and publish progress made in implementing change. (Chapter 3)**

One of the initiatives in the Garda Síochána Strategy Statement 2010 – 2012 is to “support and protect the most vulnerable members of our communities including children ...”. The Garda Policing Plan for 2012 puts a particular emphasis on tackling sexual crimes and crimes against children and proactive

co-operation with all relevant Departments, organisations and agencies to improve the safety of children. An important initiative in 2010 was the publication of the Garda policy on the investigation of sexual crime, crimes against children and child welfare and the establishment of national structures. This policy and the structures established under it, and dedicated training programmes, are designed to support Gardaí who are dealing with these challenging and difficult crimes and vulnerable victims. The policy is currently under review in the context of the publication of revised Children First Guidance by the Minister for Children and Youth Affairs last July.

Implementation of the Children First Guidance is being overseen by an inter-departmental group including representatives of relevant Government Departments, the HSE and An Garda Síochána. The HSE and the Garda Síochána have developed a close working relationship in the area of child protection. Recommendations 3 – 6 and 17 below can be best addressed through these structures.

The ongoing reform of Children and Family Services in the HSE under the National Director of Children and Family Services and the establishment of a Child and Family Support Agency will also serve to facilitate improved inter-agency working at all levels. Good progress has been made on the establishment of the Agency. A Task Force has been established to advise in regard to the necessary transition programme based on best practice in child welfare, family support and public administration; consistent with the Government's public sector reform agenda. The Task Force has also been asked to advise on the appropriate service responsibilities for the Agency and to review the existing budgets, staffing and other corporate supports in respect of the services transferring. In the interim, a dedicated budget sub-head within the HSE Vote for children and families has been established. This is an important part of the ongoing 'change agenda', which is aimed at strengthening organisation capacity, business processes and systems, and will pave the way for the transition to the new Child and Family Support Agency in 2013.

**4. The Inspectorate recommends that the Garda Síochána, in co-operation with the assistant national director with responsibility for child protection in the HSE, prioritise and provide supports for inter-agency working between Gardaí, social workers and staff in child assessment units. (Chapter 3)**

The protection of children set out in the Policing Plan 2012 is being achieved by ongoing consultation with all relevant agencies to enhance services provided to victims of sexual abuse, interagency cooperation with the HSE in relation to the investigation of crimes against children and fully implementing Garda policy on the investigation of sexual crimes.

The Garda Commissioner has approved the establishment of a Strategic Committee within An Garda Síochána, chaired by the Assistant Commissioner in charge of National Support Services, to liaise with the HSE's National Director of Children and Family Services. All matters concerning strategy and

policy will be channelled through the committee. In addition, a nominee of the Commissioner is a member of the Ferns 4 and 5 National Steering Committees established by the HSE. (The terms of reference for the Ferns 4 committee are to examine the assessment, therapy and counselling needs of children who have been sexually abused and their families and to make recommendations concerning service requirements. The terms of reference for the Ferns 5 committee are to examine the assessment, therapy and counselling needs of children, adolescents and adults who have exhibited sexually harmful behaviour and to make recommendations concerning service requirements.)

As part of the introduction of the revised Children First Guidance, the Gardaí participated with the HSE in a series of regional events for responsible HSE staff.

See also recommendation 3 above.

**5. The Inspectorate recommends that the Garda Síochána work with the HSE in addressing the barriers to joint working identified in reviews of the Children First guidelines and ensure, as far as possible, the use of shared systems and agreed records. (Chapter 3)**

An Garda Síochána acknowledges that there are ongoing challenges for both it and the HSE in ensuring the effective working of the Children First Guidance. An Garda Síochána is committed to working with the HSE to identify any barriers to joint working and to ensuring the effective implementation of the Guidance. There have been discussions at Garda Commissioner and HSE Chief Executive level. It has been agreed that meetings at this level will in future be held at least once each year to discuss issues. Senior Garda officers with responsibility in this area and their counterparts in the HSE maintain ongoing liaison.

A joint training programme has been developed between An Garda Síochána and the HSE for joint training on the Children First Guidance, and the roll out of this programme has commenced.

The HSE is currently progressing the procurement of a National Child Care Information System which, along with the rollout of standardised business processes nationwide, is a key enabler for improved information and case management across the children and family services. The project is currently at 'Request For Tender' stage. Once implemented, this system will assist in the implementation of this recommendation.

See also recommendations 3 and 4 above.

**6. The Inspectorate recommends the establishment, on a pilot basis, of at least two child advocacy centres in Dublin involving participation by the Garda Síochána, the HSE, and St Louise's and St Clare's assessment and therapy units. The centres should work closely with the Director of Public Prosecutions. The pilots should be monitored on an ongoing basis and evaluated within a defined time period. (Chapter 3)**

Priority has been given to the establishment of a countrywide network of interview suites (in Cork, Dublin North, Dublin South, Letterkenny, Limerick, Sligo and Waterford) for use when interviewing children under 14 years of age against whom a sexual and/or violent offence is alleged to have been committed. The suites may be used for the interviewing of victims of other serious crime when deemed appropriate. The interviewing of child victims of crime will at all times take precedence over other interviews. The interview process is a joint Garda/HSE one. Gardaí and social workers have undergone joint training, organised by the Garda authorities, in the specialised interviewing skills necessary for interviewing such victims. The DPP's Office was involved in the planning for their establishment and for the training courses. The report notes: "It is important to be aware that there is no single child advocacy centre model ... models are still evolving" (page 31) and does not define "advocacy". The interview suites already established have some of the characteristics of the centres recommended.

This recommendation will be kept under review in the light of experience in the operation of the interview suites.

See also recommendation 3 above.

- 7. The Inspectorate recommends that Gardaí assigned to the proposed child advocacy centres should be detectives. They should be trained specialist victim interviewers and have specialist training for child sexual abuse investigations, including training for inter-agency working. They should be engaged full-time on child protection cases. (Chapter 3)**

A number of selected Garda personnel have undergone intensive training and are deemed competent to deal with all victims of serious crime, including under 14 year olds and persons with intellectual disabilities. The number trained is dictated by the volume of serious crimes in a Garda District/Division/Region. These specialist interviewers are available for this task when required, and the interviewing of under 14 year olds takes priority over any other duty. A Garda who is not a trained specialist victim interviewer will interview an under 14 year old who is the victim of a sexual offence or an offence involving violence or threats of violence only in exceptional urgent circumstances.

- 8. The Inspectorate recommends that counselling support be provided for (i) all Gardaí working full-time in the area of sexual offences and (ii) Gardaí who investigate particularly difficult cases involving grievous sexual offences. (Chapter 3)**

Counselling support or clinical supervision is recognised good practice in the voluntary sector to ensure that professional people are enabled to continue to act effectively and professionally in the context of ongoing contact with distressing/disturbing material.

As the report (page 33) notes, some such support is already in place, and this matter is being taken forward by Garda human resource management.

- 9. The Inspectorate recommends that the Garda Síochána publish information for complainants on how, where and when they can make a complaint about child sexual abuse. This should reassure victims that it is right to report child sexual abuse, confirm that child protection is a top priority for the Garda Síochána and outline how complainants will be treated in their dealings with the Garda Síochána. It is a daunting prospect for a victim of child sexual abuse to approach the counter in a public office at a Garda station to report an offence of this kind. The Garda Síochána should devise victim-friendly options to encourage reporting of child sexual abuse. Most importantly, the information should emphasise that complainants will be believed and that their complaints will be acted upon. (Chapter 4)**

Information for victims is posted up in Garda stations and on the Garda website (where the relevant section has been recently updated). Garda policy is victim focused.

There is close and ongoing involvement with NGO victim support groups. In addition to this work and involvement in programmes targeted specifically at victims of child sexual abuse, Gardaí are engaging on a daily basis with young people in schools, youth groups, etc. in order to build and maintain relationships and trust so that young people have options and someone in whom they can confide if and when an offence occurs.

It would be totally contrary to Garda policy to adopt an attitude of disbelief when victims come forward with a report of sexual abuse or that individual Gardaí are reluctant to record alleged perpetrators of child sexual abuse as suspects on PULSE. The Garda policy requires that, on receipt of a complaint, a member must immediately create an incident on the PULSE system. The investigation of such complaints is subjected to rigorous review and scrutiny by supervisory ranks.

- 10. The Inspectorate recommends that the Garda Síochána specially train a cadre of front-line Gardaí in each Garda district to take reports alleging child sexual abuse. (Chapter 4)**
- 11. The Inspectorate recommends that only specially trained Gardaí take statements from child and adult victims of child sexual abuse. (Chapter 4)**

All Gardaí are trained to take such complaints, as it is considered important that all Gardaí are in a position to do so, rather than assigning it to a number of specialists. Senior Investigation Officers, who take charge of serious crime investigations (although SIOs are not assigned to all sexual crime investigations), receive special training in relation to the investigation of sexual crime and crimes against children.

It is Garda policy that investigations of suspected child sexual abuse are conducted under the supervision of the District Officer by a member/members experienced in the investigation of such crimes. The interviewing of children

under 14 years of age and vulnerable adults who are victims of sexual offences (or offences involving violence or the threat of violence) is carried out by trained specialist victim interviewers. It is the responsibility of the Divisional Officer (Chief Superintendent) to ensure that these interviewers are available for this task when required. When they are not involved in such interviewing, they are, where possible, utilised to interview all other victims of serious sexual offences or witnesses to serious sexual offences and victims of all other serious crime or witnesses to serious crime, as their training is of benefit. See also recommendations 6 and 7 above.

**12. The Inspectorate recommends that Garda help lines for reporting of allegations of child sexual abuse be staffed on a 24/7 basis and that use of automated answer lines be discontinued. (Chapter 4)**

The Gardaí open staffed help lines when a major event occurs related to the issue of child sexual abuse, for example, when a report on the issue is published, to assist victims who wish to make a complaint. These help lines remain in place, although an operational decision is made at a certain point that the help line will be used to record calls, which will then be followed up at the earliest opportunity. The decision to do this is made when the volume of calls falls to a low level and in the context of making the best use of available resources.

**13. The Inspectorate recommends that the Garda Síochána continue to develop and maintain close working relationships with non-statutory organisations that provide support and services for victims of child sexual abuse. Informal relationships with non-statutory organisations should be underpinned by formal protocols on matters such as sharing of information and referral processes. (Chapter 4)**

This recommendation already forms part of Garda practice. The Gardaí meet non-statutory organisations on a regular basis and are in constant contact with them. They welcome contact with all such organisations. It is Garda policy that there is a designated liaison person for NGOs in each Garda District.

The Department's Victims of Crime Office believes that there is informal good practice, particularly in relation to institutional and clerical abuse, taking place.

**14. The Inspectorate recommends that the Garda Síochána continue to deter the small minority of people who make false complaints of child sexual abuse by gathering sufficient evidence in such cases to prosecute them. (Chapter 4)**

This recommendation already forms part of Garda practice. The Gardaí are of the view that false allegations of sexual crimes are not common. Where Gardaí are concerned as to the veracity of any complaint, it is Garda policy that the complaint will be fully investigated, but any such concerns will form part of the investigation and will be outlined in the investigation file submitted to the Law Officers. Gardaí are instructed not to display any concerns regarding veracity to the victim unless evidence is available which shows the complaint is false. Where such evidence is available, Gardaí will consider forwarding a file to the

DPP regarding any disclosed breach of section 12 of the Criminal Law Act 1976, and such prosecutions have taken place. Section 5 of the Protections for Persons Reporting Child Abuse Act 1998 also applies in respect of false reports of child abuse.

- 15. The Inspectorate recommends that the Garda Síochána develop further specialisation in the area of child sexual abuse and, in particular, move away from the current practice whereby the garda who takes the initial report is the investigating garda. (Chapter 4)**

It is Garda policy that investigations of suspected child sexual abuse are conducted under the supervision of the District Officer (Superintendent) by a member/members experienced in the investigation of such crimes. It is not current Garda practice that the Garda taking the initial report is always the Garda who carries out the investigation (report page 43). In the context of this recommendation and recommendations 10 and 11 above, the Gardaí agree with the report (page 44) in advocating a generalist model of policing.

- 16. The Inspectorate recommends that every reported case of child abuse be the subject of a formal risk assessment. (Chapter 4)**

As provided for in section 3 of the Child Care Act 1991, the specific focus of the HSE is on the welfare of the child (and family). The carrying out of risk assessments is the responsibility of the HSE. It is the responsibility of each Garda to be alert to the possibility that children with whom they are in contact may be abused and concerns must be reported to the HSE. The Children First Guidance (section 5.2.1) provides that all child protection and welfare concerns reported to the HSE Children and Family Services must be acted upon immediately and formally recorded, and followed up as soon as possible. In addition, chapter 7 provides for the notification of cases between the HSE and the Gardaí.

- 17. The Inspectorate recommends that the Office of the Minister for Children be asked to consider revision of the child protection notification forms used by the Garda Síochána and the HSE to provide for recording of the date of the initial report of child abuse. (Chapter 4)**

See recommendation 3 above.

- 18. The Inspectorate recommends that the Office of the Minister for Children and Youth Affairs be asked to consider a revision to Children First such that the guidelines state explicitly that prosecution of a sexual offence against a child will be considered within the wider objective of child welfare/protection. (Chapter 4)**

Chapter 7, in particular section 7.7, of the Children First Guidance has a strong focus on information and inter-agency working between the Gardaí and the HSE. See also recommendation 22 below.



**19. The Inspectorate recommends that the Garda Síochána review the timeliness of child sexual abuse investigations with a view to having all but complex and difficult investigations completed within three months. (Chapter 4)**

The report notes work on examining timeframes in the investigation and prosecution of crimes against children. The Gardaí accord priority to the investigation of child sexual abuse and will continue to co-operate with other agencies to ensure investigations are completed as quickly as possible. It should be noted that the length of time required to complete an investigation can depend on factors outside the control of the Gardaí.

**20. The Inspectorate recommends that, from the outset, Garda investigative strategies take account of the likelihood that a victim of child sexual abuse may refuse to make a formal statement or, having made one, may withdraw it at a later date. Investigative strategies should aim to:**

- **Achieve corroborating evidence without delay.**
  - **Take the victim statement as soon as possible after the initial report is made so as to minimise the time available for the victim to be influenced to withdraw cooperation.**
  - **Adopt any and all safeguarding options open to the Gardaí and social workers if there is any continuing risk, high or low, to the well being of the victim or other person.**
  - **Review cold cases periodically taking account of any changed circumstances that may prompt new criminal justice options.**
- (Chapter 4)**

This recommendation already forms part of Garda practice. Garda policy requires that all District Officers (Superintendents) carry out, on a quarterly basis, a full audit of all reports of sexual crimes, crimes against children and child welfare concerns reported within his/her District. Ongoing investigations will continue to be audited on a quarterly basis until all matters within those investigations have been finalised. This ensures ongoing review of all cases, including those which might be termed cold cases. A detailed record of such audit will be maintained and will include a record of the status of all investigations and reasons as to why any investigations have not been finalised. This information will be forwarded to the Sexual Crime Management Unit which will monitor and evaluate the information provided to ensure that the policy is being implemented effectively and uniformly throughout the country and in line with best international practice.

It is the responsibility of each Garda to be alert to the possibility that children with whom they are in contact may be abused and concerns must be reported to the HSE. The Children First Guidance (section 5.2.1) provides that all child protection and welfare concerns reported to the HSE Children and Family Services must be acted upon immediately and formally recorded, and followed up as soon as possible. In addition, chapter 7 provides for the notification of cases between the HSE and the Gardaí.

- 21. The Inspectorate recommends that the Garda Síochána consider the option of seeking a search warrant in any case where difficulties are encountered, or are likely to be encountered, in obtaining, by voluntary means, church or other documentation that is believed to contain evidence for the purpose of a prosecution. (Chapter 4)**

This recommendation already forms part of Garda practice. There is no reluctance by Gardaí to use all means available and necessary to obtain evidence, including the use of search warrants.

- 22. The Inspectorate recommends two categories of positive outcomes of Garda investigations into child sexual abuse as follows:**

- **Number and proportion of cases in which prosecutions were directed by the Director of Public Prosecutions.**
- **Number and proportion of cases not prosecuted in the interest of the welfare of the child victim and where concerns for the welfare of other children were met. (Chapter 4)**

See also recommendation 18 above. The decision as to whether a prosecution should or should not be instituted is taken by the DPP where there is a possible offence of a sexual nature. The Gardaí have been undertaking for some time a review of all cases involving alleged sexual offences reported to them.

- 23. The Inspectorate recommends that when it is established that a complaint of child sexual abuse is false, the Garda Síochána should immediately inform the person against whom the complaint was made. (Chapter 4)**

This recommendation already forms part of Garda practice. An investigation file is forwarded to the DPP for a decision as to whether a prosecution should or should not be instituted in all cases where there is a possible offence of a sexual nature. When a decision is made by the DPP, the person being investigated is informed. In general, the Gardaí keep such persons informed of the progress of their case.

- 24. The Inspectorate recommends that the Garda Síochána put arrangements in place to ensure that a person who is the subject of an allegation of child sexual abuse is informed without delay of a decision by the Director of Public Prosecutions not to prosecute. (Chapter 2)**

See recommendation 23 above.

- 25. The Garda Síochána should, as required by policy, “immediately” create an offence record on PULSE of each complaint of child sexual abuse. Ideally, the policy should set a specific time limit. (Chapter 4)**

This recommendation, as stated, already forms part of Garda practice. The report (page 41) encourages the Gardaí to take whatever steps are necessary to

record child sexual complaints as offences “immediately” and recommends a specific time limit as this would let front-line Gardaí know exactly what is required of them. Specifying that an offence record should be created within a specific time limit, rather than immediately, might result in slower recording than is currently the case. As the Garda Policy specifies immediate creation of a PULSE record, front-line Gardaí know exactly what is required of them.

- 26. The Inspectorate recommends that the Garda Síochána Professional Standards Unit have a role in ensuring adherence to crime counting rules and other Garda directives on crime recording. The Unit should be in a position to provide quality assurance on PULSE records to the Central Statistics Office, the body with responsibility for publication of crime statistics. (Chapter 4)**

It is the responsibility of the District Officer (Superintendent) to ensure that the crime counting rules are adhered to. The CSO notes in the quarterly recorded crime statistics which it publishes that recent rises in the number of recorded sexual offences was mainly due to an on-going review of all cases involving alleged sexual offences reported to the Gardaí, which is being undertaken in conjunction with the Garda Policy. The Gardaí are considering the precise role the Professional Standards Unit might play.

- 27. The Inspectorate recommends that, in the interest of quality assurance, the services of the Garda Síochána Information Centre (GSIC) at Castlebar be used to enter records of sexual offences on PULSE. (Chapter 4)**

This is now in place.

- 28. The Inspectorate recommends that Garda efforts in tracing unaccompanied minors who go missing from State care be at least sustained, and if possible increased, in the interest of the young people concerned, and as a demonstration of the State’s commitment to countering any possible means of human trafficking. The Garda Síochána should collate information on the circumstances in which those who go missing are traced. (Chapter 5)**

This recommendation already forms part of Garda practice. There is a joint protocol between the Gardaí and the HSE, which sets out the roles and responsibilities of both agencies in relation to children missing from care. Its implementation is kept under review, and the development of a new protocol to provide an improved set of Garda/HSE procedures is well advanced.

- 29. The Inspectorate recommends further investments of staff and resources in the countering of child sexual abuse offences on the internet. Law enforcement efforts should be complemented by preventive measures, including education of children about safe surfing on the internet. (Chapter 5)**

The Garda Paedophile Investigation Unit proactively investigates intelligence concerning paedophiles and their use of technology, targets online suspects who

produce, distribute and possess child abuse images on the internet and enforces the relevant provisions of the Child Trafficking and Pornography Act 1998.

A wide range of activities is currently undertaken in Ireland to educate children, parents and educators about safer internet use. Many of these activities are undertaken under the aegis of the *Safer Internet Ireland* project, which is coordinated by the Office for Internet Safety in the Department of Justice and Equality. These include Safer Internet Day, an annual event celebrated across the EU, including in Ireland; a range of professional development opportunities for teachers; and Think Before You Click, a resource which explores online privacy issues. The Office for Internet Safety has published a range of advisory publications for parents.