



An Garda Síochána

Procedure Document

Garda Compensation Scheme

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1. Introduction

The Garda Síochána (Compensation) Act 2022 (hereafter referred to as the 'Act') establishes the Garda Compensation Scheme (hereafter referred to as the 'Scheme') to provide for compensation for personal injuries (including injuries causing death) that were inflicted on a current or former member of An Garda Síochána as a result of a malicious incident.

The following procedures set out more detailed information on the Scheme. Applicants to the Scheme must first complete an application form and provide supporting documentation to An Garda Síochána. Applications will be assessed by the Garda Compensation Section for eligibility to the Scheme. Successful applications which are approved for inclusion in the Scheme are submitted by An Garda Síochána on behalf of the applicant(s) to the Personal Injuries Assessment Board (PIAB). Once the application has been accepted by PIAB, An Garda Síochána will be represented by the State Claims Agency (SCA) and the applicant will be contacted by PIAB or the SCA or both.

In cases where the application is not deemed eligible for inclusion in the Scheme there is an appeals process that the applicant can undertake to have a Review Officer reconsider the issue.

This Scheme should be viewed as part of a holistic response by the organisation to support Gardaí who have suffered injury. Organisational services including welfare and support services should also be contacted to support members impacted by these incidents. This procedure document and all associated documentation should be followed by all applicants when submitting a compensation claim.

Two groups of individuals are eligible to apply for compensation under the Scheme Acts:

1. Members of An Garda Síochána who sustained personal injuries (not causing death) maliciously inflicted upon them in performance of their duties or acting in their general capacity as a member when off duty or merely because of their being a member of An Garda Síochána.
2. Dependents of deceased members who were fatally injured while on duty or while acting in their general capacity as a member or merely because of their being a member of An Garda Síochána (whether or not that member or former member has received compensation for the injuries suffered as a result of the malicious incident).

The Act does not include members of Garda staff or members of other Police Forces seconded to An Garda Síochána.¹ The Act repeals the Garda Síochána (Compensation) Act 1941 as amended.

2. Scope

This procedure and all associated documentation apply to members of An Garda Síochána and Garda staff. The Scheme applies to both serving and retired members of An Garda Síochána and in certain cases their dependents. The Scheme also includes current Trainee Gardaí.

3. Relevant Terms & Definitions

Relevant terms and definitions of words and phrases used throughout this procedure document are shown below.

Applicant or Claimant - A person who has made an application for compensation including someone acting on their behalf such as a legal representative. In the case of personal injuries this is the injured member while in the case of injuries causing death this application can be made by their dependent(s). In the latter case only one application should be made for all dependents.

¹ See S.18 Criminal Assets Bureau Act 1996 as amended for Criminal Asset Bureau Staff

Dependent(s) - A member or former member's spouse or civil partner, person cohabitating (meeting certain criteria), a child or step-child, a parent or grandparent, a brother, sister, half-brother or half-sister and who was wholly or partly dependent on the deceased.

Malicious incident - means an incident, whether occurring before or after the commencement of this Act, as a result of which personal injuries (which may include injuries causing death) were **maliciously inflicted** on— (a) a member, where such injuries were inflicted— (i) in the performance of his or her duties as a member while actually on duty, (ii) while exercising powers or otherwise acting in his or her general capacity as a member when off duty or on leave or otherwise not actually on duty, or (iii) while on duty or off duty or on leave or at any other time because of anything previously done by him or her as a member or merely because of his or her being a member, or (b) a person who had previously been, but at the time when such injuries were inflicted, or at the time of his or her death from such injuries, had ceased to be a member, where such injuries were inflicted on the person because of anything done by him or her as a member or merely because of his or her having been a member.

Former member - A person who was a member, but who, at the time the application for initial assessment is made, has ceased to be a member.

Member - A member of any rank of An Garda Síochána (including the Garda Commissioner) appointed under Part 2 of the An Garda Síochána Act 2005 or under an enactment repealed by that Act, a reserve member within the meaning of section 3(1) of that Act, or a person who has been admitted to training for the purposes of appointment as a member of An Garda Síochána, but does not include a member of the civilian staff of An Garda Síochána.

Personal Injury - The Personal Injuries Assessment Board Act 2003 refers to the Civil Liability Act 1961, under this Act the definition of "personal injury" includes any disease and any impairment of a person's physical or mental condition, and "injured" shall be construed accordingly.

False statement – As per Section 26(1)(a)&(b) Garda Síochána (Compensation) Act 2022 a person who makes any statement or representation (whether written or oral) which is, to their knowledge, false or misleading in any material respect or is reckless as to whether such statement or representation is false or misleading, or furnishes or causes or knowingly allows to be furnished, any document or information which they know to be false or misleading in a material respect or is reckless as to whether such document or information is so false or misleading.

Personal Injuries Assessment Board – An independent statutory body that deals with personal injury claims. It provides an independent assessment of personal injury claims for compensation.

State Claims Agency - Part of the National Treasury Management Agency legally delegated to resolve personal injury and third-party property damage claims against State Authorities. The State Claims Agency represent An Garda Síochána once the application is admitted to the Garda Compensation Scheme.

4. Roles & Responsibilities

For the purposes of administering the Act the functions of the Garda Commissioner have been delegated to Assistant Commissioner, Governance and Accountability.

Policy Owner - Assistant Commissioner, Governance and Accountability, as policy owner, will be responsible for ensuring the development, implementation, compliance, monitoring and review of this procedure and associated policy document.

Reporting Officer – A member of An Garda Síochána not below the rank of Superintendent or a member of Garda staff not below Assistant Principal grade. Once assigned the application a Reporting Officer is

responsible for issuing an initial determination within four months with the possibility of an extension of up to a further two months.

Review Officer - A practising barrister or solicitor of not less than five years standing assigned to a panel established by the Minister for Justice and includes any assigned replacement, if necessary. A Review Officer shall be independent in the performance of his or her functions when reviewing compensation applications which have been found ineligible by the Reporting Officer.

Divisional Officer/Chief Superintendent – The Divisional Officer/Chief Superintendent will appoint an Inspector or member of higher rank to investigate the incident. The Divisional Officer/Chief Superintendent will ensure that the investigating Inspector completes the Investigation Report and attaches supporting documents within two months.

Applicant – The applicant shall apply within six months of the incident or reasonable knowledge of the injury. The Act outlines certain limited criteria to deal with applications outside of six months (See '5.2.2.'). In the case of injuries resulting in death only one claim is allowed per incident so all dependents should be included on the application form. The applicant must ensure the application form is fully complete and all supporting documentation is legible. The applicant must certify that the information provided is accurate and complete and give consent to the processing of the data.

5. Procedures

5.1. Health & Safety

5.1.1. Report

In accordance with An Garda Síochána Health & Safety policy and legislative requirements, all Garda Personnel are required to report occupational accidents/injuries and dangerous occurrences to their supervisor. All injuries sustained by Garda members, Garda staff, student/probationers and Garda Reserve members are required to be reported immediately, as is practicable to the individual's first line supervisor.

5.1.2. Supervisor & Local Management

Supervisors will complete a Garda Síochána Occupational Accident/Injury Form and submit the form to their relevant Section/Divisional Headquarters for entry onto the Garda Employee Management System (GEMS) & National Incident Management System (NIMS). Wherever an injury is reported, whether or not it leads to absence, supervisors at all levels will ensure the appropriate records are completed and enquiries made to establish the facts as to how the injury occurred and where necessary, describe remedial action taken to avoid similar occurrences.

Irrespective of any application for compensation there is a responsibility on local management to investigate these incidents from a health and safety perspective.

5.2. Application to the Scheme

5.2.1. Application within Six Months

Applicants must complete the relevant form (*'Injury Causing Death or Personal Injury'*) and submit this with supporting documentation within six months of the incident or knowledge of the injury. Supporting documentation must include a completed Medical Report. This form and supporting documentation can be emailed or posted to:

CompensationSection@garda.ie
or
Garda Compensation Section,
An Garda Síochána Headquarters,
Phoenix Park,
Dublin 8,

D08 HN3X.

The applicants must ensure the application is fully completed and legible. Incomplete & illegible applications will be returned.

5.2.2. Application outside Six Months

Applicants must submit a request for an extension by post or email with supporting reasons for the delay to:

CompensationSection@garda.ie
or
Garda Compensation Section,
An Garda Síochána Headquarters,
Phoenix Park,
Dublin 8,
D08 HN3X.

If the extension is granted the applicant is informed, and the application form is submitted as above (See '5.2.1.'). If the extension is not granted the applicant may apply to the Review Officer (See '5.7.').

5.3. Review of Application

The receipt of the application is acknowledged. The application and supporting documents are checked and if fully complete and legible it is assigned to the Reporting Officer, Garda Compensation Section.

A preliminary examination of the application is conducted to confirm the applicant(s) (in the case of dependants) are eligible to apply (See sections 2 & 3). If the applicant(s) are eligible to apply they will receive a notification of same. If the applicant is deemed not to be eligible, the applicant will be informed of the Reporting Officer's decision and the option to appeal may be considered (See section '5.7.').

5.4. Additional Information

5.4.1. Applicant

The applicant may provide any additional information or documentation in support of their application within 60 days from the date of notification (See '5.3.'). The Reporting Officer may request further information or documents from the applicant and specify a time period in which this must be provided.

5.4.2. Divisional / Section Management

An Investigation Report Template with supporting documentation can be sought from the relevant Divisional Officer/Chief Superintendent or Senior Manager by the Reporting Officer to assist in carrying out their function under the Act. The Divisional Officer/Chief Superintendent or Senior Manager will ensure a member of Inspector rank or higher is assigned to prepare this report.

This Investigation Report Template and supporting documentation shall be submitted electronically within two months of the initial request to section email CompensationSection@garda.ie.

5.5. Medical Reports

Medical reports should support the application, documenting the injury, treatment and other relevant details.

A medical assessment form in use by PIAB is acceptable. The member will not be reviewed by the Chief Medical Officer as part of the process but may be assessed by a medical practitioner as part of the PIAB process. Costs in relation to obtaining medical reports will not be reimbursed by An Garda Síochána. Costs may form part of an approved award from the PIAB.

5.6. Timelines for Reporting Officer

The Reporting Officer must make a determination within four months, with the possibility of an extension of up to two months in specified circumstances, where they have provided notice to the applicant and the Garda Commissioner or delegated Assistant Commissioner. Where a determination is not made within this period, the Act provides two weeks for the Reporting Officer to approve the application.

5.6.1. Determination (Initial Assessment)

If the Reporting Officer makes a determination that the injury or death appears to have occurred as a result of a malicious incident, they provide a report to that effect. The Garda Compensation Section will notify the applicant and arrange to submit an application to PIAB on their behalf within 30 days. Hereafter, the State Claims Agency represent An Garda Síochána in the process. PIAB provides the applicant with a copy of all information submitted on their behalf. Links to information on these agencies provided in Related Documents below.

If the Reporting Officer makes a determination that the incident did not occur or was not a malicious incident. The applicant will be informed and may apply to the Review Officer (See '5.7.')

5.7. Appeal Process under the Act

An applicant may appeal to an Independent Review Officer at the following stages of the process.

- If their application for an extension to apply outside of six months to the Garda Compensation Scheme is refused.
- If the applicant or applicants listed are deemed not eligible for inclusion in the scheme.
- If the Reporting Officer determines the incident did not occur or was not a malicious incident.

Applicant(s) must submit a request for a for review outlining their reason for same within 30 days of notification of the above by email or post to,

CompensationSection@garda.ie
or
Garda Compensation Section,
An Garda Síochána Headquarters,
Phoenix Park,
Dublin 8,
D08 HN3X.

A Review Officer is then appointed from a panel of independent legal professionals. The Act provides for a Review Officer to request information they require to reach a finding. This finding can be to confirm or change the decision made by the Reporting Officer.

5.8. Further Information

Once an application is submitted to PIAB the original applicant(s) to the Garda Compensation Scheme are claimants with An Garda Síochána as respondents. An Garda Síochána is represented by the SCA in the process. PIAB work on preparing an assessment for the claimant and may send the member for independent medical examination. The claimant will be contacted by PIAB or the SCA or both.

PIAB issue a Notification of Assessment (i.e. the financial settlement to be awarded) which the applicant or respondent can accept or reject. If the notification is accepted by both parties involved (applicant and respondent) the amount is paid. If the notification is rejected an Authorisation is issued by PIAB to allow the claimant to bring the matter to court. The relevant court then decides on the issue of awards and legal costs.

6. Compliance

Compliance with this Procedure and accompanying policy is mandatory for all members of An Garda Síochána and Garda staff.

7. Related Documents

Policy, Procedures & Legislation

- Garda Decision Making Model.
- Code of Ethics for An Garda Síochána.
- An Garda Síochána Occupational Accident/Injuries Management Policy and Procedures.
- GDPR An Garda Síochána Data Protection Code of Practice.
- HQ Directive 19/19 Human Rights Framework.
- Garda Síochána (Compensation) Act 2022.
- Safety, Health and Welfare at Work (Reporting of Accidents and Dangerous Occurrences) Regulations 2016.
- Garda Síochána Act 2005.
- Data Protection Act 2018.
- Personal Injuries Assessment Board Act 2003.
- National Treasury Management Agency (Amendment) Act, 2000.
- HQ Directive 139/10 Management of Sickness Absence.

Forms

- Form 1A – Injury Causing Death.
- Form 2A – Personal Injury.
- Investigation Report Template.
- PIAB Medical Assessment Form.

Links

- Garda Portal Page.
 - Garda Compensation Section.
 - Garda National Health and Safety Policy Unit.
 - Employee Assistance Service.
- Garda Website.
- Personal Injuries Assessment Board.
- State Claims Agency.

8. Cancellations and Replacement of Existing Policy and associated document(s)

- Garda Code 11.43, 11.44 & 11.45.

9. Legal & Human Rights Screening

This document and associated policy has been legal and Human Rights screened in terms of the respective obligations placed on An Garda Síochána for the subject area concerned.

10. Ethical Standards & Commitments

Every person working in An Garda Síochána must observe and adhere to the standards and commitments set out in the Code of Ethics for An Garda Síochána and uphold and promote this Code throughout the organisation.

11. Policy & Procedure Review

This procedure and associated documents will be reviewed 12 months from its date of effect and every three years thereafter or as appropriate.



12. Disclaimer

This document is not intended to, nor does it represent legal advice to be relied upon in respect of the subject matter contained herein. This document should not be used as a substitute for professional legal advice.

13. Policy & Procedure Document Feedback

The Policy and Governance Coordination Unit maintains a Policy Issues Log. Where there are potential issues regarding the implementation of the procedures set out in this document, please forward an outline of same through the relevant Divisional Office to the Section mailbox policy.governance@garda.ie. Divisional submissions will be recorded in the Policy Issues Log and forwarded to the Policy Owner for whatever action deemed necessary.

14. General Data Protection Regulations / Directive 2016/680/EU - Police and Criminal Justice Authorities Directive

Personal data shall only be processed for the purposes specified in this policy, and within a clearly defined lawful basis under the (EU) General Data Protection Regulation (GDPR) ((EU) 2016/679) and the Data Protection Acts 1988/2018. All necessary measures will be put in place to ensure personal data is kept safe and secure. Only authorised personnel shall have access to personal data. Only relevant personal data will be processed, and will not be retained for longer than is necessary. This includes the storage of information.

An Garda Síochána will ensure in operating the Scheme that data is processed in compliance with data protection legislation and organisational policies. In respect of the personal data processing activities associated with this procedure, a Data Protection Impact Assessment (DPIA) has been completed in accordance with the requirements of the General Data Protection Regulation.

In operating, the Scheme data will be exchanged with applicants and external agencies such as PIAB and SCA. Applicants to the scheme will be required to sign a consent form for data processing.