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Observations on the Draft Code of Ethics for the Garda Síochána

This submission is drafted at short notice and for brevity is framed a series of discussion points and possibly rhetorical questions. We would welcome a meeting with the authority to tease out these matters in more detail.

To state our working assumptions, the Community Road Safety Action & Information Network (Cosain) and the Galway Cycling Campaign exist to further interests of those who walk or cycle. Our understanding of the legal framework governing public roads is that people on foot, those travelling by bicycle and those on horseback are generally exercising a common law right to make lawful use of public roads. The use of motor vehicles is not a right but is allowed only under a permit or licence issued by the state. All of us, apart from prisoners, must go outside of a car on public roads as part of our daily lives. On all public roads apart from motorways, those in motor vehicles are effectively guests and those outside cars are there as a right. Despite this, vulnerable road users in Ireland routinely experience road danger created by the behaviours of those in charge of motor vehicles. In extremis these behaviours result in injury through violence and death through violence. In protocols for dealing with harassment at workplaces the emphasis is placed on the impression created in the person receiving an unwanted behaviour. For public spaces such as roads this principle often seems to have been turned on its head.

From the introduction to draft code of ethics:

"It will also underpin the fundamental role of the Garda Síochána in protecting the vulnerable and promoting a safe and peaceful society."

Definitions from online Oxford English Dictionary:

Peaceful: 2 Not involving war or violence.

Violence: 1.1 Law The unlawful exercise of physical force or intimidation by the exhibition of such force.

If "peace" or "peacefulness" implies an absence of intimidation by exhibitions of unlawful force then, from the perspective of vulnerable road users, the current Garda Síochána have manifestly failed when it comes to the manner in which they police public roads infrastructure. Indeed the recent penalty points scandals suggest a Garda management that tolerates and approves of behaviours that put many in fear for their lives. This impression is reinforced by the stated Garda policy of locating speed detector vans at locations where there have been deaths.

It would appear that Garda management only have a problem with threatening behaviour if it results in death. Where such behaviours do not result in death, but merely place people in grave fear, such behaviours are apparently tolerable. A picture emerges of a Garda management culture that is dismissive of the right of the public to go about their lawful business in peace.

In our view it is not enough to rely on protocols to prevent abuses like the penalty points and speed camera scandals. The cultural attitudes that make such abuses possible must also be challenged. Does this draft code of ethics directly challenge the cultural attitudes within the Garda that made the penalty points scandal possible?

Child safety

In other countries it is accepted that adult society has a duty towards the vulnerable such as children. Within Western Europe, Ireland and the UK are outliers in this regard. A child of any age walking or cycling to school on an Irish public road is exercising a common law right available to all. That child is also fulfilling an obligation placed on them by the state. Despite this, state institutions, including the Garda Síochána, do not appear to recognise a general duty to protect children from threatening behaviours displayed by adult motorists in cars. Child road users, like others, are exposed to behaviours such as speeding, inappropriate speeds, close overtaking, footpath parking and parking in cycle lanes. Rather than protecting children, the state's response seems dominated by attempts to place a duty on children to adapt to the behaviour of the adults who are the source of the threat. The outcome of this approach was that at the end of the 1990s Ireland had the highest child pedestrian death rate in Western Europe. Other countries acted to improve the safety of the environment for children by modifying adult behaviour. In contrast, Irish society has solved the issue by restricting child mobility and placing children in cars for many routine journeys. Outcomes from this include runaway traffic congestion at school travel times, pollution and child obesity.

Does the code of ethics take a clear position that would protect a member of the force in taking steps to protect child road users at the expense of the perceived convenience of adult motorists? Furthermore does it create an explicit duty on Gardai to protect children from threatening adult behaviours? Does the code vindicate the right of children to go about their lawful daily business and place a specific duty on Gardai to uphold that right?

The wilful obstruction of vulnerable road users

There are many examples of Gardai apparently turning a blind eye to behaviours such as cars blocking footpaths, blocking pedestrian crossings and parking in cycle lanes. Indeed there is an impression that some Gardai approve of such behaviours. It seems the preferential obstruction of vulnerable road users is viewed as a means of improving "traffic flow" by keeping traffic lanes clear. It seems "traffic flow" is perceived as a greater good that has primacy over public safety. How could this happen? A properly managed and policed roads network is clearly an aid to commerce and economic activity just as it is an aid to other necessary activities such as travel to school. However it often appears that, in Ireland, this has been inverted. It can seem that the Garda see themselves as agents of economic activity and facilitators of commerce first and see providing a police service as a secondary function. In this it would appear that the Garda treat movements of motor vehicles as a proxy for economic activity and treat movements on foot or by bike as having no economic value. The state already has other agencies that exist to further the interests of commerce. Is furthering

commerce also a specific and primary function of the Garda? If the answer is yes the public are entitled to be told this and entitled to be told explicitly if public safety is being sacrificed for commercial reasons. If the Garda are a police service first, and if the movement of goods is simply one outcome of good policing, then this must be stated. In order to protect individual Gardai in providing a police service, it must be explicitly stated that they are not agents of economic activity and that commerce is a matter for other agencies. (In any case commerce will ultimately benefit if safer roads result in reduced car journeys for school travel etc.)

Is the problem actually with the courts?

To be fair to individual members of the Garda it may be the problem in some cases is with the courts. Gardai may fail to prosecute some offences such as cyclists not using lights at night, footpath parking or speeding because they have good reason to believe that the courts will be dismissive of their efforts and treat them with derision. The ongoing poorbox scandal also creates an impression of a courts system that is dismissive of public safety. The draft code of ethics is intended to support Gardai in speaking truth to power internally within the force. Is this enough?

If Gardai are being undermined by the judiciary does this code of ethics support them in speaking out against this? Does the code of ethics empower the Garda to seek support rather than obstruction from the courts?