

Please forward to Kevin Duffy:

Dear Mr. Duffy,

Two issues:

One, related to your new job: has the annual value of Gardai's option to retire at 50 been calculated? How much would a worker in the private sector (earning a Garda's salary) have to pay per annum for that option? This might be a useful figure to have no?

On a non-job matter, and as personal correspondence:

You have my great respect as one of the few people I heard describing the Garda Mutiny of 2016 as a mutiny.

It certainly WAS a mutiny. To threaten mutiny is to mutiny. If a crew on a navy ship said: "captain, increase our pay or we'll run the ship aground", and the captain increased the pay, would he say "pew, that was close, we almost had a mutiny on our hands there!". Of course not. The crew would be hanged for mutiny. Because it was mutiny.

I was a little disappointed that you had to back down and withdraw your remarks. Perhaps you were forced to, being among too many cowards and a fuzzy-headed media perhaps.

I am making a GSOC complaint regarding the **Garda Mutiny of 2016**.

In my complaint:

I will explain why it was mutiny.

I will explain that the law actually was violated; there was not just a threat of violating the law.

Anyway, in honor of your unusual bravery, I've decided to give you heads up on something potentially explosive: my complaint to GSOC seems to have been ILLEGALLY blocked, by possible Garda hackers. I've informed many deputies in Dail Eireann (Friday evening), and I'm copying you on my correspondence, as an honorary person-of-interest.

There is either a coincidence or cynical hacker joke in the possibly-hacked GSOC correspondence to me dismissing my complaint: the GSOC case worker who is dismissing my complaint (before I have started it!) is apparently named Kevin Duffy!

In a clean, low-corruption country, this Garda-hacking story would be explosive. In Ireland, I am not even sure it will make news. But if it does, you were in before the news story, in honor of your speaking out.

Regards,
David Reynolds

On Fri, Dec 9, 2016 at 9:19 PM, David Reynolds <

wrote:

whether in an email which is actually received by the intended recipient, or not, **please outline the statutory basis of your imposing a deadline on lodging a complaint.**

I cannot find such statutory basis in the law.

I look forward to your clarifying this matter.

Regards,
David Reynolds

----- Forwarded message -----

From: **David Reynolds** <
Date: Fri, Dec 9, 2016 at 2:00 PM
Subject: Re: From the Garda Síochána Ombudsman Commission
To: Kevin Duffy <

Dear Mr. Duffy,

please note that I did not receive your quoted letter of November 15.

I am inclined to believe that you are mistaken that you sent it. I have carefully searched my gmail folder for it.

So, to be sure that you are not mistaken, can you simply go into your Sent box and can you simply re-forward it?

Until this happens I shall conclude that you are mistaken.

Now, regardless of whether you sent it or not (and I believe you are mistaken that you did) you cannot close a complaint that has not been started. Further, you have no authority to impose a deadline on a complaint.

Please reply within one week indicating that you withdraw your *ultra vires* claim that GSOC will take no further action on this matter.

If you fail to do so, Judicial Review in the High Court is likely fairly soon, and costs will most likely be charged to GSOC. I will seek a cost protection order in advance.

Regards,
David Reynolds

On Fri, Dec 9, 2016 at 11:57 AM, Kevin Duffy

wrote:

Dear Mr. Reynolds, in response to your email of 07 December 2016 (below), you should note that your emails of 10 and 11 November 2016 were responded to by email on 15 November 2016 at 10.50. You should note that in that email you were given a deadline of 07 December 2016 to outline your complaint. As you failed to outline a complaint by that date, the file on your correspondence has been closed and GSOC will take no further action in this matter. Please see a copy of my reply of 15 November 2016 below for reference.

Yours sincerely,

Kevin Duffy.

Reply of 15 November 2016;

“Dear Mr. Reynolds, I am directed by the Garda Síochána Ombudsman Commission to acknowledge receipt of your emails of 10 and 11 November 2016.

In relation to your observation that the content of the Garda Ombudsman’s website differed from the applicable legislation, stating that complaints can be made to this office by a “direct witness”, your observation is correct and the content of the website was incorrect. You should note that the Garda Ombudsman has now corrected the relevant information and would like to thank you for bringing it to our attention. The corrected content can be seen here <http://www.gardaombudsman.ie/complaints/complainhow.html>

In relation to the matters raised in your emails about which you may wish to complain, you should note that GSOC is statutorily confined to receiving and investigating complaints made against members of the Garda Síochána. In order for GSOC to consider your case for admissibility the following information is required:

- A full description of the exact Garda misbehaviour you are alleging;
- The identity of the Garda member(s) you wish to complain about (if known);
- Date(s) and time(s) of the alleged misbehavior; and
- If any of the matters complained of occurred more than twelve months ago, please provide a reason for the delay in submitting your complaint;

You are requested to give as much detail as possible when answering these questions. Your response in these matters should be received in this office no later than **07 December 2016**. If you do not reply

by that date it is likely that GSOC will take no further action in relation to the matter and will close your case.

Yours sincerely,

Kevin Duffy

Case Manager

Garda Síochána Ombudsman Commission”

From: David Reynolds
Sent: 07 December 2016 13:32
To: Complaints <complaints@gsoc.ie>
Subject: Re: clarification sought -- 'witness' required by the Act, 'direct witness' by your website

Are the questions of mine below from almost a month ago still in process?

I would appreciate an acknowledgement, and, if there are expected further delays in answering them, some indication of them.

Thanks,

David Reynolds

On Fri, Nov 11, 2016 at 8:01 PM, David Reynolds ·

wrote:

A final point on the issue of 'witness' versus 'direct witness'.

I said that I believe that the best definition of witness in the context is someone who can competently testify.

Note that the definitions of witness in the Merriam-Webster dictionary distinguishes the word as it is seen in common usage and in law. In law, its definition is:

law : a person who makes a statement in a court about what he or she knows or has seen

This is in line with my usage of the word 'witness' for the context.

Note that the use of the word in law is different to its usage in common language.

Note that the Act does not say 'Eyewitness'.

Your usage of the term 'direct witness' may suggest that you preclude hearsay. However, keep in mind that hearsay is only precluded in courts of law because only of its unreliability; and indeed the preclusion is not general, and it is often allowed in civil cases. In fact, its acceptance in civil cases is the norm in the UK -- I just don't know about Ireland itself.

I believe that you should only deem a witness through hearsay as inadmissible if you believe that that witness has lost competence due to the hearsay/indirectness, and as a result you are insufficiently confident of the witness's being able to get the facts right.

But when I hear Enda Kenny say things in the Dail about what the Gardai are doing, and I also see the newspapers reporting on it, even though, in a strict sense, I am only a hearsay witness, this by no means means that I am not a competent witness.

In fact, no-one seriously disputes my competence.

Now, if my report was of the form "Mickey Joe Rooney told me that Paddy O'Brien told him that Garda O'Shaughnessy hit him a box on the ear", I think you should reject it for lack of evidence unless I can provide better information. The problem here is not just the indirectness in itself, but my competence as a witness. You want Paddy O'Brien in this case, because you deem him competent to testify. You don't want me because I have become too unreliable due to the chain of indirectness.

For these reasons, I believe that under the Act, I am a competent witness to testify that the Gardai have induced each other to consider striking. I believe this makes my complaint satisfy the Section 83 admissibility criterion.

On Fri, Nov 11, 2016 at 4:23 PM, David Reynolds wrote:

Let me motivate you a little further on the question.

If I saw gardai discussing a smuggling ring that THEY were operating, would I be a witness to the degree required to make an admissible complaint?

If I saw that but live through CCTV, would I be an admissible witness?

If I saw that on CCTV but not live, rather on recorded CCTV tape, would I be an admissible witness?

If I saw that on TV, would I be an admissible witness?

Am I a "direct" witness in all of these cases?

The question is important because I witnessed Gardai inducing each other to consider striking, in contravention of law and oath. I maintain that a Garda who induces another Garda to consider striking is in misconduct.

My complaint will be making the case that such a thing is misconduct and I don't need to go into details here.

Here I'm only discussing admissibility. I am a witness (as most of Ireland is) to the fact that Gardai induced each other to consider striking. I can competently testify that it has happened, which means, to my mind that I am a witness. Further, the fact of its having happened is not even in dispute; the Ombudsman would agree that it happened.

I am a witness, as the Act requires.

Am I a "direct witness" as your website seems to require?

Thanks,

David Reynolds

On Thursday, November 10, 2016, David Reynolds

wrote:

Your website [here](#) indicates I can make a complaint if I am a **direct witness** to misconduct. This seems out of line with the act, which in Section 83 (below) only requires that I be a **witness**.

Is this a mistake on the website only? Or has your policy narrowed the meaning of witness to direct witness and what does it mean?

What is 'direct witness' supposed to mean as opposed to witness? Would I be a witness or direct witness in these following cases:

If I saw troubling conduct in person

If I saw troubling conduct on CCTV

If I saw troubling conduct on television or heard it on radio

My interpretation of witness is **someone who can competently testify** that the misconduct occurred. This is a reasonable definition of witness in the context. The imposition of the word 'direct' seems a mistake.

Can you clarify?

This is important and not just academic. I am clearly a witness to Garda misconduct, in that I can very competently testify that it occurred. It is unclear though that I am a direct witness and I do not even know what the term means.

Thanks.

David Reynolds

83.

(a) by a member of the public who is directly affected by, or who witnesses, the conduct, or

Garda Síochána Ombudsman Commission (GSOC).

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