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**Policing Control and Supervision Methods; The effect of  
the introduction of the Garda Síochána Ombudsman  
Commission**

**Brian Mahon**

**Master of Science in Management 2012**

**School of Business  
National College of Ireland  
2012**

**Abstract** *This paper examines the introduction of the Garda Síochána Ombudsman Commission (GSOC) in Ireland and its background. Various types of police oversight models are described and discussed as is a wide range of relevant literature.*

**Findings** *The findings indicate that GSOC operates a "Mixed Model" involving both external review of police investigations and fully independent investigations into alleged police misbehaviour. International standards and practice suggest that there should be a level of civilian oversight of police complaints. The optimum model would be completely independent of the police and investigate all matters using civilian investigators. Despite the perception that there would be strong resistance to "outside interference" from police, Gardaí express a preference for independent investigation of police complaints.*

*Mediation seems unlikely to be used by GSOC due to its expense and limited scope.*

**Further Research** *It is suggested in the course of interview that there is no significant evidence that independent oversight is more successful than the other models. An area for further research may be to establish a metric by which various methods of police oversight should be evaluated and then to ascertain whether independent oversight and investigation is more successful or not when measured against that metric.*

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## **Chapter 1 Introduction**

This paper is primarily intended to review the method of control, supervision, and investigation of alleged police misconduct, used in policing in Ireland, and to examine the literature on that and related topics. In reviewing relevant literature it should be possible to identify the various methods used internationally, and make some comparisons with the model in use in Ireland. The current system in use in Ireland by the Garda Síochána Ombudsman Commission will be reviewed in the context of international practice and issues such as independence and police involvement in complaints investigation. It is also intended to examine the topic of mediation and establish whether it has a role in the resolution of complaints against members of An Garda Síochána.

The paper is in the context of the relatively recent introduction of the Garda Síochána Ombudsman Commission in Ireland which occurred as a response to the recommendations of the Morris Tribunal.

### ***The Morris Tribunal***

In 2002 the then Minister for Justice in Ireland established a tribunal (Morris Tribunal) to examine multiple allegations of misconduct and criminality against various members of An Garda Síochána based mainly in the Donegal Garda Division.

Over the period 2002 to 2007 the Morris Tribunal investigated allegations against Gardai, mainly in Donegal. Among the allegations were counts of false arrest, assault and intimidation, planting of evidence, failing to cooperate with internal investigations, and the alleged planting of a firearm in order to justify multiple arrests. These allegations were outlined in the Terms of Reference established for the Tribunal ([www.morristribunal.ie](http://www.morristribunal.ie))

The tribunal drew a number of conclusions and made a large number of recommendations for changes both structurally and operationally, within An Garda Síochána and within the Department of Justice. The proposed establishment of an independent oversight authority was included in these recommendations.

"There must be strong, independent, effective and timely oversight. There must exist an authority which is empowered to react."  
(Morris Tribunal report, Barron & Extortion calls to Peoples, P 595)

### ***An Garda Síochána***

An Garda Síochána is the state police force within the Republic of Ireland. At the time of writing its official website ([www.garda.ie](http://www.garda.ie)) reports that there are over 14,500 Garda and Civilian employees. It is a largely unarmed force and its jurisdiction is the entire twenty-six counties of the Republic of Ireland. It has a centralised structure in that there is a single Garda Commissioner with overall



responsibility for the force at its helm, with Assistant Commissioners responsible for the various regions of the country, reporting to him

As a result of this structure it is possible for members to be promoted to, request a transfer to, or be directed to transfer to, any region within the country. Many of the specialised units within An Garda Síochána, such as the Garda National Drugs unit, and the Garda Bureau of Fraud Investigation, operate countrywide on a national basis. According to its website, ([www.garda.ie](http://www.garda.ie)) some of An Garda Síochána's core functions include

- the detection and prevention of crime,
- ensuring our nation's security,
- reducing the incidence of fatal and serious injuries on our roads and improving road safety,
- working with communities to prevent anti-social behaviour,
- promoting an inter-agency approach to problem solving and improving the overall quality of life

### ***The Garda Síochána Complaints Board***

The Garda Síochána Complaints Board was the institution responsible for handling complaints against the Gardaí prior to the establishment of the Garda Síochána Ombudsman Commission (GSOC). It was a civilian organisation concerned with the supervision of members of An Garda Síochána. It had a role in supervising complaints and requiring the Gardaí to carry out internal investigations and report to it. It then either dismissed the complaint as

inadmissible, made recommendations to the Garda Commissioner who may or may not follow the recommendations, or referred the matter to its own complaints tribunal for hearing

The Garda Síochána Complaints Board ceased to take complaints on May 9th 2007. In its final Annual Report the complaints board expressed disappointment at the fact that the replacement for the Complaints Board, The Garda Síochána Ombudsman Commission (GSOC) would not be independently investigating all complaints

“In this connection, the Board's Chairman Dr Gordon Holmes pointed out the disappointing fact that “the Commission, with their many resources, are now seeking to have minor matters investigated by the Gardaí themselves – the very criticism that was levelled against the Board in the past” (Irish Council for Civil Liberties July 2008)

### ***The Garda Síochána Ombudsman Commission***

The Garda Síochána Ombudsman Commission (GSOC) was established under the Garda Síochána Act 2005, which set out two objectives for GSOC

- to establish a system for dealing with complaints against Gardaí that is efficient, effective and fair to all concerned, and
- to promote public confidence in that system

(Garda Síochána Act 2005 S67 (1) (a) & (b))

The Garda Síochána Ombudsman Commission became operational on May 9th 2007

The Garda Síochána Ombudsman Commission is not an Internal Garda Body. It replaces the Garda Complaints Board which did rely solely on Garda Investigators. The significance of the model adopted by the ombudsman is that it has its own team of investigators and is independent of the Gardaí. It is not staffed by or under the direction of the Gardaí. In its first annual report the Garda Síochána Ombudsman Commission clearly sees its role as effecting civilian oversight of policing in Ireland.

“Its mission is to provide the Republic of Ireland with civilian oversight of policing, in particular by handling complaints against members of the Garda Síochána” (GSOC Annual Report 2006)

### ***The authors frame of reference***

The author of this dissertation is 44yrs old and is a member of An Garda Síochána with 22 years' service. He is currently a Detective Sergeant working in the company law area. During his service he has spent 8 years working at the Garda Bureau of Fraud Investigation and almost 4 years working in a liaison capacity at the Garda Office of the Morris Tribunal into allegations against certain Gardaí in the Donegal Division. The relevance of this background will be further discussed in Chapter 4, research.

### ***Topic/area of proposed research***

The research questions the subject of this dissertation, are as follows

- 1 Is the current system for dealing with complaints against Gardaí viewed by stakeholders as sufficiently independent?
- 2 Is there a role for Garda officers as investigators into Garda misbehaviour?
- 3 How does the Garda Síochána Ombudsman Commission's operational model and practice compare to international practice?
- 4 Is there a role for mediation in the resolution of complaints against members of An Garda Síochána ?

The aims of this dissertation are to examine the available information so as to form a view as to whether the Garda Síochána Ombudsman Commission have been or are being sufficiently independent, how their operational model and practice compare to international practice, whether there should be a role for Garda officers as investigators into Garda misbehaviour, and whether there is a role for mediation in the resolution of complaints against members of An Garda Síochána

As will be seen in the discussion, which follows, the GSOC Annual Reports indicate that surveys of public and Garda attitudes are carried out regularly in furtherance of the stated objective "to promote public confidence in that system" (Garda Síochána Act 2005 S67 (1)(b))

The results of those surveys give an indication of the perception of the public and of Gardai of the independence, need for and efficiency of GSOC. These results will be further explored.

This paper proposes to examine GSOC's operation and practices and compare them to international practice. This will be done in the context of academic discussion regarding various approaches to police control and accountability used in different jurisdictions, and attempting to identify the most effective form of corporate governance and behaviour control in the supervision of a police force, internal investigation systems, civilian reviewed or supervised investigations, or completely independent civilian controlled and executed investigations.

### ***Method Used***

In addressing the four research questions above a number of approaches to the topic/area of proposed research will be utilised. In addition to reviewing the available literature the results of the ombudsman commissioned survey's conducted in 2007 and 2010 and the further survey conducted in early 2012, will be reviewed. The review of and analysis of this research should assist in identifying the views of respondents on the relevant issues.

Interviews with senior staff at GSOC will be conducted to establish their viewpoint on the issues, and reports of comments and views of the Garda Representative bodies will be considered.

In summary, the research methods employed will include literature review, review and analysis of the GSOC publications and commissioned primary research, and interviews with Garda Síochána Ombudsman Commission staff

## **Chapter 2 Review of Legislation, Codes & Reports**

Among the material reviewed in preparing this preliminary research proposal are the website of An Garda Síochána, eight reports from the Tribunal of Inquiry (Morris Tribunal) and Garda Síochána Ombudsman Commission (GSOC) documentation

### ***Garda Síochána Act 2005***

This is the legislation which provides for the establishment of the Garda Síochána Ombudsman Commission and sets out its role and function

### ***Garda Síochána Ombudsman Commission Annual Report 2006***

This is the first report of GSOC and was issued prior to the operational start-up of the commission. It sets out the two objectives of the Garda Síochána Ombudsman Commission and its mission, as described previously. It anticipates the level of complaints at between four and five thousand a year. This would represent a four-fold increase compared to its predecessor.

“Comparisons with nearby jurisdictions and anecdotal evidence here suggest that the Commission should be prepared to react to a higher volume than the figure of 1,350 per annum, currently recorded by the Garda Síochána Complaints Board” (GSOC Annual Report 2006 p 14)

The report outlines the methodology to be used in dealing with complaints, including informal resolution and mediation. It also states that complaints may be

investigated by the commission itself, or by Gardaí acting under its supervision. It also indicates (GSOC Annual Report 2006 p 18) that the commission chose its structure from a combination of practices in police oversight in various jurisdictions.

### ***Garda Síochána Ombudsman Commission Annual Report 2007***

This report states that in the eight months that the commission was operating during 2007 they received 2084 complaints of which 952 were deemed admissible. It also breaks down complaints by age and gender of complainant. The report (page 17) also highlights an area of potential difficulty in terms of efficient use of resources, in that under the Act GSOC must carry out a full investigation into any allegation which would amount to an offence. As a direct consequence full, comprehensive, cumbersome and costly investigations are carried out even in respect of relatively minor matters such as summary road traffic offences.

“ It is questionable whether or not this is always a useful deployment of scarce resources and whether or not it provides a proportionate response to the allegations made” (GSOC Annual Report 2007 p 17)

This report also indicates that surveys of public and Garda attitudes were carried out in April 2007 in furtherance of the stated objective “to promote public confidence in that system”



"The table indicates a high level of public belief in the independence, need for and efficiency of GSOC. The figures for Garda attitudes are lower. The table figures includes positive and 'don't know' responses " (GSOC Annual Report 2007 p 25)

### ***Garda Síochána Ombudsman Commission Annual Report 2008***

This report relates to GSOC's first full year in operation and states that during 2008 they received 2681 complaints of which 56 per cent were deemed admissible. It gives extensive information about the makeup of complainants including relevant factors such as arose during search or arrest etc.

The report also discusses the referral to the Minister of a proposal for a legislative change that would see the process of informal resolution be reverted back to An Garda Síochána.

"Effectively, through this legislative change, GSOC is proposing that complaints determined to be admissible and suitable for IR shall be referred to the Garda Síochána and that the IR process should be undertaken at a local level by an appropriate Garda Officer" (GSOC Annual Report 2008 p 19)

GSOC commissioned Public and Garda Attitudes Surveys in 2008. The stated purpose of the surveys

“ was to gauge awareness of, and reaction to, GSOC and police oversight ” (GSOC Annual Report 2008 p 19)

The results of these surveys are discussed at Chapter 5

### ***Garda Síochána Ombudsman Commission -2-year-Report-2008***

Section 80(2) of the Garda Síochána Act 2005, which provides for the establishment of the Garda Síochána Ombudsman Commission, requires that a report be submitted to the Minister for Justice Equality and law reform within two years of its establishment, on

- (a) the effectiveness of the Ombudsman Commission, and
- (b) the adequacy of the functions assigned to it by this Act

The report concludes

“The Garda Síochána Ombudsman Commission is satisfied that it can report good progress in respect of all of its functions and objectives as set out under the Garda Síochána Act 2005”

(GSOC -2-year-Report-2008 p 23)

## ***Garda Síochána Ombudsman Commission Annual Report 2009***

This report indicates that during 2009 they received 2097 complaints of which 34 per cent were deemed admissible. It gives extensive information about the makeup of complaints including relevant factors such as identifying those that arose during search or arrest etc.

In early 2010 GSOC again commissioned Public Attitudes Surveys. The results of these surveys are discussed at Chapter 5.

## ***Garda Síochána Ombudsman Commission Annual Report 2010***

This report relates to the period from 1st January to 31st December 2010, and states that during 2010 they received 2,258 complaints of which 722 were deemed admissible. The report also outlines the main reasons why complaints are ruled inadmissible including that they were outside the six-month time limit, or relating to the general control and direction of the Garda Síochána, or being of such a minor nature as to be deemed by GSOC to be frivolous or vexatious. It details the most common types of complaint: Abuse of Authority, Neglect of Duty, Discourtesy and Non-fatal Offence.

GSOC again commissioned Public Attitudes Surveys. The results of these surveys are discussed at Chapter 5.

## ***Garda Síochána Ombudsman Commission Annual Report 2011***

This report relates to the period from 1st January to 31st December 2011, and states that during 2011 they received 2,275 complaints of which 896 were deemed admissible. The report also outlines that

“ the most prominent factors relating to situations which gave rise to complaints were arrest (23%), investigation (18%) and road policing (15%). The most prominent locations of interactions which gave rise to complaints were public place (35%), Garda custody (22%) and domestic residence (18%)” (GSOC Annual Report 2011 p 8)

GSOC again commissioned Public Attitudes Surveys. The results of these surveys are discussed at Chapter 5.

## ***Garda Síochána Ombudsman Commission -5-year-Report-2012***

Section 80(4) of the Garda Síochána Act 2005, which provides for the establishment of the Garda Síochána Ombudsman Commission, requires that

“At the end of each 5 year period commencing with the date of its establishment, the Ombudsman Commission shall submit to the Minister a report reviewing the general performance of its functions in the preceding 5 years ” Section 80(4) Garda Síochána Act 2005

The report concludes

“The Commissioners believe that GSOC is working effectively and has proven itself fit for the purposes prescribed in its legislation. The Commissioners are happy that with the emergence internationally of new models of policing oversight, Ireland can properly claim to be at the most developed end of the spectrum ”

(GSOC -5-year-Report-2008 p 3)

## **Chapter 3 Review of Literature**

While there are a lack of peer reviewed journal articles specifically discussing an evaluation of An Garda Síochána Ombudsman Commission, there are a number of related articles examining the areas of police control and investigation of police misconduct in various jurisdictions including the USA, Australia and the UK. The examination of these topics in other jurisdictions are relevant to this study in that they help provide a wider view of practices in other jurisdictions which have faced similar issues as to the best approach to take in relation to police supervision.

When it comes to discussion in relation to these matters a number of specific approaches to police supervision and investigation of police complaints emerge including, Civil Review of Internal Investigations, Accountability, Independence, a Mixed Model, and Mediation.

### ***Types of oversight***

Attard (2010) highlights the non-standardisation of oversight models in the USA, and discusses the various forms that “oversight” can take. She points out that the various approaches to oversight can arise in response to law enforcement difficulties or scandals which in turn may lead to public outcry and calls for independent civilian review. In some cases oversight bodies or agencies may be established by a police force or local authority as a proactive measure.

Berry, O’Connor, Punch, and Wilson (2008) also highlight the lack of standardisation in the way police forces operate throughout the United States.

“ There are myriad agencies, many of them tiny, and the central government plays a relatively modest role in driving change, it may legislate, and pump in federal funding for programs, but it cannot demand uniformity across the country ” (Berry et al 2008 P 116)

According to Attard (2010) there are three main types of oversight in relation to police forces They are

“(1) Investigative, (2) boards and commissions, and (3) auditor/monitor agencies ” (Attard 2010 P 1550)

Differences between these approaches are described in terms of jurisdiction, authority to collect evidence, interview witnesses, and make findings

The investigative authority approach lends credibility to its findings due to its perceived independence As Attard (2010) indicates

“Witnesses may be more forthcoming or even willing to be involved in an investigation if it is being conducted by an independent agency separate from the law enforcement agency ” (Attard 2010 P 1551)

She stresses that there are certain ingredients crucial to the success of this method, particularly regarding the perceived and actual independence of the investigating authority To achieve this independence it is necessary for the investigators to have access to the relevant documentation and witnesses including police officers This approach appears very similar to that of the Garda Síochána Ombudsman Commission in relation to allegations of criminal misconduct, in that investigations are conducted by civilian staff with police type

powers and findings are ruled on by a commission, and referred onwards to the Director of Public prosecutions when deemed appropriate

The second type of oversight described by Attard (2010) involves boards and commissions, which she contends are some of the earliest types of oversight used in the United States. Their level of authority can vary with their investigations conducted either by their own staff or police internal affairs offices. While this can lead to fears of lack of independence from the police force she does highlight the fact that they tend to counteract that issue by doing their business in public.

“One powerful aspect of boards and commissions is that historically they have conducted their hearings and business in public, providing transparency and accountability.” (Attard 2010 P 1552)

She discusses a third type of oversight which she calls auditor/monitor agencies. These are oversight bodies which look at investigations carried out by internal affairs divisions of police forces. They are intended to ensure the fairness and completeness of these types of investigations. They may involve more than just review of completed investigations, they may also participate to an extent.

“In many jurisdictions the auditor may sit in on officer or witness interviews and present questions to be asked.” (Attard 2010 P 1553)

Gilmour (2008), writing about Policing in the United Kingdom, sees these type of oversight agencies as important for building trust in the police service.

“‘Accountability monitors’ such as the Audit Commission, Her Majesty’s Inspector of Constabulary, the Police Standards Unit, Police Authorities and the Independent Police Complaints Commission, all take an active role in ensuring that the philosophy of ‘policing by consent’ has an amount of empirical legitimacy. Or rather, that the various constituencies seeking to ensure accountability create an environment whereby ‘the public’ can trust the police” (Gilmour 2008 P 55)

Regardless of the type of oversight body, Attard (2010) maintains that the oversight agency must have sufficient authority if it is to be effective

“Agencies that have investigative authority must have the ability to interview all witnesses, including officers, and have access to all documents needed to complete their investigations. Auditor/monitor agencies must have the ability to correct deficient investigations either by requiring further investigation or having the authority to conduct an independent investigation. Boards and commissions must have the ability to initiate change within the department it oversees ”

(Attard 2010 P 1557)

This is a departure from the perceived role of an oversight authority. While it is common for such oversight agencies to make recommendations for change it does not appear to be common practice for the agency to implement changes within a police force

### ***Civil Review of Internal Investigations***

Civil Review of Internal Investigations, along with some limited supervision of the investigator, is the approach and methodology that was in place in Ireland prior to the establishment of GSOC. It was administered by the Garda Síochána



Complaints Board This was a civilian organisation concerned with the supervision of members of An Garda Síochána. It had a role in supervising complaints and utilised the Gardaí themselves to carry out internal investigations and report to it. It then either dismissed the complaint as inadmissible, made recommendations to the Garda Commissioner who may or may not follow the recommendations, or referred the matter to its own complaints tribunal for hearing.

It has been reviewed by Walsh (2009) who contends that it has been a failure, and claims that this failure is as a result of

“ too much reliance on the police, too little political and material support from the government and a failure by the Board itself to take full advantage of the powers at its disposal and to deliver greater transparency in the handling of complaints ” (Walsh, 2009 P335/336)

In a USA context, Anderson (1999), points out that sometimes, civilian review boards or panels are created after a particular scandal and consequent publicity and then are subsequently underfunded and undermined as public concern diminishes. While he recognises the validity of some of the police arguments against civilian review, Anderson is unimpressed when considering that police departments haven't always distinguished themselves when it comes to internal investigations. This he suggests is partly as a result of the “blue wall of silence”, where officers assist each other in covering up mistakes.

He does indicate that the difficulties are not insurmountable, pointing out that

“History teaches that law and policy can impose effective controls on police behaviour when the forces are properly aligned ”

(Anderson 1999 P 52)

He gives examples of this effect, highlighting a reduction in police use of deadly force as a result of changes in policy in a number of American police departments. He also refers to a need for balance in any attempt to successfully instigate proper control procedures, highlighting the need for an acknowledgement of the realities and requirements of active policing, while simultaneously seeking a method of resolving complaints justly.

### ***Police attitude to external oversight***

Attard (2010) states that in the context of the United States of America, there appears to be an acceptance among police management that some form of external oversight is an essential part of “good government”, and that it ensures police act within the authority granted to them.

There is a tendency for police officers to resist oversight and to be suspicious of its practitioners. She explains that they feel that unless someone has had to deal with a role similar to that of the police officer then they do not have the information, knowledge or perspective to appraise the officer’s behaviour fairly. However, she contends that with the integration of oversight into government in the United States, its benefits are being accepted by police officers and management.

"Those in policing are recognizing that allowing independent oversight and community access to this information leads to increased confidence in the process and the law enforcement organization "

(Attard 2010 P 1554/1555)

Anderson (1999) also raises the issue of influencing police behaviour pointing out that both police management and police labour representatives fiercely resist the implementation of the oversight sought by certain sectors, that is, the civil review of police policy. Management feel that they need to retain total control over their staff while unions feel that civilians with no policing experience won't be able to make just decisions on their actions and behaviours.

This thinking appears to be reflected in the fact that in Ireland the Garda Síochána Inspectorate was established in or around the same time as the Garda Síochána Ombudsman Commission. The Garda Síochána Inspectorate has the stated objective of ensuring adequate resources required for An Garda Síochána to maintain high standards of efficiency.

Recasens (2000) discusses various types of institutions involved in exercising control over police in various parts of Europe.

"The ones that seem to work better are the mixed boards, made up of politicians, relevant citizens' associations and organisations, and police technicians who create security policies and set priorities, without going into the technical details of their implementations. These are left to the corresponding police forces "

(Recasens, 2000 P 253)

While acknowledging different policing systems in different European countries he does describe a generalised police role

“ which consist of arresting alleged criminals, seizing the object of the crime or gathering evidence, and making all these things available to the judiciary body, as well as investigating or reconstructing the facts ”

(Recasens, 2000 P 255)

He contends that a police force must have a system of internal control such as an internal affairs unit as well as a code of behaviour to follow and a form of accountability to the political administration of the territory He describes various types of oversight including placing a civilian in charge of the policing agency or appointing disciplinary committees consisting of “high functionary officers”, among others

He argues that given the decision-making powers required by police the only effective control is self-control and this must be induced with the right training

### ***Civilian Oversight and Accountability***

Attard (2010) concludes that

“Oversight in its many forms provides accountability and transparency for police issues that are otherwise inaccessible to the larger community ”

(Attard 2010 P 1548)

While there appears to be no agreement as to whether external or internal systems are more efficient in controlling police forces, Kersten (2000) argues that, Ombudsman or complaint authorities are symbolic of enhanced police accountability

“The analyses of recent police scandals in Western societies seem to suggest that democratic accountability and repressive styles of “law and order” policing (Zero Tolerance) do not go well together. Accountability in policing means first and foremost establishing a reliable account with those that are serviced: the people, the administration and other human services, the political players, and most importantly the democratic media” (Kersten, 2000 P 240)

The perceived lack of accountability on behalf of the police in the UK is seen by Reiner (1992) as a factor eroding police legitimacy. While Skolnick (1998) makes the case for civilian oversight of internal police investigation with a simple but important observation to the effect that people will not believe police that investigate police.

This is probably the strongest argument for civilian involvement in investigation of alleged police misconduct, in that, it is a widely held view in regard to many sectors, including legal and medical, that the sector under investigation is not credible as the sole investigator of the alleged wrongdoing.

Prenzler (2004) also makes the point that the principle against self-investigation is one that need not only be applied to policing but also to other professions.

Boyce & Davids (2009) emphasise the need for accountability in the public sector generally and opine that for the pursuit of the public interest to be effective

“ an ethos of accountability must be embraced by individuals and managers working in the public sector, by public sector organizations, agencies and units, and by the public sector as a whole ”

(Boyce & Davids 2009 P 633)

Increased expectations of society regarding their police and other authorities are, according to Bryett, (1999) significant factors as are increased change in policing over the recent past and the consequences of those changes This has arisen as a consequence of societies having become more sophisticated as a result of improved education, increased access to information and better standards of living This in turn has resulted in a move toward civilian oversight of police activity He describes this as an international phenomenon

“The growth in the involvement of the community in its policing practice has also led to the development of the oversight by civilian bodies of complaints against police in the UK, USA, Australia and Canada, among others”

(Bryett, 1999, PP32-33)

The code of silence usually prevalent among police officers, and the effect of police culture are exerting a strong influence in reducing the chances of police misconduct being reported Gottschalk (2011) writing against the background of a police corruption scandal in Norway refers to the reduced likelihood of police misconduct being reported or of being held accountable for corrupt acts

“ This called the code, the code of silence, or the blue curtain, or the blue wall of silence – the informal prohibition in the occupational culture of policing against reporting the misconduct of fellow police officers”

(Gottschalk 2011, p 170)

He goes on to explore the components of "integrity" and describes the multitude of breaches sometimes committed by officers. Accountability in his view is central to the prevention of police misconduct. The example of South Africa, after apartheid, is used to stress the importance of civilian review of police officers as being a critical issue.

" Emerging from a totalitarian past and a legacy of hostility, a police service accountable to the people through strong oversight mechanisms was seen as one of the cornerstones of the new democracy"

(Gottschalk 2011, p 172)

He concludes that police departments, which hold officers accountable and thereby reduce misconduct, will consequently enjoy an increased level of public support and cooperation in implementing crime prevention programs.

This positive effect of civilian oversight and control over the police is confirmed by Landau (1996) who focuses on the handling of complaints against the police in Canada.

"Civilian involvement in the handling of public complaints against the police has emerged as an important dimension in the debate over police accountability, control, and improving police-community relations"

(Landau, 1996 P291)

She differentiates between the goal of accountability and control of police behaviour but acknowledges that independent oversight/external review has been regarded as essential for both. There is however, a lack of general agreement as to how this accountability is to be best achieved.

Kempa (2007) contends that the important issue is to what degree there should be a civilian element of the complaints process. He highlights a general trend across a number of nations, toward systems of external review of police forces. In most instances they receive complaints and in some cases they conduct investigations. He does acknowledge however that, in a lot of cases the investigations are conducted by the police under the oversight of the external review bodies.

The rapid increase in civilian oversight of police in recent years, particularly in the USA, is addressed by De Angelis and Kupchik (2007). They particularly examine the response and views of police officers to the complaints process and to the involvement of independent non-police personnel in that process. Their research suggests that the civilian involvement is not necessarily the predominant factor in officer satisfaction with the complaint process.

“For more than four decades police unions have argued that the creation of police oversight would undermine the morale of police officers and diminish trust in the complaint process (Walker, 2001). Yet, these survey data indicate that officer trust in citizen oversight is not a good predictor of satisfaction with the overall complaint process.”

(De Angelis & Kupchik, 2007 p 668)

The implications of the study are that factors such as fair procedure, timely and accurate communication are the most significant in determining officer's level of satisfaction with the process.



## ***Independent Investigation***

There is a widely held belief that investigation of police complaints by police officers is unlikely to be just and that it does not contribute to public confidence in the police service. Strudwick (2003), discussing the UK situation, also contends that complaints can be used as a metric to measure public confidence in the complaints and discipline process, and can ultimately lead to improvements in the policing service. Furthermore a negative experience with the process of complaint resolution, which is but one element of the police service, may negatively affect confidence in the entire organisation.

She does however acknowledge certain difficulties in taking a totally independent approach to complaint investigation, in that, the bulk of investigatory skill and experience lies with the police, and it may be difficult to similarly equip independent investigators.

There has been a growth in independent involvement in the police oversight process in the UK, according to Savage (2007) but he distinguishes independent oversight from independent investigation, which he sees as the next logical step in the process.

“ the creation of a machinery for the independent investigation of complaints, as distinct from independent oversight of investigations undertaken by the police themselves, could be considered the next logical stage in the process of enhancing accountability by extending the external/ independent element ” (Savage, 2007, P319)

The various methods of police supervision in use in Australia as described by Lewis and Prenzler (1999) involve the vast majority of complaints being investigated by police officers even when there is civilian oversight. They advocate the need for a body independent of the police and politicians as a check on police misconduct. This body would have an investigative as well as monitoring role. They also stress the need for such a body to have independence of not only police but also politicians in order,

“ to serve as a check on the potential neglect or cover up of police misconduct ”  
(Lewis and Prenzler 1999 p6)

Civilian review of police investigations is seen as having limitations and Prenzler (2004) examines the trend towards an expansion of civilian review, towards a civilian body engaging directly in investigations and having increased input into disciplinary decisions. He concludes that civilian oversight is necessary and perhaps should go beyond review, while still allowing for input from management in disciplinary decisions,

“ However, there are increasing calls and strong arguments for going beyond “review” to give civilians direct operational responsibility for complaints processing ” and police must retain a large role with alternatives to formal investigations and in preventing corruption through diverse strategies ”  
(Prenzler 2004 p 110)

Attard (2010) emphasizes the importance of perceived independence of an investigation into police behavior, pointing out that oversight agency investigations carry more credibility, with regard to both the investigation and its

findings, than an in-house investigation. A conclusion that exonerates the police is more acceptable to the wider public if it does not result from an internal police investigation.

In the Northern Ireland context Patten (1999) recognised the importance of the Police Ombudsman having an appropriate level of authority to ensure police accountability.

“We welcome the fact that, under the Police (Northern Ireland) Act 1998, officials exercising the Ombudsman’s functions have been given the powers of constable, and that obstruction of these officials constitutes a criminal offence.” (Patten 1999 P 38)

Radford, Hamilton, & Jarman (2005) observed that the establishment of an independent organisation to investigate complaints against the police in Northern Ireland was seen as a key factor in creating increased public confidence in the recently reformed public structures which included the wider policing institutions as well as the Police Ombudsman for Northern Ireland. They also acknowledge the cross cultural nature of the community served by the Police Service for Northern Ireland and the need for the police to be accountable to all sections of that community.

“The police reform process has been driven primarily by a need to make the police organisations in Northern Ireland representative, acceptable and accountable to the two main ethno nationalist communities.”

(Radford et al 2005 P 369)

Also discussing Northern Ireland, Kempa (2007) expresses the view that the Police Ombudsman for Northern Ireland has managed to establish credibility in regard to its independence in dealing with complaints against the police

“In the domain of handling complaints brought against the public police, tremendous public confidence across the political divide in Northern Ireland has been witnessed in the office of the Police Ombudsman ”

(Kempa 2007 P 118)

The issue of the importance of the perceived independence of the investigation into police complaints is also discussed by Walsh (2009) in his examination of the use of the police supervisory board model in Ireland. He suggests that in some instances the independence of the investigation may not be the most important factor, particularly in minor matters when, he contends, for the complainant, issues such as timely resolution, keeping the complainant in the loop and giving them a reasoned conclusion can help to create confidence in the system

### ***Mixed Model***

Most civilian oversight or review models involve at least some police involvement in the investigations. Ede, Homel & Prenzler (2002) in an Australian context, discuss the issue of where the police complaints should be dealt with. They point out that purely internal methods of investigation are not credible, and that there is yet to be agreement as to the appropriate level of external involvement. They describe an alternative mixed model where,

“ police deal with medium and low level complaints while the external agency audits these activities and investigates more serious matters ”

(Ede et al, 2002, P 29)

They also advocate the reduction of complaints as a goal of the relevant agencies. Giving ethical standards a higher level of priority in training, screening recruits and having an independent system of complaint investigation are advocated, while at the same time it is acknowledged that there are difficulties overcoming the effects of socialisation and environmental factors within the police force.

Johnson and Cox (2004–5) discuss the idea that police unions and staff associations in the USA should be involved in the process of reform of police ethics. They argue that if problems with ethics are to be addressed, then professional policing organisation as well as officers and the community must be involved.

In regard to the Irish situation, Walsh (2009) refers to the suggestions for reform of the complaints handling system that were put forward in 2002 by the Garda Complaints Board. It envisaged a scenario where most cases would be supervised by an independent body but investigated by the police. In some cases fully independent investigation would be required. This would appear to be the methodology pursued when establishing GSOC.

## ***Complaint Statistics as a Management Tool***

Attard (2010) sees potential for complaints against the police to be used as an aid to quality control and as generators of useful statistics

“Complaints are important quality-control indicators, and the statistical information they provide, if properly gathered and analyzed, provides invaluable tools for police managers and government officials to identify potential areas for remediation ” (Attard 2010 P 1557/1558)

Boyce & Davids (2009) also view the practice of recording of complaints as a useful measure of the moral status of a public service organisation

“The operation of public complaints systems provides something of a barometer of the ethical state of the public sector as a whole and of individual organizations and agencies ” (Boyce & Davids 2009 P 633)

Patten (1999) also argues that the information gleaned from the volume and type of complaints received should be used as a management tool to improve the service provided

“The incidence of complaints should be used by management at all levels as an indicator of public satisfaction or otherwise with the service being provided, of the need to make changes and of training requirements ” (Patten 1999 P 26)

## ***Mediation***

In its 2006 Annual Report the Garda Síochána Ombudsman Commission indicates that informal resolution and mediation will be among the methodology to be used in dealing with complaints

Mediation is a process whereby a complainant and the officer complained of are brought together by a facilitator with the goal of resolving the dispute informally. It is generally not used in what are considered to be more serious cases.

The process of mediation between complainants and police officers in certain complaint situations are discussed by Berger (2000) who argues that the mediation process itself can transform attitudes of participant parties in a positive direction. This method has been explored in a number of cities in the United States of America, with varying degrees of success.

Hatch (2005) contends that mediation is an appropriate methodology in respect of certain types of complaints against police officers, involving allegations of a "minor nature", and that for a police force intent on developing a "community policing" approach, the manner of addressing these "minor" allegations is essential in building up an sense of trust and accountability in the community. He also makes the point that while the use of mediation in resolving complaints against police officers is relatively new there has been significant success when judged on satisfaction rates of participants, cost savings and other metrics. It is clear that he sees great potential for the use of mediation in police complaints resolution.

“While no one is quite ready to label mediation the panacea for police misconduct, in comparison to the traditional complaint procedures, it is not that far off ”  
(Hatch, 2005 P 37)

The practical considerations that came into play in the department charged with implementing a mediation program for dealing with police complaints in New York City are detailed by Patterson (2006) In relation to staffing, he concluded that neither an imbalance in favour of former investigators, or in favour of mediators with no investigative experience was desirable, rather a mediation department should have

“A balanced combination of investigators and mediators appears to produce the optimum staffing quality required to run the mediation program most efficiently ”  
(Patterson, 2006 P 210)

Attard (2010) sees a role for mediation as a methodology for resolving complaints, particularly those relating to discourtesy or bad attitude She indicates that in more traditional misconduct investigations, complaints of that nature usually result in findings that are unsatisfactory to either party and doesn't prevent reoccurrence She points out however that

“In successfully mediated complaints, both the complainant and the officer can gain an understanding of why the other person acted as he or she did This understanding can change behavior in a more meaningful and effective way than is possible in the disciplinary process ”  
(Attard 2010 P 1559/1560)



## ***Police Oversight in Northern Ireland***

As a result of the "Peace Process" in Northern Ireland during the 1990's An Agreement was reached in Belfast on 10 April 1998. As part of that agreement The Independent Commission on Policing in Northern Ireland was set up. Its main aim was to make recommendations which would help meet one of the stated objectives of the Belfast Agreement, to achieve

" a new beginning to policing in Northern Ireland with a police service capable of attracting and sustaining support from the community as a whole "

(Patten 1999 P 1)

This commission produced a report commonly referred to as the Patten Report, named after the Commission's Chairman the Right Honourable Christopher Patten, formerly Governor of Hong Kong. In the course of the Patten report (1999), consent of the community being policed, is identified as essential for a successful outcome. That consent, must be from communities from all traditions and, it is argued, it will only be forthcoming when proper accountability has been established. The report discusses accountability and remarks that it is something that has to become more than just a talking point but rather must become part of the police culture and ethos. The situation prior to Patten is considered in terms of police accountability and the conclusion is reached that accountability had not been achieved at that time. One of the reasons identified for this absence of accountability is the lack of a democratic process in appointing members to the Police Authority.

"In Northern Ireland, Police Authority members are all appointed by the Secretary of State after selection through open competition, some may also be elected councillors, but it is the Secretary of State, not the electoral process that appoints them to membership of the Authority "

(Patten 1999 P 22/23)

Although it could be argued that the Secretary of State is a democratically elected minister, the practice has been that he has never been a person elected by the people of Northern Ireland

Patten (1999) also reviews the role of the Police Authority and finds it to have had conflicting roles. It was in some ways part of the policing service in that it had a responsibility for providing executive services to the police and managing a large number of civilian support staff while at the same time was responsible for holding the police service to account. This situation inevitably creates the perception at least, of a conflict of interest which is likely to engender mistrust among the public generally.

Patten (1999) also contrasts the Police Authority in Northern Ireland with similar authorities throughout the rest of Britain and finds it to have been secretive and elusive. While the authorities' elsewhere meet in public, the authority in Northern Ireland, due to security concerns, did not do so. This practice has tended to undermine their ability to perform at least some of their functions.

" it is inescapable that a body that meets behind closed doors cannot be perceived to be performing an "explanatory and cooperative" function between the public and the police "

(Patten 1999 P 25)

In the course of the Patten report (1999), it is suggested that past failings have not solely been explicable by reference to individual officer's behaviour. The commission finds that there have not been adequate systems in place to deal with complaints against officers. The manner in which police complaints should be dealt with is also commented on. In relation to relatively minor complaints swift, local, and informal resolution is recommended.

### ***Functions of the Policing Board***

Having highlighted problems with the bodies previously in place in Northern Ireland to deal with police accountability, Patten (1999) recommends the establishment of an entirely new body, a Policing Board, whose statutory primary function should be to hold the police service publicly to account. Its other functions would include setting objectives for policing. It would have responsibility for monitoring police performance and this would result in a certain amount of overlap with the Police Ombudsman of Northern Ireland whose function is to

“ strive to deliver a police complaints system in which the public and police officers can have confidence ”

(Police Ombudsman for Northern Ireland website)

Patten (1999) recommends that the Policing Board would have the power to request another agency to conduct an inquiry and would also have the capacity to conduct an inquiry itself.

## ***Police Ombudsman for Northern Ireland***

Shortly before the Independent Commission on Policing in Northern Ireland was conducting its consultations and formulating its recommendations, the establishment of the Police Ombudsman for Northern Ireland was agreed. As reported in Patten (1999) the Police Ombudsman had been recommended by Dr Maurice Hayes in his report of 1997. He had conducted a review of the system for police complaints in Northern Ireland (Dr Hayes was also subsequently a member of the Independent Commission on Policing in Northern Ireland). He recommended an independent Police Ombudsman with his/her own independent team of investigators, and a change in the standard of proof required in police disciplinary cases. His report was accepted and its recommendations formed the basis for the establishment of the Police Ombudsman for Northern Ireland which was formally established as an independent body with responsibility to investigate complaints against the Police Service for Northern Ireland in 2000. Patten (1999) endorses the establishment of the ombudsman as a means of ensuring police accountability.

this Commission as a whole aligns itself fully with Dr Hayes' recommendations and believes that a fully independent Ombudsman operating as he envisaged in his report should be a most effective mechanism for holding the police accountable to the law

(Patten 1999 P 37)

## ***Police Culture***

In considering issues relating to police supervision and the handling of misconduct it should be acknowledged that there is a commonly held belief that there exists within each police force a code of silence, of misguided loyalty to fellow officers and a toleration of wrongdoing by colleagues. This is sometimes referred to as the "Thin Blue Line" and is described as though an inevitable part of police culture. Some assert that this culture leads to a code of silence that reduces the reporting of police misconduct. Gottschalk (2011) attributes a lack of reporting of police misconduct by colleagues to an informal prohibition within the policing culture.

Prenzler (1997) observes that numerous police scandals and corruption episodes leading to judicial inquiries and other investigations over the years have resulted in police culture being accepted as an explanatory factor for some of this behavior. He describes what appears to be the accepted meaning of the various terms describing police culture as a difference between the official rules and the actual practice. Richards (2010) describes police culture as

" How we really do things around here' (Richards, 2010 p 231)

Prenzler (1997) suggests however that the reality is more complicated in that rather than one common set of rules and behaviours throughout the organisation, there are in fact major differences, conflicts, competition and different standards between different units and areas of policing,

“ it would seem that an unjustifiable and misleading stereotype has been created out of the literature on police culture. Police forces are probably not as homogenous as has been assumed. Occupational socialisation is not necessarily the major source of undesirable police practices, and police are probably not as unique from other occupations as has been contended ”  
(Prenzler, 1997 p 52)

He is not however denying the existence of police culture and difficulties arising from it, but rather pointing out that it is not as unique to police as sometimes assumed. He contends it has a lot in common with cultures observed in other professions such as medicine and law which can share characteristics,

“ such as secrecy, protection of colleagues, resistance to outside scrutiny, and stereotyping of and discrimination against troublesome clients”  
(Prenzler, 1997 p 51)

Wright (2010) examined differences in attitudes in relation to policing integrity, between police officers and civilian staff within a police service in Northern England. He found that despite the well documented police culture of silence

“ police staff were actually less likely to report incidents of misconduct than officers. This indicated that the code of silence amongst police staff may actually be stronger than that of police officers ”  
(Wright, 2010 p 339)

He concludes that despite the existence of police culture it is not necessarily group loyalty and solidarity that lead to the non-reporting of police misconduct by colleagues, but rather a belief among police officers that they could deal with the misconduct themselves.

Kaariainen, Lintonen, Laitinen and Pollock (2008) in researching aspects of the "Code of Silence" also observe that

" police culture has been noted to be rather heterogeneous as opposed to a uniform culture. It seems that the 'code of silence' and other norms of police culture vary among the police " (Kaariainen et al, 2008 p 88)

Kiely and Peek (2002) examine the issue of culture within the British police by conducting a series of in-depth interviews with police officers. They do find evidence of the existence of a traditional police culture but also evidence of a change in that culture, particularly in relation to quality of service. However the change appears to be occurring slowly.

"Themes emerging from the analysis of in-depth interviews with newly promoted inspectors and sergeants suggest that police culture is changing subtly from its traditional roots and open to embracing issues of quality of service " (Kiely & Peek, 2002 p 167)

### ***Literature Review Conclusion***

All of the literature reviewed acknowledges the need for some form of civilian oversight of police officers. There are differences however in the various approaches suggested. In some cases what is described is a civilian review of police investigations, while others advocate civilian involvement in the investigations themselves. Some suggest that the emerging practice is for no police involvement at all in investigations relating to police misconduct, in such a system all investigation would be conducted by an independent organisation.

Mediation also emerges as a possible method of complaint resolution, particularly in relation to relatively minor complaints. Those who advocate it suggest it may be a significant part of the optimum solution to police complaint issues. Mediation is an area that has not received much public attention in Ireland, and has not been used extensively by GSOC. The suggested benefits of its use may be worthy of consideration for this jurisdiction.



## **Chapter 4 Research Methods**

In this chapter the methodology used in developing the dissertation will be discussed. The author's frame of reference will be outlined and the genesis of the final research questions will be explained. They are now somewhat different from those initially conceived. The use of Garda and Public Attitude Surveys commissioned by GSOC will be explored as will the decision to conduct interviews with certain GSOC staff members. The review of Garda Representative Bodies reported commentary on matters relevant to GSOC will also be discussed.

### ***The author's frame of reference***

The author of this dissertation is 44 years old and is a member of An Garda Síochána with 22 years of service. He is currently a Detective Sergeant working in the company law area. During his service he has spent 8 years working at the Garda Bureau of Fraud Investigation and almost 4 years working in a liaison capacity at the Garda Office of the Morris Tribunal into allegations against certain Gardaí in the Donegal Division. This work in particular has given rise to an interest in the area of police supervision and oversight. Experience of detective duties has also led to an understanding of investigative methods and practices. To date in his career he has had no interaction with GSOC (prior to research conducted for the dissertation) and minimal interaction with its predecessor, the

Garda Síochána Complaints Board. He does acknowledge however that merely being a member of an organisation subject to supervision by GSOC may create some inherent bias against the particular body and independent oversight in general.

While it is a commonly held belief that members of An Garda Síochána are wary of, or even antagonistic towards GSOC, the author feels that he is close to neutral on the issue, acknowledging the need for independent oversight, but with some reservation about the capacity of personnel without first hand policing experience, to recognise, acknowledge and take into account the unique circumstances often faced by police officers and the timeframes within which they must make decisions in the line of duty.

The need for independent oversight, he believes, arises from the need to reassure the public that police are not "looking after each other" when it comes to complaint investigation. The differences between results of independent investigation compared to internal investigation are not the central issue. Even if an internal investigation successfully prosecutes an offender there is always the possibility of the perception arising that they would have done more if it were a non-police suspect involved. Public perception of independence is the driving force behind independent oversight. It is the author's view that over time this type of public perception will eventually lead to demands for independent oversight of all kinds of groups in the public eye. For example in Ireland at the moment, there are internal type investigations and hearings regularly conducted in regard to the behaviour of the medical profession, the legal profession and politicians. The

arguments which support the need for independent investigation of complaints against the police could also be applied to those other professions

### ***Changes to research questions***

At the early stages when this dissertation was at proposal stage the research questions were formulated based on a preliminary review of the available literature. The research questions were formulated as follows in the proposal:

- 1 Is the current system for dealing with complaints against Gardaí viewed by stakeholders as efficient, effective and fair?
- 2 Does the Garda Síochána Ombudsman Commission's operation and practice represent an effective form of supervision of a police force as compared to international best practice?
- 3 Has mediation been a success in the resolution of complaints against police officers in other jurisdictions?
- 4 To what extent is mediation being used in the resolution of complaints against members of An Garda Síochána?
- 5 Would more extensive use of mediation have any impact on the incidence of higher level or more serious misconduct among police officers?

In the original set of research questions the first question was based on GSOC's own stated objectives arising from the section of the Garda Síochána Act 2005 which made provision for the establishment of GSOC. However with further

reading it became apparent that the objectives of being efficient, effective and fair while noble, are extremely difficult to measure. They are issues which are very subjective and broad. The literature focuses on issues such as independence and accountability and it appears that these are more relevant and easily observed. The use of police officers as investigators is also a topic which arose in the course of the literature and in the interviews with GSOC staff. Therefore it was decided to restate the first question as seen in questions 1 and 2 below.

In the original set of research questions the second question aimed to compare GSOC to international best practice. Extensive reading failed to identify an absolute best practice, rather there are a number of models discussed with various features being perceived as more appropriate than others. Independent investigation for example is regularly recommended but equally there is significant discussion of a "Mixed Model". Therefore it seemed appropriate to rephrase this research question as it now appears in question 3 below.

In the original set of research questions, 3, 4 and 5 relate to mediation. In the preliminary review of the literature the author came across some discussion regarding the use of mediation in New York in relation to complaints against members of the New York Police Department. It appeared interesting and the authors of the article *Resolving Civilian-Police Complaints in New York City: Reflections on Mediation in the Real World*, Patterson (2006), saw promise in it as a method of complaint resolution. As a result research questions 3, 4 and 5 were compiled. However a subsequent more detailed review of the available literature, coupled with the interviews conducted revealed a much more limited

use and experience of mediation as a complaint resolution method and therefore provided less material than expected to address the research questions on mediation. As a consequence it was decided to limit the mediation research questions to what is now question 4 below

- 1 Is the current system for dealing with complaints against Gardaí viewed by stakeholders as sufficiently independent?
- 2 Is there a role for Garda officers as investigators into Garda misbehaviour?
- 3 How does the Garda Síochána Ombudsman Commission's operational model and practice compare to international practice?
- 4 Is there a role for mediation in the resolution of complaints against members of An Garda Síochána ?

### ***Garda and Public Attitude Surveys***

The surveys referred to in the course of this dissertation are all carried out on behalf of the Garda Síochána Ombudsman Commission which is a major institutional stakeholder in the area subject to our review. As such a certain amount of bias can be assumed. It is fair to point out however that, with the exception of the Garda Attitude Survey, each of the surveys was conducted by a professional company which specialises in conducting research.

In 2007 when the Garda Síochána Ombudsman Commission had recently been established, they commissioned a company, Behaviour & Attitudes, Milltown

House, Milltown, Dublin 6 Ireland, to undertake a survey entitled "Benchmark Public Opinion Study" They seem to be a well-established research company and describe themselves as follows

"Behaviour & Attitudes is Ireland's largest independent Market Research company, and has developed a reputation since 1985 for creative thinking about strategic marketing and branding Behaviour & Attitudes is an independent full service agency, offering a comprehensive suite of quantitative and qualitative methodologies,"

(Behaviour & Attitudes website 3<sup>rd</sup> July 2012)

Their research methodology is described in detail on pages 4 and 5 of the survey results, and appears to indicate that they used a reasonably representative sample

Subsequently GSOC commissioned a public attitude survey in 2008 which was conducted by Ipsos-MORI which appears to be a reputable research company They describe themselves as follows

"Ipsos MORI, part of the Ipsos Group, is a leading UK research company with global reach We specialise in researching Advertising (brand equity and communications), Loyalty (customer and employee relationship management), Marketing (consumer, retail & shopper and healthcare), Media CT (media and technology) , Social & political research and Reputation Research " (Ipsos MORI website 3<sup>rd</sup> July 2012)

In its Annual Report for 2008 GSOC state that they undertook a Garda Attitudes Survey in 2008 It should be noted that while the public attitude surveys were commissioned by GSOC and carried out by research companies, the Garda Attitude Survey was carried out by GSOC themselves According to Mr Graham

Doyle, GSOC Head of Communications and Research, a survey was sent to every Garda Member. However the response rate for these surveys has not been made available.

A further survey was commissioned in 2010 (GSOC Public Attitude Survey 2010) which was conducted by Millward Brown Lansdowne, a then recently newly formed company created by a merger between two of the biggest research companies in Ireland Millward Brown IMS and Lansdowne Market Research. They refer to their size and resources on their company website:

“The two companies individually were the leading practitioners of market research in Ireland – combined, we are by far the largest and best resourced research company in the country.”

(Millward Brown Lansdowne website, 3<sup>rd</sup> July 2012)

Their research methodology is described in detail on pages 4 and 5 of the survey results, and appears to indicate that they used a reasonably representative sample in terms of number and geographical spread.

The same company and methodology was used when GSOC commissioned similar surveys in 2011 (GSOC Public Attitude Survey 2011) and 2012 (GSOC Public Attitude Survey 2012).

It is reasonable therefore to assume that having used three different companies over the years, each of which has a professional reputation for research and reported methodologies which seem to reach acceptable standards, the results of the GSOC commissioned surveys in question may be relied upon.

A further reason to use these surveys in the course of the dissertation is that they are available, and are directly relevant to the topics referred to in the dissertation

### ***Interviews***

In the course of the dissertation, in an attempt to conduct some primary research, the author conducted three interviews with staff of the Garda Síochána Ombudsman Commission (GSOC). The author initially cold contacted GSOC, in February 2012, by telephoning reception and asking to speak to someone about potential research. Mr Graham Doyle, head of communications and research at GSOC, responded. It was explained to him that the author is engaged in preparing a dissertation for an Msc in Management course and requested access to full survey results and permission to interview a number of staff. Mr Doyle was very helpful and informed the author that the results of the most recent survey were expected very soon. Email correspondence was exchanged over the next few months. During the course of that correspondence detailed results of the surveys previously discussed, were received. Mr Doyle also offered to make available a staff member from various sections within the organisation for the purpose of interview. From the selection offered by Mr Doyle the author chose to interview a member of the actual three person commission, a researcher and Mr Doyle himself as head of communications and research. The choice of who to interview was made on an opportunistic basis to a point in that Mr Doyle put forward a number of options and the author selected from those options. Among the options were also investigators and administrative staff. However, it was felt



that the main topics of the dissertation are concerned with models of supervision, the involvement of police investigators in police complaints and the use of mediation in the resolution of complaints. These are all policy matters, in the author's opinion, and it seemed more appropriate to interview people concerned with implementing the existing policy as well as influencing future policy, and those concerned with researching relevant matters and communicating with the public.

The actual interviews were conducted at each interviewee's office at GSOC at 150 Abbey Street Upper, Dublin 1, one on the 31st May 2012, and two on the 8th June 2012. The interviews with Mr Doyle and Mr Moss lasted 53 minutes and 55 minutes respectively and the interview with Mr Fitzgerald, the GSOC Commissioner lasted just over 34 minutes.

The interviews were semi structured. A number of days prior to interview, each interviewee had been sent a short selection of topics including the following: Civilian review of police investigations, Types of oversight, Independence of the Garda Síochána Ombudsman Commission from Garda or political interference, Police involvement in complaints investigations and mediation. A copy of the document sent to the three interviewees is attached at appendix 3A.

The topics covered in the interview were primarily drawn from those that had arisen in the literature review and also from topics concerning GSOC that had been reported in the media. The interviews themselves were conducted in the office of the interviewee with no one else present. The author took notes and audio recorded the conversation with the permission of the interviewee. The

transcripts of each interview are attached (appendices 1, 2, &3) The interview format consisted of a brief introduction by the interviewer followed by the interviewee saying what he wished about each topic that had been signalled. In addition each interviewee was asked if there were any areas not covered which they felt might be relevant.

The material gathered from the interviews was informative and diverse. One of the interesting points was that there were significantly different opinions expressed between the researcher interviewed and the other two interviewees, particularly on the issue of lease back of investigations to An Garda Síochána. The interview results are discussed in more detail in Chapter 5.

The interviews went well from a practical point of view with no cancellations or technical hitches, the audio equipment functioned properly and the interviews were not interrupted. The only difficulty encountered was the unexpected time taken to transcribe the interviews from the recording device to a word document but this is probably due to the inexperience of the author in transcribing audio.

### ***Garda Representative Bodies***

In addition to conducting interviews with GSOC staff and reviewing the relevant literature and surveys, media reports of comments made by Garda Representative Bodies were also reviewed particularly in light of GSOC's suggestion that legislation be amended to allow for more complaints to be investigated by An Garda Síochána. These are discussed further in Chapter 5.

## ***Reflection on methodology***

It is probably fair comment for the reader to observe and remark upon the author's employment as a potential factor leading to an inevitable bias. That employment is a matter of fact but as discussed in the frame of reference section the author feels that he is personally relatively neutral on the topics the subject of the dissertation.

In addition the reader may have concerns regarding the fact that a substantial part of the research referenced in this dissertation is compiled by or commissioned by the Garda Síochána Ombudsman Commission (GSOC). Despite the utilisation of a number of reputable research companies to conduct the surveys, the fact that they were commissioned by GSOC to do so may lead to an apprehension of bias in terms of the results.

The decision to use the surveys in question arose partly for practical reasons, in that the surveys had been done and appeared to cover most of the topics that are relevant to the dissertation. The fact that Gardai as well as the general public had been surveyed gave some added interest to the surveys. It would have been desirable to survey members of the public who had gone through the complaints process with GSOC but this proved impossible as the identities of complainants are not made publicly available.

With regard to interviews, it was decided to take advantage of the cooperation of GSOC staff in making themselves available and those chosen as interviewees from the group offered for interview, were selected in an attempt to cover the

relevant topics from the point of view of senior management, research and public relations

The use of GSOC staff as interviewees may be viewed by some, as a process whereby the author simply obtained GSOC's reflections upon GSOC's performance and as such could be perceived as being of little value. However, the varied responses from the different interviewees which in some cases contradicted each other's views made for some interesting reading.

In hindsight it may have been desirable to interview individuals from the Garda Representative Bodies in regard to the relevant topics but time constraints did not allow for this so, as an alternative their views were represented based on a review of a number of published articles referencing some of the rep bodies' comments and concerns.

It is also worth noting that a significant portion of the material upon which the conclusions, findings and discussion regarding the research questions are based, is contained within the literature review which the author considers to be reasonably wide and varied and representative of the literature in this area. The volume of literature reviewed and its influence on the formation of the findings may allay concerns about the independence of the survey and interview material.

## **Chapter 5 Discussion**

### ***Types of oversight***

During the course of the literature review and the interviews conducted with GSOC personnel the main types of oversight identified were Civil Review of Internal Investigations, Independent Investigation and Mixed Model

The factors which bring about changes in police supervision models are relatively common internationally Attard (2010) points out that the various approaches to oversight can arise in response to law enforcement difficulties or scandals which in turn may lead to public outcry and calls for independent civilian review Similarly Anderson (1999), in a United States context, points out that sometimes, civilian review boards or panels are created after a particular scandal and consequent publicity and then are subsequently underfunded and undermined as public concern diminishes This is consistent with the fact that the Garda Síochána Ombudsman Commission was created largely as a result of the previously mentioned Morris Tribunal and its reports into allegations of police misconduct in Donegal

The model operated by GSOC in Ireland at the moment, is described in interview as a mixed model, by GSOC's head of communications and research Graham Doyle (Appendix 2)

“So to that extent we’re an independent body however when you’re looking at the types of, when you look at the three that you’ve just given there I suppose we have a mixed model in what we do in that yes we have areas of our work where our investigators conduct, solely conduct the investigations, however we do also have areas whereby we will lease back to the Guards for them to conduct either supervised or unsupervised by GSOC Investigators ” (Doyle, Appendix 2 P 1)

GSOC conducts its own investigations with its own independent investigators into all allegations of criminal behaviour against members of An Garda Síochána. However that is not necessarily the case when it comes to complaints of a non-criminal nature such as neglect of duty or abuse of authority or complaints identified as service failure matters. GSOC can and does refer many of those types of complaints to An Garda Síochána for investigation. This can be a supervised or unsupervised investigation. Therefore depending on the level of complaint, GSOC could be said to be operating a completely independent model, or a civil review of internal investigations which leads to the conclusion that overall it’s a mixed model.

The adoption of a mixed model is more than likely the product of pragmatism rather than idealism. It will be evident later in this discussion that the public favour a totally independent approach to police complaint investigation, however while GSOC does independently investigate criminal complaints against Gardaí, it sends a significant number of less serious complaints to the Gardaí for investigation and is seeking legislative amendment to allow it to increase the volume of those cases sent to Gardaí for investigation. This may arise simply

because GSOC has a limited number of investigators and in the current economic climate of austerity and cutbacks is unlikely to receive funding to recruit large numbers of investigators

### ***Independence***

While the mixed model approach operated by GSOC may be practical in terms of resources and finances, the literature seems to indicate that an independent model is preferred. It appears that people generally perceive independence as important for their police oversight.

During the course of an interview, (Appendix 3), Brian Moss, GSOC researcher points out that

“ it’s very clear to us that people still want independence it’s the overriding thing that comes through, and depending on which model you take, common law countries, or be it France or South America where models have developed, the overriding picture seems to be towards a demand to go towards independent oversight” (Moss, Appendix 3 P 2)

The independence of GSOC is perceived by one of its Commissioners at least as being largely intact, albeit with some slight reservations. Kieran Fitzgerald, GSOC Commissioner (Appendix 1) feels that

“ yes there is sufficient independence, we’re sufficiently independent operationally, so that would kind of be the bottom line ”

(Fitzgerald, Appendix 1 P 2)

However he does point to some restricting factors which could have the potential to impinge on that independence in certain circumstances. These include budgetary factors, the Secretary General of the Department of Justice is the

Accounting Officer for GSOC Another is the fact that while Section 106 of the Garda Síochána Act 2005 allows GSOC to conduct examinations into Garda practices,

“for the purpose of preventing complaints arising in relation to a practice, policy or procedure of the Garda Síochána or of reducing the incidence of such complaints” (Section 106, Garda Síochána Act 2005)

This can only be done following a request from the Minister for Justice, which can be on his own initiative or based upon a recommendation from GSOC

In practice this type of procedural examination has been recommended to the relevant minister by GSOC on two occasions In one case the minister subsequently requested that GSOC carry out the examination (in relation to the operation of the Fixed Charge Penalty System), and in the other the minister declined to do so (in relation to the Garda handling of crowd control and protest situations) A further issue which can prove to be a restricting factor, identified by Mr Fitzgerald is in relation to access to documents held or controlled by An Garda Síochána

“So the fact that some things, some pieces of information or some documents or some people even at times, might be deemed sensitive and relevant and important for state security, there may be some areas where we have to go to outside judgement about our access to those, So that’s a potential issue and it’s an issue because the Guards obviously hold the information in the first instance so we are in the position of trying to get it and that can at times be a problem don’t know that it goes to our independence necessarily it’s just an operational fact of life ”

(Fitzgerald, Appendix 1 PP 4&5)



This type of difficulty in accessing documentation can be seen as undermining to the authority of an oversight body, Attard (2010) maintains that the oversight agency must have sufficient authority if it is to be effective

“Agencies that have investigative authority must have the ability to interview all witnesses, including officers, and have access to all documents needed to complete their investigations ” (Attard 2010 P 1557)

Based on the interview with GSOC’s head of communications and research, Graham Doyle (Appendix 2), he appears to feel that the control of the allocation of complaints is central to the GSOC’s independence

“For us the big thing is number one, any criminal matter, any criminal allegation that comes to GSOC must be investigated by GSOC we any back to the Guards nor would we wish to do so The second thing is that yes we send investigations to the Guards to be conducted but that is our call We decide as to whether we feel that’s the appropriate avenue for things to go down ” (Doyle, Appendix 2 P 11)

It is clear that the public view is that independent investigation of complaints against police officers is preferable to having those complaints investigated by the police It is likely that there is a fear that in internal investigations favouritism or camaraderie might result in non-credible results It is interesting then to note the comments of Brian Moss, GSOC researcher, (Moss, Appendix 3), who talks about comparison between models of oversight based on substantiation rates He describes substantiation as where a complaint is found to be valid and actionable He states that internationally for independent bodies it is between 2 and 5 per cent and for police investigations it is between 5 and 11 per cent

“And Samuel Walker who’s based I think in a University in Nebraska, time and again, has said look there is no real evidence to support the theory that independent oversight is better than any of the others ”

(Moss, Appendix 3 P 3)

While it may not be surprising that the public view is that independent investigation of complaints against police officers is preferable, it is interesting to note that according to the results of the Garda Attitude Survey commissioned by GSOC in 2008 73% of Garda respondents also believe complaints should be handled by an independent body

### ***Police as investigators into police misbehaviour***

While the independence of GSOC is asserted by some of the interviewees, they do acknowledge that in certain circumstances complaints are “leased back” to the Gardaí for investigation. This policy raises the issue as to whether there should be any role for police as investigators into police misbehaviour

As previously referred to during the literature review, there is a widely held belief that investigation of police complaints by police officers is unlikely to be just and that it does not contribute to public confidence in the police service

Strudwick (2003) does acknowledge certain difficulties in taking a totally independent approach to complaint investigation, in that, the bulk of investigatory skill and experience lies with the police, and it may be difficult to similarly equip independent investigators

GSOC is equipped with a certain number of independent investigators however probably not enough to deal with the entirety of complaints submitted each year

According to its recently released Annual Report, in 2011 GSOC received 2,275 complaints from members of the public, of which 896 were deemed inadmissible That left 1379 to be dealt with

Lewis and Prenzler (1999) advocate the need for a body with an investigative as well as monitoring role independent of the police and politicians as a check on police misconduct Radford, Hamilton, & Jarman (2005) acknowledged that the establishment of an independent organisation to investigate complaints against the police in Northern Ireland was key in increasing public confidence in the public structures which included the Police Ombudsman for Northern Ireland Prenzler (2004) having advocated independent investigation goes on to stress that

“ police must retain a large role with alternatives to formal investigations and in preventing corruption through diverse strategies ”

(Prenzler 2004 P 110)

However the involvement of police in investigating complaints of a non-criminal nature is a reality in the current model practised by GSOC The GSOC Commissioner, Kieran Fitzgerald (appendix 1) feels that it is justified and indeed in some instances desirable that police be involved He makes the distinction between criminal behaviour and disciplinary behaviour He maintains that with an allegation of criminal behaviour on the part of a Guard then an independent agency like GSOC should be investigating it, there is not a role for Garda involvement in that case However he suggests that in matters of a low level disciplinary nature or matters he describes as failure of service, there is a role for

the police. He sees these issues as a managerial responsibility in some cases, and something that could be dealt with by supervisors. He goes on to say that this involvement of Garda management in the resolution of those issues inculcates a culture of responsibility within the police service.

While Mr Fitzgerald advocates the use of police investigators in certain non-criminal matters, Mr Hammarberg, Commissioner for Human Rights of the Council of Europe, following his visit to Ireland from 1 to 2 June expressed some reservations regarding GSOC's proposed legislative change to allow police involvement in investigations into alleged police misbehaviour that is categorised as less serious.

"While acknowledging the potential for a more efficient treatment of minor complaints, the Commissioner believes that a thorough analysis must be made beforehand to establish robust criteria to ensure that only suitable cases will be referred back to the police force. Otherwise, the reputation and credibility already earned by this still young police complaints mechanism could be at risk." (Hammarberg 2011 paragraph 10)

Mr Fitzgerald's view regarding the use of police investigators in certain instances is not, however, shared by all of his colleagues. During the course of interview, (Appendix 3), Brian Moss, GSOC researcher points out that the public want matters investigated independent of the Guards and that is consistently reflected in the results of the GSOC public attitude survey's. He seems to suggest that GSOC is ignoring this fact by seeking legislative amendments to move towards service complaints which can be handled by the Guards. He acknowledges that for GSOC to independently investigate every complaint would require larger

resources but argues that the resource issue is a separate matter to the desire of the public for someone separate from the Guards to investigate complaints

“ but having the resources and the moral need or the obligation to do it are two very different things” (Moss, Appendix 3 P 9)

With regard to the public attitude to independent investigation of complaints against Gardai, the results of the 2012 GSOC commissioned public attitude survey (GSOC Public Attitude Survey 2012) show that 83% agree that all complaints about the Gardai should be investigated independently (a drop of 9% on the 2011 results), but 45% agreed that having Gardai investigate other Gardai improves management roles within the Garda Síochána (an increase of 14% on 2011 figure)

Again the independent investigation of complaints against Gardai appears to be a key expectation of those surveyed. This result is fairly consistent over all the surveys and may create difficulties for GSOC in its quest for legislative change to allow it refer more matters back to the Gardai for investigation

Mr Moss also points to a certain irony in that the body charged with independently investigating complaints against members of An Garda Síochána has no mechanism for the investigation of complaints against members of its own staff. He says that to date there have been seven complaints against GSOC staff in here and that they have been internally investigated resulting in a 100% non-substantiation rate

It is not only members of the public who believe that complaints against the Gardai should be handled independently. There is a common perception that

police forces generally resist reform and in particular civilian oversight. However as highlighted in the Literature Review, Attard (2010) observes that there seems to be an acceptance among police management that some form of external oversight is an essential part of "good government", and that it ensures police act within the authority granted to them.

She was discussing the supervision of police in an American context. However it is evident that in Ireland the Gardaí are not necessarily opposed to external oversight. The Garda attitudes survey in 2008 revealed that 73% of Garda respondents believe complaints should be handled by an independent body.

This belief is reinforced by the reaction of one of the Garda Representative bodies, the Association of Garda Sergeants and Inspectors (AGSI), to the recent announcement by GSOC to the effect that they are seeking legislative amendments to move towards service complaints which can be handled by the Guards, allowing GSOC return a more significant number of low level complaints to the Gardaí for investigation. AGSI's response, reported on the RTE news website, was critical of the proposal. AGSI are reported as saying:

"All complaints against Gardaí should be investigated by an independent body" (RTE Website, 15 February 2012)

The GSOC proposal has been made in previous years and other Garda Representative Bodies have had similar responses. In April 2009 the RTE news website reported that the Association of Garda Superintendents was opposed to proposed changes which would result in Gardaí investigating more complaints against Gardaí. The Association spokesman is reported to have stated that

“ he did not think the public wanted Gardaí investigating Gardaí”

(RTE Website, 21 April 2009)

This comment is consistent with the results of GSOC Public Attitude surveys over a number of years

### ***Attitude to GSOC***

A high percentage of Gardaí (73%) expressed the belief that complaints against members should be handled by an independent body but this does not necessarily translate into complete trust of GSOC. It is evident that the Garda Representative Association (GRA) has had misgivings in the past, about the manner in which GSOC conducts its business. Lally (2012), reports in the Irish Times, on the GRA Annual Conference in April this year. He outlines the GRA's contention that GSOC is not dealing correctly with those who make vexatious complaints about Gardaí, and they want the oversight agency to take a tougher stance against those complainants. He notes that GRA and Garda members may have issues with GSOC,

“The ombudsman commission's work has always been contentious with many Garda members, and the commission has had a sometimes difficult relationship with the association ” (The Irish Times, April 16, 2012)

The issue of vexatious complaints was also the subject of GRA comment the previous year according to Tighe (2011), who reports that as a result of a lack of prosecution of people who made vexatious complaints, that

“The President of the Garda Representative Association (GRA) said many of his 11,550 members had lost confidence in the Garda Síochána Ombudsman Commission (GSOC) and levels of trust were decreasing ”

(Sunday Times 13 11 11)

Further evidence of discord surfaced in February of 2011, when the GRA called for a judicial enquiry into the GSOC investigation into a Garda Brendan Whitty, which they claim featured excessive and oppressive behaviour RTE reported that,

“The GRA questioned the legal authority of some of the Ombudsman's investigators and the manner in which the investigation into Garda Brendan Whitty was carried out ” (RTE Website, 8 February 2011)

The conclusion can be drawn from reviewing these reports that while the GRA may very well support the idea of independent oversight in principle, they do not seem totally convinced by the performance of GSOC to date

### ***Comparison to international standards and practice***

A common theme among all of the literature reviewed is the need for some form of civilian oversight of police officers

It is difficult to say unequivocally what the best practice in the area of police supervision is. There are varying models in place internationally and there is no generally accepted method of gauging the success of a model. For example is a model less successful if there is an increase in complaints against the police? Not necessarily, as it may be that members of the public have confidence in the model and are therefore more willing to participate in the complaints process



Attard (2010) highlights the non-standardisation of oversight models in the USA. There are numerous different models in operation. Attard (2010) does however identify three main types of oversight in relation to police forces as

“(1) Investigative, (2) boards and commissions, and (3) auditor/monitor agencies ”  
(Attard 2010 P 1550)

Berry, O'Connor, Punch, and Wilson (2008) also highlight the lack of standardisation in the way police forces operate throughout the United States, pointing to the lack of uniformity and the absence of Central Government involvement in the process.

Attard (2010) suggests that an investigative authority approach lends credibility to its findings due to its perceived independence. The second type of oversight described by her involves boards and commissions. In some cases, their investigations are conducted by police internal affairs offices. While this can lead to fears of a lack of independence from the police force, she does highlight the fact that they tend to counteract that issue by doing their business in public.

While there appears to be no agreement as to whether external or internal systems are more efficient in controlling police forces, Kersten (2000) sees the existence of an Ombudsman or complaint authorities as symbolic of enhanced police accountability.

Skolnick (1998) makes the case for civilian oversight of internal police investigation with a simple but important observation to the effect that people will not believe police that investigate themselves.

Probably the strongest argument for civilian involvement in investigation of alleged police misconduct is that the sector under investigation is not credible as the sole investigator of the alleged wrongdoing. While there does not appear to be consensus as to exactly what is the optimum form that police supervision should take, there does appear to be agreement that a purely internal system is not acceptable or credible and some independence is required either by way of civilian supervision of a police investigation or by way of independent civilian investigation. This is borne out by the move towards civilian oversight of police in most western societies. Bryett points out that,

“The growth in the involvement of the community in its policing practice has also led to the development of the oversight by civilian bodies of complaints against police in the UK, USA, Australia and Canada, among others”  
(Bryett, 1999, PP32-33)

Landau (1996) acknowledges that independent oversight/external review has been regarded as essential for both accountability and control of police behaviour.

Kempa (2007) highlights a general trend across a number of nations, toward systems of external review of police forces. In most instances the oversight bodies receive complaints and in some cases they conduct investigations.

Prenzler (2004) concludes that civilian oversight is necessary and perhaps should go beyond review, while still allowing for input from management in disciplinary decisions. The model adopted by GSOC appears to be similar to that advocated by Ede, Homel & Prenzler (2002) in an Australian context, who point

out that purely internal methods of investigation are not credible. They describe an alternative mixed model where,

“ police deal with medium and low level complaints while the external agency audits these activities and investigates more serious matters ”

(Ede et al, 2002, P 29)

It is reasonable to conclude from reviewing the literature and from examining the public attitude surveys and the interviews conducted with GSOC staff that best practice would dictate that there should at least be a level of civilian oversight of police complaints. Internal investigations are simply not perceived as credible. There seems to be a sense that the optimum model would be one that is completely independent of the police and investigates all relevant matters using its own civilian investigators. However there is also some acknowledgement that it may be acceptable for police to be involved in investigations, particularly in relation to low level matters and when subject to the supervision of an oversight body. In GSOC's case they are actively pursuing proposed amendments in legislation which would allow them return a more significant number of low level complaints to the Gardaí for investigation. They point out however that they investigate alleged criminality and that any criminal allegation that comes to GSOC must be investigated by GSOC.

The GSOC Commissioner, Kieran Fitzgerald (appendix 1) feels that GSOC compares favourably to international practice. He points to the fact that in many instances internationally what exists is a review mechanism where matters are investigated by the police and the ombudsman has some sort of review role. In

contrast GSOC has the option to supervise investigations or to investigate disciplinary matters themselves and they also conduct the investigations into alleged criminal misconduct by Guards themselves

GSOC's head of communications and research, Graham Doyle (Appendix 2), also feels that GSOC compares favourably to international practice. He refers to visits to GSOC from Thomas Hammarberg, Council of Europe Commissioner for Human Rights, and to his report on police oversight. Mr Doyle states that Hammarberg has said

“ that the Garda Ombudsman Model should almost be, almost like the flagship for police oversight throughout Europe. So I think to get that from such a high level is an indication that you know we're not too far away from what we would want, from where we would want to be ”

(Doyle, Appendix 2 P 21),

Brian Moss, GSOC researcher, (Appendix 3), makes the comparison of GSOC's performance based on substantiation rates of complaints against the police. He differentiates between substantiation of complaints and upholding the complaint

“ upholding something is that yeah we agree the complainant seems to have a case here but we can't find that actually the police officer breached any code. Whereas substantiation seems to be yes there's something wrong and it can be disciplined ” (Moss, Appendix 3 P 17),

He states that internationally for independent bodies it is between 2 and 5 per cent and for police investigations it is between 5 and 11 per cent. He has calculated the substantiation rate for GSOC to be at 2%. Based on those figures GSOC wouldn't compare favourably to its international counterparts. However the public perception of GSOC's effectiveness is more positive, according to the

2012 public attitude survey, 79% of respondents agree that the Garda Ombudsman makes the Gardaí more accountable for their actions, and 65% agree that it has improved the manner in which Gardaí deal with the public (these are almost identical to the 2011 results)

### ***Mediation and complaints against An Garda Síochána***

Section 90 of the Garda Síochána Act 2005 allows GSOC to resolve certain types of complaint by the use of a mediation or informal resolution process,

“90 (1) The Ombudsman Commission may issue guidelines providing for the resolution, by mediation or other informal means, of admissible complaints other than—

- (a) complaints to which section 91 applies,
- (b) complaints about conduct that appears to constitute an offence, and
- (c) complaints determined in accordance with the guidelines not to be suitable for resolution by mediation or other informal means ”

(Section 90, Garda Síochána Act 2005)

Despite this, in practice mediation has only been used on one occasion. Informal resolution is used more frequently. Informal Resolution refers to contacts between GSOC staff and the complainant and separately, contacts between GSOC staff and the Garda member subject to the complaint. If agreement is reached and the matter is resolved then there is no permanent record on the Garda's personnel file.

Mediation on the other hand refers to a meeting or series of meetings between the complainant on the one hand and Garda member subject to the complaint in

the presence of a mediator or facilitator. The issues causing the complaint are thrashed out and hopefully reconciled to everyone's satisfaction. If the process is successful, there is no permanent record on the Garda's personnel file.

The GSOC Commissioner, Kieran Fitzgerald (appendix 1) feels that mediation in the above mentioned format is not something that's likely to be extensively used by GSOC in the near future.

" GSOC has done very little of it and I don't see it in our immediate future, for those very reasons, it may be disproportionately expensive"

(Fitzgerald, Appendix 1 P12)

The main issues he identifies with mediation are that it is an expensive process for a number of reasons, including the cost of a mediator but also the expense of managing an on-going mediation process which may involve a number of meetings.

There is a more positive view of mediation apparent in some of the literature however. Hatch (2005) contends that although the use of mediation in complaints against the police is relatively new, it has been successful based on, among other things satisfaction rates of participants and cost savings.

Mr Fitzgerald envisages a greater role for informal resolution but sees difficulties with mediation that are mostly based on what he perceives as the practical issues. However he does also identify a potential problem in terms of the types of complaint that would be mediated. Under the Garda Síochána Act 2005 mediation could only be used in the resolution of relatively low level complaints. It is an expensive and resource intensive process and such expenditure may be

deemed inappropriate, particularly in the current economic climate Mr Fitzgerald sums it up as follows

“ We would be dealing at that point in those mediations again with the lowest level, the most minor complaints, and the idea that we would be putting more resources into those than we would into something of a more serious nature would seem a bit disproportionate ”

(Fitzgerald, Appendix 1 P13)

In the course of the interview, Graham Doyle (Appendix 2), GSOC's head of communications and research, also identifies cost as a major factor holding back the use of mediation in the resolution of complaints

“One of the big problems to be perfectly honest with you that we have with mediation is the cost of it “

(Doyle, Appendix 2 P 5)

Brian Moss, GSOC researcher suggests (Appendix 3) that cost should not be the overriding factor He feels the decision to use or not use mediation should be based on effectiveness rather than cost He points out that various forms of mediation have been used between the Guards, the health service executive and the probation service in terms of family, juvenile and welfare conferencing, and it seems to have worked generally speaking

Attard (2010) discusses mediation as a methodology for resolving complaints, and concludes that in more traditional misconduct investigations, complaints relating to discourtesy or bad attitude usually result in findings that are unsatisfactory to either party and don't prevent reoccurrence She points out however that a successfully mediated situation can result in increased understanding on both sides which can impact positively on behaviour

This is a viewpoint that appears to be supported by Berger (2000) who also argues that the mediation process itself can transform attitudes of participant parties in a positive direction

It appears unlikely however that mediation will feature to any great extent in GSOC'S plans

What has been surprising is that while there is a large amount of literature discussing police supervision and the resolution of police complaints generally, there is a relatively small amount of literature addressing the topic of the use of mediation in the resolution of police complaints

### ***Culture***

In the literature review the issue of police culture was discussed. While there is an acceptance that there is a culture that exists within police forces it is also argued that the traditional pejorative view of that culture suggesting that a lack of reporting of police misconduct by colleagues is due solely to the policing culture, is not necessarily accurate. The overall sense from the recent literature on these issues is that the nature of the culture is slowly changing. An acceptance and indeed preference for, independent investigation of police complaints, expressed by Gardaí in the Garda Attitude Survey conducted by GSOC may be evidence of this change.



## **Surveys**

As previously stated GSOC has commissioned a number of surveys since its inception. Results from these surveys have been mentioned earlier in this chapter. The main findings of those surveys are summarised below.

In 2007 when the Garda Síochána Ombudsman Commission had recently been established, they commissioned a survey entitled "Benchmark Public Opinion Study". The idea behind the research was to establish a baseline in regard to public awareness of GSOC and its functions.

"This was considered to be useful in its own right, and could also provide a benchmark against which to monitor future progress in awareness and understanding of the body."

(Benchmark Public Opinion Study, April 2007 P 2)

Among the findings made in the course of this study was that 39% of the public would be unwilling or hesitant about making a complaint if they were unhappy following a bad experience with the Gardaí. The main reasons for this were that participants felt that to complain might make matters worse or they felt that the Gardaí would do nothing about it. With regard to attitude of the public towards GSOC 89% agree that it is a good idea, 85% agree it is long overdue and 73% agree it will make it easier to complain. 76% feel that the Garda Síochána Ombudsman Commission will have a positive impact on the willingness of the man in the street to complain while 69% feel that GSO will have a positive impact on the overall behaviour of the Gardaí and 70% believe that it will improve the Garda Síochána's handling of complaints.

### **Public attitude survey 2008**

Subsequently GSOC commissioned a public attitude survey in 2008 (Headline results of the 2008 Garda Síochána Ombudsman Commission Public Attitudes Survey conducted by Ipsos-MORI) and published its headline results which are summarised in the table below

<b>Public attitude survey 2008</b>	
Willing to make a complaint if they had a reason to do so	71%
Believe that GSOC is Independent	83%
GSOC will have positive impact on willingness to complain	84%
GSOC will have positive impact on Garda response to complaints	81%

### **Garda attitude survey 2008**

In its Annual Report for 2008 GSOC state that they GSOC undertook Public and Garda Attitudes Surveys in 2008. The main results of the Garda Attitudes Survey are reported in the 2008 Annual Report (at page 30 & 31). It should be noted that while the public attitude surveys were commissioned by GSOC and carried out by research companies, the Garda Attitude Survey was carried out by GSOC themselves and its main findings are summarised in the attached table

<b>Garda attitude survey 2008</b>	
Expect a complaint to be made about them during their careers	76%
Believe complaints are made with good cause in few/no cases	74%
Believe complaints should be handled by an independent body	73%
View GSOC as independent	50%
Believe that GSOC presence at scenes creates negative image of Garda Síochána	70%

Garda members surveyed, with five years or less of service hold more negative views of GSOC than longer-serving Gardaí

The Annual Report for 2008 makes some comparisons between public attitudes and Garda attitudes

"82% of the public respondents believe GSOC to be independent compared to 50% of garda respondents, 50% of public respondents believe GSOC is effective compared to 23% of garda respondents, 48% of public respondents believe GSOC is efficient compared to 20% of garda respondents, and, 19% of public respondents believe GSOC will impact negatively on garda morale compared to 23% of garda respondents who feel that GSOC's existence impeded them from doing their job properly "

(GSOC Annual Report 2008 P 31)

That 73% of Garda respondents believe complaints should be handled by an independent body may be somewhat surprising given that 23% of Garda respondents feel that GSOC's existence impeded them from doing their job properly and that only 20% of Garda respondents believe GSOC is efficient

Further surveys were commissioned in 2010 (GSOC Public Attitude Survey 2010), 2011 (GSOC Public Attitude Survey 2011) and 2012 (GSOC Public Attitude Survey 2012) the main results are summarised in the table below

	<b>Public attitude survey 2010</b>	<b>Public attitude survey 2011</b>	<b>Public attitude survey 2012</b>
Willing to make a complaint if they had a reason to do so	66%	67%	66%
Believe that GSOC is Independent	70%	73%	73%
Awareness of GSOC (Heard of it)	74%	76%	78%
Have confidence in the Garda Siochana's ability to deal with complaints about Gardai,	52%	53%	56%

In the 2010 survey of respondents who would be willing to make a complaint if they had a bad experience with the Garda Siochana 31% say they would complain to GSOC and 31% to An Garda Siochana

Of the 23% who would not make a complaint following a bad experience with the Guards (this is a drop of 2% on the 2008 results) 35% said it was because it might make matters worse and 27% said that nothing would be done and 20% stated that complaining would be too much trouble

83% of respondents agree that the Garda Ombudsman makes the Gardaí more accountable for their actions and 80% agree that it is used mainly by people with genuine reasons for complaining, and 76% agree that it has improved the manner in which Gardaí deal with the public

50% agree that the Garda Ombudsman has been effective in its work to date, but there is only a very small number (7%) who disagree with these statements 43% agree nor disagree or simply don't know

There appears to be some level of contradiction in the survey results, when it comes to the public attitude to independent investigation of complaints against Gardaí, 94% agree that all complaints about the Gardaí should be investigated independently However 87% of respondents agree that legislation allowing the Garda Ombudsman to have certain less serious complaints investigated by the Garda Síochána builds a culture of accountability within the Garda Síochána and 81% agree that legislation allowing the Garda Ombudsman to have certain less serious complaints investigated by the Garda Síochána strengthens the management authority within the Garda Síochána

In the 2011 survey of the respondents who would be willing to make a complaint if they had a bad experience with the Garda Síochána, 34% say they would complain to GSOC (3% up on 2010) and 35% to An Garda Síochána (4% up on 2010)

Of the 23% who would not make a complaint following a bad experience with the Guards (this is the same as the 2010 results) 25% said it was because it might

make matters worse and 25% said that nothing would be done and 19% stated that complaining would be too much trouble

78% of respondents agree that the Garda Ombudsman makes the Gardaí more accountable for their actions, and 65% agree that it has improved the manner in which Gardaí deal with the public (this is a drop of 11% on the 2010 results)

It concluded that 53% have confidence in the Garda Síochána's ability to deal with complaints about Gardaí (1% up on 2010)

With regard to the public attitude to independent investigation of complaints against Gardaí, 92% agree that all complaints about the Gardaí should be investigated independently (a drop of 2% on the 2010 results)

14% agreed that a Garda should be allowed to investigate a Garda from the same Division and 31% agreed that having Gardaí investigate other Gardaí improves management roles within the Garda Síochána

The conclusion may be drawn from these results that the public believes that there is a level of misbehaviour within An Garda Síochána and that the most appropriate method to deal with this behaviour is by way of impartial investigation

In the 2012 survey 75% agree that it is used mainly by people with genuine reasons for complaining, 79% of respondents agree that the Garda Ombudsman makes the Gardaí more accountable for their actions, and 65% agree that it has

improved the manner in which Gardaí deal with the public (these are almost identical to the 2011 results)

Of respondents who would be willing to make a complaint if they had a bad experience with the Garda Síochána 30% say they would complain to GSOC (4% down on 2011) and 38% to An Garda Síochána (3% up on 2010)

Of the 24% who would not make a complaint following a bad experience with the Guards 27% said it was because it might make matters worse and 27% said that nothing would be done and 23% stated that complaining would be too much trouble

## ***Findings***

From the preceding discussion the findings of the research and literature review can be summarised as follows

With regard to type of oversight GSOC is currently operating what is best describes as a mixed model with the use of its own independent investigators into all criminal allegations against members of An Garda Síochána and the referral of many complaints of a non-criminal nature to An Garda Síochána for investigation. This can be a supervised or unsupervised investigation. GSOC is currently seeking legislative change to enhance its ability to refer matters to An Garda Síochána for investigation.

When it comes to Independence GSOC is subject to external budgetary constraints and the requirement to obtain permission from the relevant minister in order to conduct certain investigations. In practice however these factors don't appear to have significantly impeded its independence.

In terms of comparison to international standards and practice it appears that best practice would dictate that there should at least be a level of civilian oversight of police complaints. Internal investigations are not perceived as credible. The optimum model would be one that is completely independent of the police and investigates all matters using civilian investigators. There is however acknowledgement that it may be acceptable for police to be involved in investigations in relation to low level matters subject to the supervision of an oversight body.



There is a widely held belief that investigation of police complaints by police officers does not contribute to public confidence in the police service. However, the involvement of police in investigating complaints of a non-criminal nature is a reality in the current model practised by GSOC.

The attitude of the Garda Representative Body to GSOC is interesting in that they express a support for independent oversight in principle, yet have been quite critical of the performance of GSOC to date.

Despite the traditional view of police culture, that there would be strong resistance to "outside interference", there is in fact a preference for independent investigation of police complaints expressed by Gardaí in the Garda Attitude Survey conducted by GSOC.

An interesting aspect is that despite the results of numerous surveys and consensus in the literature that independent investigation or at least independent oversight is preferable, it is pointed out by GSOC researcher Brian Moss, in the course of interview (appendix 3), that there is no significant evidence that independent oversight is better than any of the others. However, it is likely that the reason independent oversight is preferred by the majority of contributors is due to the perception of fairness that it creates.

Mediation seems unlikely to be extensively used by GSOC in the near future. The main reasons for this appear to be the expense of operating it and the fact that it would only apply to low level type complaints leading to a disproportionate amount of time being spent on the least significant matters.

## **Chapter 6 Conclusion**

In the course of this dissertation the topic for research was introduced and the relevant background information and context was explored. The author's frame of reference was declared. The relevant legislation and official publications from the relevant bodies have been reviewed. A substantial body of academic literature has been considered and reviewed. The original research questions were altered and these changes are discussed in the research chapter, as is the methodology used and how interviewees were chosen and how interviews were conducted. In the discussion chapter the main issues were discussed and findings arrived at based on the literature and research. Those findings can be viewed in the context of the research questions.

### **Is the current system for dealing with complaints against Gardaí viewed by stakeholders as sufficiently independent?**

The model GSOC is currently operating is a mixed model with completely independent investigators into all criminal allegations against members of An Garda Síochána and the referral of many complaints of a non-criminal nature to An Garda Síochána for investigation. This can be a supervised or unsupervised investigation. GSOC is currently seeking legislative change to enhance its ability to refer matters to An Garda Síochána for investigation.

The results of the public attitude surveys over a number of years consistently indicate that of those surveyed a significant number (between 70% and 83%)

perceive GSOC to be independent

There is a preference for independent investigation of police complaints, expressed by Gardai in the Garda Attitude Survey conducted by GSOC

The Garda Representative Body express a support for independent oversight in principle, yet have been quite critical of the performance of GSOC to date

Therefore based on these findings it is fair to say that the current system for dealing with complaints against Gardai is generally viewed by stakeholders as sufficiently independent

#### **Is there a role for Garda officers as investigators into Garda misbehaviour?**

With regard to the public attitude to independent investigation of complaints against Gardai, a large percentage consistently agrees that all complaints about the Gardai should be investigated independently. The conclusion may be drawn from the survey results that the public believes that there is a level of misbehaviour within An Garda Síochána and that the most appropriate method to deal with this misbehaviour is by way of impartial investigation.

However there is some inconsistency in that a significant number also agree that they have confidence in the Garda Síochána's ability to deal with complaints about Gardai.

There is a widely held belief that investigation of police complaints by police officers does not contribute to public confidence in the police service. However from the interviews with GSOC staff the predominant view is that they approve of the "lease back" of "service" type complaints to An Garda Síochána for

investigation and are seeking to increase its use, but want some legislative change to increase their supervisory powers in relation to these Garda investigations. So the involvement of police in investigating complaints of a non-criminal nature is a reality in the current model practised by GSOC. Depending on the success of GSOC's request for legislative change it may be that Garda involvement in investigating complaints against the Gardaí will actually increase although it will continue to be restricted to "low level" complaints.

**How does the Garda Síochána Ombudsman Commission's operational model and practice compare to international practice?**

The research indicates that there is no standard model of international practice in this area. However, it is internationally accepted that some form of oversight independent of the police is essential. Completely independent investigation is seen as desirable but doesn't appear to be common practice. There is however acknowledgement that it may be acceptable for police to be involved in investigations in relation to low level matters subject to the supervision of an oversight body. Economic realities and the volume of low level complaints to be dealt with in most jurisdictions is likely to ensure at least some police involvement in the investigation of complaints against the police for some time to come.

The fact that GSOC exclusively investigates all criminal allegations against members of An Garda Síochána places them in accord with the generally held view that independent investigation of police complaints is preferable and definitely more credible.

## **Is there a role for mediation in the resolution of complaints against members of An Garda Síochána ?**

Traditional mediation is unlikely to be extensively used by GSOC in the near future. It has been used by GSOC on only one occasion. It is perceived by the commission to be too expensive and time consuming and applicable only to low level type complaints. The GSOC Commissioner interviewed feels that a viable alternative is the expansion and adaption of their existing "Informal Resolution" format.

### **Further Research**

As discussed a number of times in this dissertation there is a commonly held view that independent investigation of complaints against police officers is preferable to police involvement in those investigations. This view is found in public attitude surveys, Garda Attitude surveys and it permeates the literature reviewed. However in the course of interview Brian Moss, GSOC researcher (appendix 3) discusses effectiveness of the independent oversight model versus that of police only investigations, evaluated on substantiation rates, and he refers to literature that suggests that while independent oversight is commonly perceived to be preferable there is in fact no empirical evidence that it is more successful than any of the others methods.

This is perhaps an area for further research, firstly to establish a metric by which various methods of police oversight should be evaluated and then to ascertain whether independent oversight and investigation is more successful or not when measured against that metric.

## **Summary**

In summary the overall conclusion of this dissertation is that the model of police supervision operated in Ireland is a mixed model which is viewed as reasonably independent. The model will continue to involve the use of members of An Garda Síochána to investigate low-level complaints. It is unlikely that traditional mediation methods will be implemented. The operational model and practice of the Garda Síochána Ombudsman Commission compares favourably to international practice.

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## **Appendices**

- Appendix 1      Transcript of interview with Kieran Fitzgerald, Commissioner, GSOC, conducted on Friday 8<sup>th</sup> June 2012
- Appendix 2      Transcript of Interview with Graham Doyle, head of communications and research at GSOC, conducted on Thursday 31<sup>st</sup> May 2012
- Appendix 3      Transcript of interview with Brian Moss, GSOC researcher, conducted on Friday 8<sup>th</sup> June 2012
- Appendix 3A     Topics for interview with GSOC personnel
- Appendix 4      Garda Ombudsman Benchmark Public Opinion Study, April 2007
- Appendix 5      Headline results of the 2008 Garda Siochana Ombudsman Commission Public Attitudes Survey
- Appendix 6      Garda Attitudes Survey 2008 Questionnaire and Results
- Appendix 7      Garda Ombudsman Public Attitudes Survey 2010
- Appendix 8      Garda Ombudsman Public Attitudes Survey 2011
- Appendix 9      Garda Ombudsman Public Attitudes Survey 2012

## Appendix 1

### Memo of interview with Kieran Fitzgerald, Commissioner, GSOC. Made on Friday 8<sup>th</sup> June 2012.

**B M**

So by way of Introduction, I'm Brian Mahon and this is an interview with Kieran Fitzgerald Commissioner with An Garda Síochána Ombudsman Commission, to assist me with my dissertation and it's the 8<sup>th</sup> of June Thanks very much for helping me out

**K F**

Your welcome Brian

**B M**

Prior to the meeting I sent down some headings and topics that I'm interested in discussing I suppose the first one is in relation to independence of the Ombudsman Commission, or GSOC for short In your view would you be happy that there is sufficient independence for GSOC from either Garda interference or potential political interference

**K F**

OK, can I ask you a question before we come to that question?

**B M**

Sure yeah

**K F**

I know you sent me I think about 5 topics, have you other ones apart from that or is it just these 5

**B M**

That's the main focus but if there's anything you think that's relevant that I haven't covered by all means

**K F**

So is there sufficient independence from Garda or political interference, I suppose there are 2 if I could kind of divide that answer into 2 ways for you Brian One is there is the statutory form where interference may or may not be technically feasible, and then there is the practical on the ground, how it's

been working for the last 5 years and I think both are relevant. If you asked me for a yes/no, yes there is sufficient independence, we're sufficiently independent operationally, so that would kind of be the bottom line, now there are 2 compromising issues that I think are worth pointing out and I think you're probably aware of them. The first one is that the Secretary General of the Department of Justice is the accounting officer for this organisation. So we are not awarded our budget by a vote of the Oireachtas in the way that perhaps a fully independent body might expect. So in that sense you could say technically the Sec Gen ultimately accounts for our budget and in so doing technically the power is there for the department of justice to interfere if they so chose. I have to stress in practical terms they have not done so. It hasn't been an issue they haven't done so and they haven't attempted to do so, we haven't had to resist any attempt or anything like that, they have been nothing but technically the accounting officer that's all. But if you were to ask structurally is the possibility for it to happen, you could say it's there, in practice it hasn't happened. Now our budget has been set and the allocation set over the last few years and obviously there was the major economic upheaval, we took a little bit of a reduction, but it's very much in line with other agencies and we don't have, I wouldn't publicly say we don't have an issue with our budget, everyone does, but we don't have an issue of having been singled out or victimised in any way uniquely on that.

The other potential compromising thing and again it's to do with the department of justice and the minister rather than the Garda side is Section 106 of the Act, are you familiar with it?

**B M**

Yeah

**K F**

Ok this is where we have power to conduct an examination of any practice policy or procedure with a view to preventing complaints arising or reducing the incidence of complaints. Section 106, it's a very short section. In order to conduct such an examination we have to either be requested by the minister for justice to do so, now we can ask him to ask us if you know what I mean and obviously there's a certain amount of I suppose of if that is known publicly there's a certain amount of political pressure put on the minister, if it's known

that were looking for this and he has to turn it down publicly then, but that's political pressure. In reality he can if he wishes refuse to allow us conduct such an investigation and I don't know if you know our history we have made 2 such requests before my time as commissioner, but we've made 2, 1 was refused and 1 was granted so it's not a power that the minister is afraid to us, not the current minister I stress but the late Brian Lenihan, if you're interested, and maybe it's overburdening you, with irrelevant information, Brian, but the 2 were, 1 was and you'll find reference to these in our annual report so, you might have looked at them already, 1 was to look at the Shell to Sea in other words public protest policing. That was refused and the other one was to look at certain aspects of the fixed penalty system, both of which were generating uniquely large numbers of complaints for us and we thought there maybe was more a systemic problem than any particular misbehaviour by any individual Garda and all the rest of it, and the minister saw fit to say yes to 1 and no to the other so it's not an irrelevant power that's what I'm saying. If I were to look at the 2 issues which potentially compromise us they would be the 2 to be honest unless you want to ask about any specific one that you might have uncovered in your own research they're the 2 that occur to me, and I have to say the first one the accounting thing is almost irrelevant in practical terms, the second one as you can see in practice has an effect and it's in the discharge of our duties and it's a more important one in a sense because if we want to conduct such an examination it's very much of the systemic issues and I'm of the belief that those kind of systemic reviews are very important and possibly where we can give most of the learning that we might get from our particular perspective back to the Guards and it might actually be of a helpful nature to prevent complaints arising and all the rest of it so I would prefer that that veto didn't exist. I think in terms of the perception as well of public independence, and again if you look at people like the Irish Council for Civil Liberties and potentially I think also the Human Rights Commission you might find that in the past they have commented on that particular section, 106, not favourably. Now your question had 2 halves, the other half was have we sufficient independence from the guards. Now I just want to see the answer I'm going to give you know it covers 2 or 3 areas but I'm happy to give it know and you can, if I repeat it again later on just tell me Brian and shut me



up The, we are sufficiently independent from the Guards in terms of our overall independence, that's not to say that there are issues, and again funny I would bring them down to possibly 2 areas I would identify 1 is the exchange of information, obviously when you get to a certain stage of sensitive information Brian, your own work you'd have come across it you know what I'm talking about, there's a certain amount of judgement call has to happen as to who a body might want to share it with, There are some sections in the act which talk about state security and its this business of the Irish Gardaí being fairly unique in being the state security agency as well as the law enforcement agency So the fact that some things, some pieces of information or some documents or some people even at times, might be deemed sensitive and relevant and important for state security, there may be some areas where we have to go to outside judgement about our access to those, and that's a limiting factor, I'm not saying I disagree with it but it's there I mean we respect state security as much as the Guards do and we're not looking in anyway to compromise it so its not a row, that one, however in practical terms, at times perhaps, the definition of state security sensitive information, and sensitive information can be confused and blurred and at times perhaps a cynic might say conveniently so, and that can lead to some operational difficulties, and I'll be honest and say it has done, So that's a potential issue and its an issue because the Guards obviously hold the information in the first instance so we are in the position of trying to get it and that can at times be a problem or a delay in investigations from time to time but that's an inevitability, don't know that it goes to our independence necessarily its just an operational fact of life It also at the lower level comes down to a Baton report, The Guards have it we don't we're looking for it, So it'll always be the case whether its high level sensitive or low level stuff that's just an operational problem we have, does it effect our independence, operationally to some extent it might be a delaying mechanism but I wont go beyond that

The other issue I suppose is the relationship between the discipline Regs and the Garda Síochána Act 2005 I'm sure you're very familiar with the Regs though I hope never subject to them

**B M**

No not yet anyway!

**K F**

You know the way the act is structured, under section 94 we can refer certain matters back to the Garda Commissioner and they may be investigated under the Regs, now under the Regs if it's deemed a less serious complaint then the investigating Superintendent can be appointed as a deciding officer, now if he or she is appointed as a deciding officer, They can make their decision, issue lets say a warning for the sake of discussion and that's the end of the matter, there is no revisiting that, well the issue I would have with that is that a complaint that comes to me which I've sent back to Martin Callinan and he sends off to Mullingar and its decided, if its decided by a deciding officer well the oversight that the Oireachtas gave us of the issue is bypassed, the bottom line is the person who made the complaint will still look to me and say I complained to the Garda Ombudsman what happened? And we have a review mechanism but it's not very strong it's not a very meaningful review mechanism in the act if you look at it under section 94

**B M**

Is there not the option, maybe I'm I thought there was an option that you can refer it for investigation under supervision?

**K F**

We can do that too, we have a choice I mean I can make that choice, we can choose to do it ourselves even if it's a disciplinary we can do it ourselves or we can supervise it, in which case it does come back to us and that's no problem with that but a lot of them, are at that low level where you would genuinely deem it as less serious, you wouldn't be saying to any Guard you might loose your job over this if its proven because its just not of a serious enough nature and in all fairness to the member you'd say look this is at the lower end of the scale Those can be done under the Regs as a less serious and therefore a deciding officer

**B M**

Once you make that decision then you've lost control of it to a certain extent then?

**K F**

Precisely And I have a problem with that yeah And it does cut to our independence and that's an issue I have yeah

**B.M.**

The next topic I have is whether there is a role for police as investigators into police misbehaviour at all, and the background to it is that looking at literature all around the world, while initially it seems like a no brainer that there should be no police involvement as you actually look into them most of them do kind of admit that at some stage they have to have, particularly because the investigative numbers are there in the police forces, So I suppose different from the independence I was more talking about the control of the complaints as such, whereas in terms of the actual practice of garda officers assisting you and doing investigations and all that do you see any difficulty in that or any reason why it shouldn't be done?

**K.F.**

Well the first thing is, is there any justification for it, at the policy level, in my view yes I think there is a strong justification for it. Now I know what you mean, in terms of the, if you like, the cheap and easy political discourse, should there ever be Guards investigating Guards it's a bad idea, I don't agree with that and I know from a Garda Ombudsman that might sound a bit surprising, but I actually don't buy that, and I think the problem with that particular political discussion, it's a problem, and a mistake made by Guards as much as anyone else, in fact most often by Guards in my opinion, is that people don't distinguish between criminal behaviour and disciplinary behaviour. I think it's very important that you make those distinctions. I absolutely agree that when it comes to an allegation of criminal behaviour on the part of a Guard well then our agency or some independent agency like us should be investigating it independently of the Guards and there is not a role for Garda involvement in that case so I absolutely agree with that, but you have to make that distinction, between in the criminal area, no, but in disciplinary, yes, and the reason I think that its not only justified but recommended in my opinion, now I have to say not every ombudsman in the world would feel as strongly as I do about this but, its my view, that a lot of the low level disciplinary issues are in many respects a managerial responsibility so take discourtesy, that should be something that a Sergeant an Inspector a Superintendent and all the way up the line should be managing on their watch and their detail. If you were out with four other garda members and they're

cursing and blinding at some fella, no matter who or what he is, well you should have a problem with it, I assume you would have and its up to you to manage it and all of the ranks have done management supervisory training courses, you've asked for the stripes, you've taken the money, and it comes with the turf. So I would see that managing and disciplining the force on the job, on the front line, and I think the Sergeant rank is critical in this area, but that's another days work, as close to the front line as possible, and therefore I think that when there are allegations that the discipline Regs have been breached, lets say on the discourtesy or the neglect of duty, or any of those or even abuse of authority, then I think it inculcates a culture of responsibility, for Guards to be involved in that. An analogy I would make Brian, is that if you walk into Tesco and your trying to buy a bunch of bananas and you ask one of the assistants where's the bananas and he says get lost not my area I'm the butcher, you might say, hey listen that's not really on. Now you don't expect that if you complain to the manager walking around and say, your man here is very rude, he told me to Eff Off I only asked where the bananas where, You don't expect him to say I'm sorry I'm only the manager I cant deal with this, not my area write to the MD of Tesco, and I would make that analogy that a lot of this should be dealt with at that level that a local Sergeant, Superintendent, Inspector whoever it might be should be dealing with this and I think its important that the responsibility and the culture of responsibility for disciplining the force in that sense, should remain and be strengthened within the force. The danger if you take conversely, if you take all of it away is that suddenly a Sergeant or an Inspector has no responsibility for the behaviour of the people whom he or she is supposed to be supervising, you know, and it actually could possibly undermine that managerial strength and also undermine the managerial strength and the value of the stripes on your shoulder. So I think it's quite an important thing so that's why I believe it is justified Brian.

Now I would go again to a lower level there are some of our issues of a disciplinary nature are what we would call, and this is a kind of a current discussion that's going on, if your aware but were looking to change the legislation and all the rest of it, were looking for what we call failures of service, and that's the term at the moment and these are at the very low level

again and we get complaints about it you know, they wont return my phone call or some thing like that or they didn't record it right or something like that they keep going to my mothers house and I don't live there anymore and she's getting upset you know, they'd be one for example, I'm sure your familiar with them all, and again some of those I don't think are breaches of the discipline Regs, Though never the less it still is if you like a fault on the part of that member I don't like use the word fault but it's a failing of some sort, It's a failure in professional service and public service, but you wouldn't actually say to a guy your in breach of your Regs and were putting this on your record for all time because in fairness despite what a lot of Garda members might think we do keep the rights of the Gardaí very much on our minds in this organisation it wouldn't be fair to an individual member to have that on his or her record so again at those local issues, now we've a lot of problems , and Guards have very different views on this and all the rest of it, so I'm aware of that, and we haven't had any support for this, but I do again believe that there is a role for Garda management to be involved in the resolution of those issues Is that the question you were asking?

**B M**

Yeah absolutely

**K F**

Again Brian I suppose its important as well if you look at some of the things that Dermot Walsh wrote in his book after Morris and all that we have to be conscious and I'm sure your conscious on a practical level that there is a danger, I'm not saying it's a fact or that we've any evidence of it or anything like that but it's a theoretical danger that having Guards involved in these investigations is difficult because a Guard is going to see things through the prism of a Guard I mean that's inevitable and you cant get away from that , nor would you expect people to be able to do it, So there are times perhaps when a Guard is looking at some thing and is not hearing what the complainant is actually saying, and yes I accept that there is that drawback and there is that risk, but I think that's why you have us and that's why I would say that on that problem I identified earlier on with the deciding officer I'm of the belief that we should get a commentating role at the end of that and that's really in the spirit of the act and the Regs kind of cut it out, we should

comment on those and say you know we think there is more to this or less to this than there was you know That's where oversight kicks in and guards against the problem

21 06

**B M**

The next one is a direct lift from the legislation that set you up, in terms of your purpose and remit and so on, the idea was to provide an effective form of supervision of a police force, that was to be efficient fair and effective I think was the actual quote from the act so I'm combining two of my topics into one really I suppose given that its been up and running now for the best part of five years I'm looking for an opinion as to whether you feel its achieved that on the level of being effective fair and in particular when you look at it in comparison to international standards and best practice, basically do you feel the organisation is what was hoped for or planned for

**K F**

Again as a simple one liner Do I think its the first five years has it been effective, yes I think it has, but I would never want to say that its been 100% effective, but in general if I had to come down on a positive or negative side I would say yes its been positive and I think if you look at, and I'm sure you have, some of our own public attitude surveys they tend to bear that out, but are we effective as compared to international best practice or something like that, again can I just remind you of what I just said about the last question, I think those failures in the service area at the lower level I'm not sure our effectiveness is well catered for within the act because its of such a disciplinary nature rather than a service delivery nature and it focuses entirely on misbehaviour, bad behaviour of a disciplinary or criminal nature by Guards and yet the complaint load coming in includes another category which doesn't really criticise the Guard but maybe at times the system

**B M**

Is there an argument then for excluding that type of thing from the discipline Regs altogether then and just have some totally separate service related avenue

**K F**

Being honest that forms part of the legislative amendments that we're putting to the minister as we speak, the logic that's moving you to that question is exactly the same logic that's moving us to be honest. So I would say just in those kind of delivery of service issues were perhaps not as effective as we might be, because if it's a non returned phone call or lets say somebody sends in his passport and for some reason he doesn't get it back so in that sense I think we're in terms of the service delivery I think we're too focussed on misbehaviour by Guards, and there is that other element, and I think that in the interests of the Guards and of the public it would be a good thing to capture. That's the first thing, I suppose and obviously we're not perfect around some of the areas around section 94 as I said to you earlier on, but I would say that we're probably better than a lot of countries that I'd be familiar with internationally, where what they have in actual fact is a review mechanism where the stuff is done by the Guards and the ombudsman has some sort of review role, we have the option as you pointed out to supervise, we have the option to do it ourselves even if its disciplinary, and obviously we've the criminal investigative arm so in that sense I think we are better than some, even some of our close neighbours across the water in the UK for example I think we've probably got a better system than quite a few of the places I'd be familiar with internationally. Does that answer your question?

**B M**

Yes thanks very much. The last heading that I have and again when were done with this if there is anything that you feel relevant that I've missed out on

**K F**

Yes

**B M**

One of the things I've come across in the course of reading the literature and studying the whole area of police control and supervision, and it seems to be commonly held to be a good idea but to be rarely put in practice is the notion of mediation. Now I know there is the IR solution here but mediation in terms of where you would have both parties to the conflict actually face to face with the mediator obviously, I'm not saying its exhaustive research but the only one I can find in practice is in New York and that seems to be on a kind of a

pilot basis, so I suppose the question is everyone seems to think it's a great idea but no one really seems to want to use it, is there a role for it in these type of situations, in Ireland in particular? And if not why do you think not?

**K F**

Well firstly its provided for obviously under our IR guidelines I mean we can have IR or mediation, there's a real practical issue with ours, both the complainant and the guard have a veto as to whether they want to go this route or not, that's just at a local practical level for us so in that sense it has that in built difficulty in Ireland straight away Theoretically, again mediation sounds like a great solution It is an expensive option because you've got obviously the basic manpower issue of the mediator whoever he or she might be, you've also got the issue of trying to manage the mediation process, how many meetings, how many hours, how do you give this issue and how do you do a scale of values that 3 meetings is a swear word where its 3 meetings but a kick in the backside merits 5 you know or a particularly intransigent Guard or an intransigent member of the public merit another meeting just because there contrary types whereas somebody else doesn't I think it's a difficult one to manage, GSOC has done very little of it and I don't see it in our immediate future, for those very reasons, it may be disproportionately expensive, It is kind of like it would appear in some respects to be a Rolls Royce type of solution and the problem we would have with it is that we would be dealing at that point in those mediations again with the lowest level, the most minor complaints, and the idea that we would be putting more resources into those than we would into something of a more serious nature were maybe somebody had physical force used on them would seem a bit disproportionate So I think that there's a role for all kinds of resolution as I've set out in terms of some of these service issues and all the rest, but I don't see it as the classical mediation which I think is where your question is founded, Brian, in terms of two people sitting down with a third party, neutral party in the room, thrashing it out, it would possibly be no bad thing I'm sure there are advantages to it I'm not sure its practically workable for us

Can I also say there is a practical problem with it as well, Firstly you have the issue from the Garda side, a Guard attending a mediation is he or she off or on duty at the time, I'm just thinking of the kind of questions that the local



Superintendent, the Garda Commissioner will be asking, are you doing this on my time or your time, So a person gets to be away for a half day up in GSOC because maybe they stepped out of line, it seems kind off in times of very stretched resources

**B M**

Not trying to be argumentative but does the same question not arise in terms of say section 94 informal resolution process does the same issue not arise where the Guard is maybe brought in and conversations or interviews held

**K F**

In Informal Resolution a lot of it is done on the phone and at time there could be meetings and yes those issues do arise, no question, I'm just saying that the same issues will arise again with the mediation model, and I'm not saying these are insurmountable but there the kind of questions Martin Callinan is going to be asking because what your saying is now it has to be in a room whereas the IR a lot of this is done on the telephone

**B M**

I didn't realise that

**K F**

Exactly a lot of the time you can do things over the phone if everyone's happy, what your saying in this classical thing is no so a person has to come physically to some where and given that we've one or two offices around the country and that's it there will be a bit of a drive so you've expenses, time off all of that so practical stuff that will annoy people, the other practical problem not from the garda side but from the member of the public side is, you know a certain number of our complainants live fairly disorganised lives, I'm not saying all, I'm not going to be over critical and I don't want to buy into this notion that all our complaints are people from one particular section of society because the facts show absolutely otherwise but a certain number are people who have lifestyle issues, irrelevant to the process but they become relevant to the process when they don't return phone calls or they say certainly I'll see you Tuesday morning 10 o' Clock and they forget And so you suddenly have a Garda showing up and there's a mediator in the room and the person isn't there etc etc so that adds to the expense and at times adds to the

annoyance and makes the problem more intractable so they would be issues also militating against it in my opinion

I know I sound like I'm dead down on mediation, I'm not theoretically its grand but there's got to be such willingness there that

**B M**

I suspect the fact that it's so widely praised and rarely used is probably for very practical reasons. In theory it sounds great

**K F**

Yeah there are definitely practical issues with it

**B M**

Is there anything you feel that's relevant that I've not asked?

**K F**

Not really I don't want to be putting words into your mouth, not really I've just looked at your questions and I gave them a bit of thought and beyond that there is nothing that wildly stands out to me that I would be inclined to add, I suppose the one thing I would say to you is in terms of the importance and relevance of what we do, that fits into somewhere in your questions, its there, in terms of effectiveness and all the rest of it. I think that in terms of systemic review and were back to our 106b examination and all the rest of it, possibly its an area that needs further development, lets put it that way, whereby we look at trends and we look at systems rather than being focussed necessarily on holding individual Garda members to account, I mean there are plenty of situations where we have found that something not quite right has occurred but we wouldn't necessarily blame the individual Garda involved. It might be the situation in which they found themselves and they might have done a reasonable job in the circumstances but those circumstances should never have arisen. And I suppose its our ability willingness whatever to comment on how those circumstances came about that put the member in the position they found themselves in and in a way that's perhaps more important than saying this member is a good or a bad man or woman, you can do better by him or her. And there's probably more value for everyone involved, in those kinds of things and I suppose that's an area that I think perhaps is a little bit under represented in the act

**B M** Ok that's brilliant, thanks very much for your time

**K F** Not at all

## **Appendix 2**

### **Transcript of Interview with Graham Doyle.**

**B M**

OK So I'm Brian Mahon today is the 31st May 2012 and we're at the office of the Garda Síochána Ombudsman Commission at 150 Abbey Street Upper Dublin 1 This is an interview to be conducted with Graham Doyle, who is the head of communications and research with GSOC, to assist me with my dissertation All right Graham, What I was, maybe if we start with, the types, the broad terms of my dissertation is about Police Supervision in general not just in Ireland in other countries as well So in the course of reading up on this what I've come across is that there's a number of types of systems and they broadly fall into civil review, where you will have a body that literally just reviews Police investigations of themselves, Independent investigation whereby it's not the Police conducting the investigation it's the outside body, and then a mixed model which has some aspects of both, where would you feel that the GSOC model fits into that, if at all, incidentally?

**G D**

Yeah, no, I suppose when you talk about independent yeah were an independent body in that you know, we don't report to the Department of Justice or obviously we don't report to the Guards, we report to the Oireachtas itself so that's who we're accountable to, the houses of the Oireachtas So to that extent we're an independent body however when you're looking at the types of, when you look at the three that you've just given there I suppose we have a mixed model in what we do in that yes we have areas of our work where our investigators conduct, solely conduct the investigations, however we do also have areas whereby we will lease back for the want of a better phrase investigations to the Guards for them to conduct either supervised or unsupervised by GSOC Investigators

**B M**

And what's the criterion to make that decision?

**G D.**

What we do is Brian we have, there are within GSOC there are four / five types of investigation We have under Section 90 of the Garda Siochana Act 2005 we have our informal resolution/mediation process then under section 94 of the Act we have our supervised and unsupervised Garda investigations We then have under section 95 of the Act we have investigations conducted about, conducted by GSOC investigators in relation to disciplinary matters And then finally we have under section 98 of the Act investigations conducted by GSOC investigators solely into criminal matters OK so there the types of investigations now we look at the allegations, were talking about complaints that are made to us because again if you take we have outside of that we then have 4 main bodies of work number 1 we have complaints that are made to GSOC number 2 we have the referrals that are made by the Garda Commissioner under section 102 of the Garda Siochana Act and that's where the Garda Commissioner feels the conduct of a member may have caused death or serious harm to a person the third element of our work then is under section 106 of the Act where we can look to examine any practice policy or procedure of the Guards in order to try and reduce the incidents of complaints in relation to a certain matter We've conducted one of them to date that was in relation to road traffic and the fixed charge process office we also at one stage made a we have to do that at present in order to conduct an examination under 106 we actually have to go to the Minister for Justice and almost ask to be allowed to conduct that We have also done that on one other occasion where we have gone to the Minister and it was following on from the number of complaints we got really in relation to Shell to Sea we had received about, we had received somewhere in around a 100 at the time, complaints so we asked could we conduct an examination in relation to crowd control policing of demonstrations and so forth, but the Minister

**B M**

Do you mean in terms of a policy matter?

**G D**

Yeah to have a look at what the Garda policy is have a look at how the training is and then actually have a look at how it actually happens on the ground However that said the Minister declined that application It may be

something that we will go back to at a future date you know because there have been other demonstrations since then, and then the last thing is we can ourselves under section 102(4) of the Garda Síochána Act we can open an investigation in the public interest without receiving any complaint into a matter. We have conducted I think its 7 of those to date, 7 public interest investigations to date some are still on going. So there basically I suppose if you just want to be very broad there our 4 areas but then in relation to the actual we take complaints for starters and why do we choose what process we look at the allegation that comes in and again from a disciplinary angle we work off schedule 5 as set out in the Act and where it defines what discourtesy is and what neglect of duty is, abuse of authority is and so forth, if somebody comes into us the first thing we look at is the allegation that's after being made and we make a determination if everything else is ok for example if its within 6 months because obviously you have to an admissibility criteria if it's against a Garda member, if it's from a member of the public who has either witnessed it or been directly affected by it, all of those things, if it falls into all of those categories what we then do is look at the actual allegation and we say if proven, would this allegation constitute misbehaviour and again just giving you really quick examples quite often we get complaints in where people say I was driving 42k in a 40k zone when the Guards pulled me in he or she should have used their cop on or discretion to let me go, obviously inadmissible, no breach there, however what we look at is if proven so it's not even at this moment in time did this happen do we think this might have happened if proven is what the act says if proven would it constitute a breach and then so that's the starting point and then we look at what the actual allegation is so if it's an allegation of discourtesy and it is A guard was rude to me I was going through a set of lights Guard pulled me in said that I'd just gone through a red light I said it was orange he said it was red went back and forth and the Guard made a comment what would you expect from a woman driver. Lady came to us and made a complaint. The reality is we are not going to push that, the Guards not going to lose his job were not going to push that all the way through the process we decided that we felt that the appropriate area for that was through section 90 of the Act which is the informal resolution and like what the lady wanted was an apology and we put that through the

process In that case she actually got an apology from the Guard who actually said look hands up to be honest I was completely out of order I had a crap weekend, no excuse but I was out of order, willing to apologise The way the informal resolution process works we conduct the conversations so we speak to the complainant we then speak to the Garda member whatever the Garda member says if he or she is willing to apologise we go back to the complainant and say we've spoken to the Guard, so there is a level of trust has to be imparted on our case workers in relation to IR that people kind of accept that were going to so that's in relation to IR, now that said Brian, we've had a really low take up on IR, much much lower than we thought and hoped for at the outset when we opened up and I suppose there are probably a number of reasons we think or feel or hear of when speaking to Guards and it is mainly on the Garda side where we have issues with this We do have complainants who will say to us no I don't want it dealt with like that, I don't want to grow through that process but again there is I think a belief in some quarters that people come to us and make complaints and what they're trying to do is get Guards dismissed or get Guards put into prison and yes there is an element of that but in surveys of the complainants that we have conducted ourselves one of the questions we have asked is what did you expect to happen when you made a complaint and the higher level actually say, number 1 they wanted an apology or explanation as to the actions but even more so the biggest response has been that they wanted a better response from the Guard in the future So they were hoping that by coming to us and making complaints that not having a Garda member disciplined or sanctioned what they're looking for is the next time they go to a Garda Station to the same Guard he or she would deal with them in a better matter, which in itself is an interesting finding What we are finding then when we go to the Guards in relation to IR firstly there is a lack of trust in relation to us and I think there is an issue from Guards, I would spend a lot of time down in Templemore, speaking to the Guards down there, and the feedback that I have got on a number of occasions is that yes the Act says if you go through informal resolution that at the end of it if successful all records will be expunged at Garda HR, there is a fear that that's not happening, but that is a matter for the Garda Commissioner you know, I don't know whether there is any issue there

for people to be afraid of, but they are. On our side we keep records, we have to keep records under Data Protection for 7 years, that said if something is successfully dealt with through IR its closed down and that's the end of it as far as we're concerned, we do not go back and revisit that again

**B M**

Can I just ask there, I know you're saying there is a low take up but in the instances where it has been used does it ever go to full mediation where the two parties and a mediator are sitting down at the same table?

**G D**

It happened once since we opened and it was a successful mediation. One of the big problems to be perfectly honest with you that we have with mediation is the cost of it. It's very expensive to run that's the first thing, and secondly mediation in itself has brought and would bring up the same problems as IR. Guards have as I say this lack of trust there is also on occasion this unwillingness to accept wrongdoing, unwillingness to say I was wrong, an organisation as big as the Guards any organisation around the world you're not going to have people doing things right all the time, and sometimes the right thing to do is to say I was wrong you know. There is then, I was saying earlier what complainants have come and said to us that quite often what they're looking for is an explanation to the actions and there is a reluctance I believe on the part of Garda members in relation to an explanation on occasion because they feel or they perceive it as some sort of admission of guilt, Which it is not you know and were very clear with complainants in relation to the process when we are speaking to them. We will say the Garda member has explained and again the best way is to give you an example, we had one of a lady again, road traffic one, a lady in the middle of a busy city street made a complaint that a Guard pulled her in and was shouting at her, When we spoke to the Guard, the Guards version was that he wasn't shouting at her, yes he did raise his voice but he had to as there was buses, trains and so forth, and that was the explanation given. So it's getting that message to the Guards that you know yes there will be occasions where you probably should apologise if you done something wrong, but probably more often than not, in IR it will be a matter of you saying this is actually why and giving an explanation. Again that's discourtesy that I spoke about there in IR there's



also issues of neglect of duty and this again has been a big one for ourselves and in particular the non-returning of phone calls from a station, we have many, many examples of complaints that have come to us where people have phoned a station maybe report a robbery report a theft, report harassment, and the Guard will say yes I'll get back to you or well have somebody out to you within 3 days, the person rings back a week later sorry about that well have somebody out to you in two weeks' time Now there may be a perfectly, perfectly plausible explanation as to why there is a delay however the point I'm trying to get across is just communicate it to the person, you know Then I suppose in relation as well to IR another issue that we have is that on occasion I think members would rather take their chances of us not dealing with this because again any investigative method used is a GSOC decision, we decide on all occasions as to what form of investigation a particular complaint will take, and if we can't get something through IR we then have to make a decision well what are we going to do So at the moment we must have acceptance on both sides so both the complainant and the Garda member must accept it to get involved in it so we must make a decision if either party says no we must then decide what are we going to do Are we going to bump this up to Section 94 and have an investigation conducted by the Guards and the reality is if a complainant says no they don't want it done we are more likely to then say ok then we have taken it as far further investigation in our view is not necessary or reasonably practicable However if a Garda member says no I'm not going into process it's more likely that it will be bumped up to a section 94 investigation That's not written anywhere Brian but that is just the process it's the reality of it And Guards on occasion and again I've had this said to me in Templemore, I'm not going down that process I'm going to take my chances with an investigation I know I've done nothing wrong and it would be found out in an investigation and I actually want a full investigation to prove that I've done nothing wrong

So you have that, now, the question I ask in relation to that is what effect does that then have on public confidence in the Guards, you know if a complainant, if a complainant wants an apology or an explanation from A Garda member and the Garda member says no I'm not giving it I'll take my chances by going down the route of section 94, fully, fully entitled to do it at present there's no

question there but just again if you're thinking of public confidence in the guards and I don't have the answer but

**B M**

Presumably it also impacts on the timeliness of the whole thing?

**G D**

Of course it does and when I get into section 94 when I speak about section 94 that's one of the big issues for us Now in relation to IR for PONI (Police Ombudsman for Northern Ireland) up north that veto from the Garda side is removed, so in relation to IR and this is a consideration possibly something that could be looked would be that you would remove the right of the Garda member Now you could not just do that Brian, you could not just remove the right from the Garda member, there would need to be safeguards put in place to protect the Garda member as much as the other side But that is the way it is done in PONI (Police Ombudsman for Northern Ireland) Therefore if we get something in, if we get a discourtesy in of any nature and we decide that you know what this is something that should be dealt with through IR, and again we would have to , it needs a bit of teasing out how you would then go about it because you know if you speak to a Garda member and he or she says no I'm still not dealing with it what do you do then? But it is something that is a consideration

**B M**

But even if they say yes but there doing it under duress so to speak are you going to get you know an honest approach to it?

**G D**

Yeah these are the problems but you touched there on timeliness Brian and that's one of the big advantages of IR If we can get a complaint in and we can get a complaint through the IR process it is so much quicker than, I think we have our KPI's (Key Performance Indicators) around 8 to 10 weeks in relation to IR that we would expect to get one, just a normal IR one were we have agreement from both sides dealt with With no record on the Garda members file and it's dealt with Whereas your talking then about section 94, we have section 94 investigations that have been going on for over 2 years And then where we have a concern, the real issue there is that timeliness, it's

not fair to either side, the complainant or the Garda member who is under investigation. Have you any questions in relation IR then or mediation?

**B M**

I have actually, in relation to mediation

**G D**

You have asked is there a role for mediation in the investigation and resolution of complaints against members of An Garda Síochána? Yes there is, is the straight forward answer but it's not without its barriers. Firstly cost, and in this you know in an ideal world cost wouldn't come into things but you know yourself the way things are now, as I say I think the last time I spoke to somebody there's a cost of around €3000 for each case is what I've heard. So that is one consideration, but the other consideration then is everything that I've spoken about in relation to IR equally applies in relation to mediation. And then even with mediation quite often from a complainants perspective a complainant does not actually want to come face to face with a Garda member and equally Gardaí may not want to come face to face with the people who are complaining about them.

**B M**

I suppose the only other thing I'd say about mediation is from doing a literature review and looking at stuff, it seems to be something that in almost every instance where there is a new system being designed or where there's systems being overhauled particularly in different states in America it keeps coming up as something that everyone thinks is a great idea but I can't find many instances where it's actually running, there's some small kind of pilot programmes and stuff but there doesn't seem to be any place where it's in use regularly as a standard procedure and from what you've told me it seems similar here, that it is mentioned in the 2005 Act as a good idea but your saying I think there's only been 1

**G D**

Yeah and in fairness it was successful, the one that we had, I would say across the world cost will come into it. Like if it was €3000 for one if you just do 10 of them a year your talking about €30000 out of a budget. I think if you were to know it was going to be successful, everyone was going to be

successful well then you would make a call, you know, but that's I'd say it's the world over you would have the same issues

**B M**

The theory would say that if you do implement it successfully, while it is expensive, down the line there's a reduction in numbers of complaints of a particular type and it changes behaviour and attitudes and therefore a reduced cost. How you measure when that kicks in or how you get the benefit of that I don't know

**G D**

To be honest I think that as an organisation what we're looking at is trying to improve IR as a whole. If we can improve the IR model and have a successful model that works for all sides well then I think it would be at that stage that we would then revisit the mediation

**G D**

Then if you want me to move on to section 94 which is the area in relation to the recent comments, now I don't know whether I'm moving on too quick for you here

**B M**

Yeah my last two issues are maybe around that, there are a couple of fairly quick areas

**G D**

OK yeah

**B M**

I suppose this may be a bit naive of a question but what would you see as the main difference between the model that was operated by the complaints board and yourselves now having replaced them

**G D**

It's not a naive question at all, we are asked it all the time Brian because especially when people see the fact that we have investigations that we send back to the Guards for investigation. The big thing with the GSCB was in all matters it was Guards investigating Guards so complaints went to the GSCB went to the Guards for investigation and that was it. For us the big thing is number 1 any criminal matter, any criminal allegation that comes to GSOC must be investigated by GSOC we any back to the Guards nor would we wish

to do so. The second thing is that yes we send investigations to the Guards to be conducted but that is our call. We decide as to whether we feel that's the appropriate avenue for things to go down. And as I say in the past that wasn't the case. So they would probably be the 2 biggest from an investigative perspective they would be the 2 biggest things. The other thing I suppose it follows on, we have our own investigators we have now were down around 35 now but we were at around 40 investigators who are independent investigators who when they are out conducting investigations under section 98 of the act have all the powers privileges and immunities, and this is set out in section 98 of the act, all the powers privileges and immunities of any member of An Garda Síochána in conducting their duty. Which is quite significant and something that the GSCB wouldn't have had, they didn't have investigators so that's a big thing and then I suppose the other thing, I spoke about the 4 different areas of investigation, the referrals issue is a big thing as well, and I think it's big for public confidence in the Guards because what we're talking about as you would be more than aware of Road Traffic Incidents for example we've had a number of referrals to ourselves where there have been deaths on the roads where Garda members would have been involved in some shape or form. They're referred to us and we must investigate them and we do investigate them. And quite often and from my area here because as the head of communications I'm the liaison point with the media, and I'm always mindful of the fact that if we know and can establish very early on an investigation that the Garda member has done nothing wrong here and an example is a case that we had in the Naas road a couple of years ago, Guard driving home from work, two boys in a car driving up the motorway the wrong way head on collision, they were both killed. The way things were before the Guards would have investigated that themselves whereas I think for confidence the right thing is that we do it but even more so what were very mindful of in that circumstance that I'm talking about on the Naas Road we were called out to that around half seven, eight o'clock in the morning, by lunch time we were on the RTE news saying that we were satisfied to hand the primacy of the investigation back to the Guards sending out the message that the Guard had done nothing wrong. And I think that's really important. I think it's important for the public to have the confidence you

know that an independent body is looking at this but it's very important for the Guards as well that we can get that out, get the message out and try and promote the public confidence. And that is a significant difference to the complaints board.

**B M**

I've two headings I'd like to give you which I think you've already covered but

**G D**

Yeah go ahead

**B M**

One is about Independence of the Garda Síochána Ombudsman Commission from Garda or political interference, and the other is the recent comments by the GSOC Commissioner and the reaction that some of the rep bodies gave that you know, some people might have seen to be a fairly negative reaction. I think them two topics are kind of related so they are probably relevant to the section 94 investigations so maybe if you want to talk generally about that area?

**G D**

Well As I said earlier on in relation to the independence from the Guards or from political interference you know, we report directly to the houses of the Oireachtas we don't report to the Guards, Any reports that we don't report to the department of justice, our finance comes through the department of Justice but everything else, our annual report yes we send it through the minister to be published in the houses of the Oireachtas we do, we do reports for the minister but they must be published within the houses of the Oireachtas so from that I suppose the one area where you could possibly say there is an issue, there's the potential for a consideration that there's political interference would be section 106 of the act which I spoke about earlier on, the examination where we must ask the minister can we conduct an examination. And it is something that we will probably discuss with the minister going forward as a potential amendment, to maybe remove the necessity for us to have to ask the question whereby if we feel that it is relevant to do something that we should possibly have the ability to do it ourselves. So what we do have is, we actually have at Commission level

we've a very good relationship with Garda management, good relationship with Department of Justice officials, we meet and have met on a number of occasions over the first 5 years with the previous commission and even the new commission since they've come into being have had meetings with them we've had what we would consider good, on occasion confrontational exchanges with the rep bodies and we've been involved and it's something that we will welcome and during the time just shortly after the commission had made their comments back in February in relation to looking for legislative change in relation to our section 94 investigations, When the criticism was thrown out from AGSI, one of the things that we were very clear in, that before we would make any changes we would really welcome to sit down and discuss with AGSI and the GRA and whoever else because at the end of the day these are things that are going to impact on their members and were very mindful of that and we would look to sit down and talk things through with them. So I think from an independence perspective that kind of covers that, the comments themselves, there not really new, it's not a new way of thinking for this commission, for this organisation. We were set up back, like the Act was written back in 2005, we came into being in 2007, We have been working with a complex piece of legislation and again when I speak to Guards in Templemore they agree that it is very complex, an awful lot of what's written in it is open to interpretation, but in relation to the section 94 What we see and again it's getting back to what I said earlier in relation to what complainants are looking for, complainants are looking for a resolution to their complaints but complainants are not looking for Garda members to be sanctioned or disciplined they're looking for a better level of performance, or an acceptable level of performance and that's where we see and we look at it this year in our annual report for 2011, that you know what people are saying to us, is that they just want, what they want is a professional police service and I think the majority of the time that's what we have but that's what they're saying that they're looking for, and the issues that we have concerns about are the issues that are of a service delivery nature or a service failure nature and again I spoke about it earlier on in relation to IR, but it's the same kind of issues, it would be issues of neglect of duty and you know, if a Garda member hasn't returned a phone call or hasn't returned a number of phone calls over a two or

three month period is it really appropriate, is there really a need to put it through the bureaucratic process of a full investigation that the reality is will go back to the Guards to be investigated, that will just add to the paper load that's sitting in the Superintendent's office who it will go through and down to the Inspector or whoever is investigating it for something that we feel could be dealt with in a different way

**B M**

So just to clarify what we're talking about here, I'm not necessarily asking for the formal proposal but the difference would be that whereas at the moment if the Garda member decided he didn't want informal resolution that could be decided by GSOC well that's what's happening anyway, but the type of complaints that would fit into that would still remain the same or would you envisage that it would be higher level complaints

**G D**

There are complaints that go in under section 94 at the moment that we wouldn't consider would be relevant for informal resolution but they are of a disciplinary nature ok and you might take it even as abuse of authority, so it may be that Garda members are or there's a Garda member who we get complaints of abusing their authority by going in to we get complaints the likes of going in to night clubs and flashing badges and things like that, there not even what I'm talking about here, there would be cases where, we had one case where there was a pregnant lady where a Guard flashed his badge allegedly flashed his badge at a supermarket to get a parking spot The like of that, now you know that's just common sense stuff but that was a complaint that was taken that was looked at that had to go through for full investigation you know what we're saying is that we feel there is this is about as opposed to and I think the way it was kind of the discussion back in February was kind of that we were looking to ship back or lease back or farm back investigations, no that's not what we're talking about at all What we're genuinely talking about and this is not just to say the right thing, what we're genuinely talking about here, Brian, are issues where we involve Guards in the resolution, involve Garda management involve the Gardai themselves in the resolution of a complaint At the end of the day you're talking about issues, if you go into any other walk of life, if you go into a bank, go into a



shop, wherever you go if you have an issue of a service level with a member of a bank you would probably go to the manager of the bank and say I have an issue with x, y or z. And it would be dealt with and that's all were saying is that a Garda can be paid money to be at an appropriate rank to manage that. And that's all were saying that that should happen and there should be a system that is not overly bureaucratic that's efficient, the other side of it as well I'm talking about it from GSOC's perspective you take any of them complaints that I've spoken about that go through section 94 investigation, ok and let's say the Garda member doesn't have a choice to go through IR so we just say it's going through 94 you could have a situation if it's not dealt with, that Garda member is waiting for 12, 16 18 months in some cases as is the complainant. It's something else that's extra on the Superintendents desk as I said and these are just things that just pile up and pile up and yes there's a reality that somebody is murdered in the local village of course that's going to take a hell of a lot more higher level of importance than this complaint but what we're saying is if we had another way of doing this, if we had a service delivery type way were it goes to the Guards and it can be dealt with in almost an informal manner but an informal manner that's on a statutory footing. We would still in some way have to get it put into the process that things were reported back to us so the outcome is reported back to us and we make sure its reported to the complainant and it's just that it wouldn't take the form of a lengthy investigation.

**B M**

So would it be similar to the informal resolution that you operate yourself except the Guards will operate it?

**G D**

Kind off, yeah. For service failure issues, now again, and we're talking about stuff at the minor end of the scale.

**B M**

AGSI's reaction then which I would categorise as seeming to be based on apart from philosophical objections I think there was an undertone of extra work for members, for Inspectors, Sergeants and so on. But if I understand you correctly these would be matters that if they didn't deal with them that way they are going to go out to the Guards for investigation anyway.

**G D**

Exactly

**B M**

So again I'm asking your opinion it should result in quicker and reduced workloads if it worked?

**G D**

And that's exactly why we said at the time that we would welcome the opportunity to sit down with them and have these discussions because that's exactly what we see would happen. We would see that it would actually work out to be a reduction in work at that level because it is stuff that should be able to be dealt with much quicker. And you don't have the whole, you know, one of the concerns and I've mentioned it a couple of times, one of the concerns we have in relation to section 94 at present is the delay system and when an investigation is sent to the Guards under 94 S where it's been supervised by GSOC well there's a system put in place whereby they report what's happening with the investigation at certain stages of the investigation, it's to be agreed by the GSIO and our investigator, you know, again it's very bureaucratic, very time consuming for a Guard to have or Inspector or whatever rank, to have to be doing all this stuff, and we just see that there are areas where this could be taken out that there is no need to have the Bureaucratic process.

**B M**

You've covered all the questions that I had set out. I would just like to read to you the actual formal research questions that I have. I think most of them you have dealt with but if you think of anything else that maybe you could comment.

**G D**

No problem yeah

**B M**

I suppose the most important question I have in the whole thing is from an outsiders point of view I suppose looking at the thing is whether the current system for dealing with complaints against the Guards in your opinion is it viewed by stakeholders (By Guards, by complainants and by your own staff here and the general public is it viewed as being efficient, effective and fair?

And that wording comes from the original conditions as set up, and that was the target. So would it be your feeling that it is efficient, effective and fair?

**G D**

I suppose one of the questions I suppose following on from that is how you actually judge that. We've conducted a number of surveys as you're aware of, we've done our public attitude surveys which are, which have shown almost year on year an improvement in people's perception of GSOC. I think the public's view of the Guards and the public's confidence in the Guards is at a very high level anyway and what we hope to do is to just enhance that and just continue it. The public's view in relation to ourselves has been relatively positive and improving from the Garda perspective we have also conducted surveys with the Guards and one of the things interestingly that we found in surveys is that Garda members who have had experience with GSOC are much more positive about GSOC than Garda members who haven't. And I think that's a very important thing from a Garda perspective and certainly from our perspective because again without wanting to repeat myself about being in Templemore, but down in Templemore I quite often find that the problems that I have the problems, you know I would go down to a Sergeants gig in Templemore, be there four hours and in the first hour it would be very obvious to me that you know there is a group here or there's a section of a group here who have no time for GSOC.

**B M**

Preconceived notions?

**G D**

And that's what it is, what I classify it as Brian, is actually canteen gossip because I will speak to them, start going through the presentation but we always try and break it down to What are the issues? And they come out with look we didn't get off onto a good footing, that's the reality. We opened in 2007 within the first week we had a tragic suicide up in Harcourt square and it wasn't handled great, and what I mean by that is it was all over the media the fact that we had gone up guns firing, the lights on, the sirens on we'd gone and we'd blocked the gates, we'd gone in we'd been really rude, we'd done x, y and z. The reality of what actually happened was, and I'm telling you this because there is an important message, what happened was we went, we got

there, we got to the gate of Harcourt square, we were open 1 week, the guy at the gate hadn't heard of us, went inside came back about 5 minutes later let us in. So that, the whole us blocking up the gate, that's why we were there, and I've spoken with Garda members who were in side with our guys, the vast majority have said they found them professional, polite. It was in the media all of this, We made a decision here as an organisation not to comment because of the fact you're talking about a guy who's died, there's his family, his colleagues, his friends, and we didn't want to be airing all of this in public. However the problem is that that created a negative impression and image within the Guards with certain members, and that canteen gossip and its only when you discuss these issues with them that I actually see in Templemore changes, I've quite often seen people actually giving out to me and saying, well why did you not come out and say that? And then you're trying to explain why you didn't say it. And yet Guards who have had interaction with us are positive in relation to us. Now obviously not all guards. So and there's certainly been a huge change and an obvious change both from our investigators feedback from guys who have been down in Templemore, and people who are on the ground, there has been a huge change in attitude from the Guards to GSOC in the five and a half years almost that were open. Sorry just over five years now. And it's been very evident.

**B M**

I just wanted to go back to something occurred to me while you were talking there. The proposed or suggested changes that would result in the informal resolution type stuff, a lot of it going back to the Guards, and you've given very good and practical reasons on how that would speed things up, and probably end up being fairer and quicker for everybody involved, the one thing that there might be a fear out there that it would take away from the confidence that a member of the public might have at the moment, that if it's a Guard that does something wrong it's going to be investigated externally. It's not Guards investigating the Guards. Would you have any fear that while it might be practical and work in practice but that a perception would grow up, oh were back to the old thing the Guards are looking after themselves.

**G D**

I think you touched on it earlier when you said that the reality is these are investigations that are conducted by the Guards anyway, because we're not really talking about IR issues as such here. We're talking about issues, yes there would be some of them would be issues that are potentially IR at the moment and would go into 94, but what we're talking about are investigations that are currently conducted under section 94 of the Act. And within that area we have a lot of issues in relation to service failure. So those investigations are currently being conducted by the Guards, I actually think it would increase confidence amongst the public and the reason I say that is at the moment there taking so long to be dealt with through section 94 whereas if we had a system whereby these kind of service failures were still being looked at in Garda circles in tandem with ourselves but it was quicker, I think people would have more confidence.

**B M**

The next question is a bit repetitious so if you don't have anything to say about it, there's no problem. Does the Garda Síochána Ombudsman Commission's operation and practice (in other words the way you go about your business) represent an effective form of supervision of a police force as compared to international best practice? Which is where I was talking earlier about from my review of the literature it would seem that most places are moving towards something similar to what's here from, you know internal affairs would have been the standard model maybe 20 years ago. So I think you probably already answered it but I'm basically saying is do you feel that what you're doing and where you're heading with the proposed changes as well will come up to a standard of international best practice?

**G D**

I do, I genuinely believe that we are quite a long way down that road already, I think if we got some changes to the legislation that we are proposing it would make a huge difference, as I said to you earlier we had a couple of visits over our operational lifetime, from Thomas Hammerberg who would be the Commissioner for Council of Europe, Human Rights, European Commissioner on Human Rights, and he has done an opinion piece in relation to police oversight and I can't quite find Brian, but you'll find it yourself within the document the exact reference that he makes to ourselves but he makes a

reference and has made reference on a couple of occasions since he has got involved in all of this where he has basically said that the Garda Ombudsman Model should almost be, almost like the flagship for police oversight throughout Europe. So I think to get that from such a high level is an indication that you know we're not too far away from what we would want, from where we would want to be.

**B M**

The next research question that I feel you've fully answered anyway is about mediation and to what extent its being used, I think you've answered that one already, you've probably answered this one as well but given that it's only been used once. Would more extensive use have any impact on the incidence of higher level or more serious misconduct among police officers? I don't know if that's a fair question.

**G D**

Say that again, sorry.

**B M**

It arises from again some of the literature review, there's a suggestion out there that if you mediate lower level complaints, IR type complaints, that a long term result of that is a reduction in more serious complaints because of the relationship that builds up between the police and the public and so on. So now it's probably maybe a bit unfair to throw that at you without you having a chance to read the literature but

**G D**

To be perfectly honest with you Brian, I wouldn't disagree with that, I wouldn't disagree with that and I would say mediation and IR because for us as we discussed IOR is the area that we've gone down. Like one of the people who I think you should talk to would be our researcher who has kept himself well abreast of international. I would have a fairly decent idea obviously but he would be the one who's looking at it all the time. But I wouldn't disagree with that, I wouldn't disagree that if you deal with things. I think what happens is if you deal with things at IR or Mediation level what it does is it builds up a level of confidence in the police, a level of confidence that there is an accountability just in general, a general level of confidence, number 2 that there is a willingness among Guards, and I'm speaking from a complainants,

member of the public's view, that there is a willingness among Gardaí to give an explanation when there is a need to give an explanation, to give an apology when there's a need to give an apology, but to actually answer for their actions, and I don't mean that in a negative way which is sometimes interpreted but just that that will build the confidence and as you say that just builds on the relationship that Gardaí will have with members of the public out on the street, I would like to think, So I do think it is something that will have an obvious knock on effect

**B M**

That's pretty much all the set questions I have, I suppose the only thing I'd ask is the whole area of police supervision and methodology and best practice and that, is there anything that you feel I haven't touched on or asked about,

**G D**

I think maybe one of the areas of what we do that's also important and I don't know if whether its section 110 of the Act and that is where people, where there's an offence to knowingly provide GSOC with false or misleading information I'll give you a brief bit about it Brian and if you feel its relevant grand and if not There is a perception again out there, like one of the first questions I'm always asked in Templemore is how many members of the public have you prosecuted under section 110 and the answer to that so far is 2, have been successfully prosecuted in the courts and have been sentenced , 1 is currently serving a prison sentence but an important aspect to section 110 is that section 110 applies equally across the board It's not about people making false complaints, it's about knowingly providing false or misleading information, and there have been occasions where we have received information during the course of investigations from Gardaí that we would question and I think actually I know to date we have sent files in relation to 9 Gardaí to the DPP where we said that he should consider, she now, section 110 in relation to these Guards, its happened on 16 occasions with civilians and 9 with guards there was 1 case, 8 he directed no prosecution 1 he directed prosecution but it was thrown out at the courts then but that whole area of section 110 and again it's a mechanism within the system that we have to try and prevent a situation arising whereby members or complainants are giving versions of incidents that don't actually tally with what happened,

and it is something that we would consider quite often in our investigations. Our investigators during the course of the investigation, it's something they're constantly mindful of. They have it in the back of their head that it's something to be considered all of the time.

**B M**

That's great. I think we've covered pretty much everything, so thanks very much for that. I'm just turning this thing off now, thanks.



## Appendix 3

### Transcript of interview with Brian Moss, Researcher, GSOC. Made on Friday 8<sup>th</sup> June 2012.

#### **B Mahon**

OK So, I'm Brian Mahon and this is an interview with Brian Moss a researcher with An Garda Síochána Ombudsman Commission, and it's the 8th of June 2012. So basically Brian I've given you some headings prior to the meeting that I'm hoping to talk to you about its 3 main areas the first being that from my literature review and research the types of oversight used in police supervision, the main ones that are coming up seem to be divisible by Civil review of Police investigations, independent investigation by civil authorities, or a mixed model or some combination between the two. So with those in mind and indeed any others that your aware off that maybe I'm not I'm trying to establish what practitioners feel is the best practice or what's to be aimed for, you know. So if you could maybe talk around those topics.

#### **B Moss**

Ok. One of the things that I've noticed here and I've only really been in the area since 2007 and very much my learning process was a straight upward curve, prior to this I was in probation and before that I was in research in social inclusion and employment policies, very different areas altogether. And one of the things that I've picked up quite quickly there in 2007, thereafter is, what there was a push toward going for independent oversight particularly in the British Isles and you'll see that from the IPCC and before that in PONI. Now Scotland is trying to go that way, now Scotland is a bit of a problematic area at the moment, its changing its police force into one unitary police force much like Ireland, and now its trying to change its police complaints model as well not that they're struggling but they're kind of trying to do both things at the one time and it's a bit messy, and in the Irish case when they tried to move to the independent model on the one hand it was seen as a good thing because it went further than the GSCB, but on the other hand what has been criticised, and you'll be aware of this yourself, by the likes of Dermot Walsh but also

Barry Vaughan, Vicky Conway and there have been others, and the main concern, what they're trying to get at is look, if you don't make it independent it's ultimately not going to survive. And the best article that I can reference there is Waters and Brown from the British Journal of Criminology back in 2000 I think it is, and they point out a lot of things about the complaints process about what people want and don't want it's ultimately the parliamentary committee at the time were saying look, it's very clear to us that people still want independence it's the overriding thing that comes through, and depending on which model you take, common law countries, or be it France or South America where models have developed, the overriding picture seems to be towards a demand to go towards independent oversight, but at the same time in the States, and a book by Goldsmith and Lewis will tease this out more so, The States is a problematic example as well, as the Scottish example in that they went towards independent oversight and then they came back away from it and now they're going towards it again, so you'll find that cities like Atlanta, Chicago, Seattle is in crisis at the moment with its police department, The LAPD and New York, the big ones they're saying right we need to move towards independent oversight, and particularly the NYPD, the civilian review board there, time and again, it's criticised for not being strong enough, not having enough teeth, and that's right across, you'll find it in Detroit, in Boise Idaho and so on there's a zillion little bodies and they are time and again saying you don't have enough power you need to go to independence. The problem is when you look at the substantiation rates and the American Civil Liberties Group and they were based in Canada as well, and the Johnson Society report, it came out in about 2007 said look, if you look at the substantiation rates by police forces who handle complaints it's between 5 and 11 percent. If you look at those by independent bodies it's between about 2 and 5 percent. And Samuel Walker who's based I think in a University in Nebraska time and again has said look there is no real evidence to support the theory that independent oversight is better than any of the others. So from my own perspective, having been familiar with the literature here and seeing how it's going in England Wales and Northern Ireland and in Australia, there's an Australian case I'll come back to again, time and again, the answer seems to be, people want, even where they express high

satisfaction or confidence in the police that's not to be equated with a belief that there's not misbehaviour there, So for example you may have seen the public attitude survey last year that was reported in brief in the Garda Ombudsman Annual Report There's a belief there that there is misbehaviour within the Guards and there's also a belief that its confined to certain sections and this would tie in with work by Laurence Sherman back in the 60's and 70's but also Tim Newborn, there's a report in 1999, I think its widely available on the web, that tries to summarise all the literature that's gone beforehand, and it seems that certain teams or certain units within police forces seem to be more exposed, those that deal with Vice, Prostitution, Gambling and that sort of thing tend to get more susceptible to corruption but at the same time its about how they're investigated and there's a paper from 2010 by a guy called Harris, it's a US paper and Harris seems to be of the opinion that police colleagues complaining about their colleagues does happen but the thing that I found most problematic about this paper was it didn't seem to suggest the threshold at which these complaints arise So even if you look at the public here we found that 1 out of every 2 persons said that they would make a complaint if they had a problem with a Guard but in reality its not even half of that I think its less that 1 in 5 people are complaining and the reason is why? What is that threshold level, and there's a lot of research about why people do or don't make complaints and the threshold on which they pass, so if you leave it to police it would appear and this is based on my reading of Walker and of Harris and others, police do get complaints about themselves and the internal affairs divisions deal with them and colleagues do complain about their peers, but it's a question about at what point does it have to reach before they make a complaint about that behaviour and it would have to be seriously grievous behaviour before it gets complained about Whereas be it consumer affairs, local authorities, about police complaints the public seem to be more inclined to make a complaint, then the question is well is it substantiated or not and thus far it would seem that the independent model haven't lived out to the full expectation of what the public is looking for but nor has the internal affairs models So police seem to be good at substantiating complaints that come before them, to summarise, but it's a question of what level of serious behaviour they're getting at before that complaint is made or being

substantiated. The best example I can give you in that regard is the Oakland police in California. It's a small police force as I understand, by international size and so on, but Laurence Sherman in his book on police corruption in the 70's would have seen that Oakland was one of the massive problematic police forces and he gives the good example that one night there was a robbery on a department store and it turned out there were 6 police officers helping themselves to the meat department, taking what they wanted, and there were bigger issues with Oakland but this was how it came out in the press and there was a big scandal but if you roll forward, that was the 1960's but if you roll forward 50 years later to 2011 the police chief is done for a drink driving offence and a couple of his colleagues do their best to try and shore it up and close it off and to not let the matter public, so you're kind of going, why is this thing constantly reappearing. So in terms of the independent, the external or the civilian review model none of them seem to reach the ideal public ideal, which is we want it to be independent and we want it to have a stamp of approval over it and the best critic I can give you, commentator in respect of that would be the Ombudsman Ontario, his name is Jacques Marin and Marin (note Andre Marin is the correct reference here) you'll find him he's on Twitter and I think a Facebook page and he's constantly criticising not only the department of justice from whom he gets his funding but also the official complaints bodies within Ontario. He doesn't have the remit to examine the police but when the police such as when they shut down the city for G20 by invoking a kind of a hidden statute the only person who came out saying hang on second, there's nothing being learned here the police, and the investigation of it is dreadful because the ombudsman in Ontario doesn't have any specific remit so when you take all that into consideration, to cut a long story short it would appear that and I think Walker is right, there is no greater benefit shown between independent, internal and civilian review or mixed review model of oversight and the question is what is it they keep missing. You can argue that it's a bit like health care no matter how much money you put into health care the demand for it will always keep going or expand, reflected quite a bit in the economics of the welfare state, there's a book by Nicholas Barr back in 1998, its been reprinted a couple of times, and it's a bit like that at what level will the public be satisfied oversight is being done

correctly, and I don't think if you look at the internal model that predominates in Queensland Australia, If you look at the mixed review model that takes place in Canada at the federal level, if you look at mixed models in the States and independent models here, I don't think it's still hitting the mark, So for example there's been 3 reports of the IPCC (The Independent Police Complaints Commission (IPCC) oversees the police complaints system in England and Wales) to date, by various parliamentary committees and all of them kind of seem to say the same thing, you're not accounting for what the public thinks of you, how do you substantiate complaints, why is stop and search still a big issue, so they still don't seem to be hitting these things on the head So based on that evidence, there may be a magic bullet but it hasn't been found yet

**B Mahon**

OK that's great thanks Brian I suppose the next topic is a bit of a sub set of the previous one, is that given what you've said it would seem to suggest that none of the models have proven perfect or ideal or but there is generally discomfort among the public at the idea of police investigating police so I suppose the question I'd ask is, is there any justification for some involvement of the police force in the actual investigation

**B Moss**

This is the thing that personally, and I suppose I'll give you the kind of corporate view in here rather than personally At the corporate level what they are moving towards now, there was a bit of a spat there between the chairman here, Simon O'Brien and the GRA, PJ Stone in January February about the service complaints, a handing stuff back to the Guards leaseback under section 94, and second issue making a lot of things service level complaints that the Guards might be able to deal with more themselves than GSOC handling them Now there's two problems there from my perspective as a researcher, not from me as Brian Moss, One is, GSOC has contended that a lot of matters it gets, a significant number of the matters that it gets are service complaints and this is being reflected in its five year report and its previous annual reports The fact of the matter is having done a trawl, having been asked to do a trawl it's not the case that most complaints are service

complaints, we were asked to look at allegations of , the lowest level allegations so discourtesy and neglect o duty, and it was 1 in every 10 of those complaints was a service complaint So quite how GSOC is arriving at the point of view that a lot or significant amounts of complaints and matters are service complaints I don't understand but there's a difference there between policy and research which I'm sure you'll be aware of yourself

**B Mahon**

That wouldn't be down to a personal definition of what a service complaint is, would it?

**B Moss**

No this is the thing, What I did was I sampled 250 cases and the allegations in those and they generated about 2 allegations for every one complaint and the service complaint, part of the problem is that they have never defined it as part of the exercise that I did I went off and looked at the IPCC, PONI, Australia and across Canada trying to find that definition, what is a service complaint, and the problem is it doesn't exist in Queensland, Queensland tend to hive off a lot of complaints straight off to the police and the same in New South Wales and the same in Victoria in Australia and in Canada as well there is no definition of what distinguishes between a service matter a discipline matter and a criminal matter The notions there are quite vague But the problem is if you say to the public your matter is only a service issue well where do you split the difference there particularly when, to go off on a slight tangent but hopefully it will be relevant, there is one case that has been before the equality tribunal in respect of a member of the travelling community took a case against a Guard saying you discriminated against me in not providing a service and therefore I'm taking a case that you've discriminated against me and so on, and it went to the equality tribunal to see would they uphold it or not, The equality tribunal determined that the Guards wasn't a service in terms of the provisions of the equal status act and therefore could never be considered a service well the problem is where do you work out the difference between , your not going to investigate the matter, the investigation of crime wasn't a service and the matters of immigration wasn't a service, and there was another area that wasn't a service, The question is what is the difference between not investigating a matter or investigating a matter and you don't tell

me the file has been sent to the DPP or where do you draw the line here as to what is or isn't a service matter. And part of the problem for me at least as a researcher is GSOC hasn't set down a construct or definition of exactly what is a service complaint. And also whether this chimes with the public's view as to what is a service complaint. So again and I'm drawing on its Tim Newborn here just because we have high confidence in things it doesn't mean that we don't believe there's misbehaviour in a police force and similarly with a service complaint just because GSOC determine something as a service complaint that may not necessarily chime with the public's view as to what is or isn't acceptable behaviour by the police force. Now there is the line there that police are, whether the police should be subject to higher level of moral than other public service employees like someone in revenue or someone in social and family affairs and so on, and for me it's not so much the notion of service complaint that's the problem, it's the notion, a definition of what is and what isn't misbehaviour but also how that's dealt with and I suppose the argument put forward there is, goes back to Quinny who's a researcher back in the 60's who talks about the people's acceptance or otherwise of misbehaviour so for example, most people don't see Road Traffic matters as a crime, so when they get stopped by a Guard and the Guard says its two penalty points they say do you not have better things to be doing than stopping me, but also similarly there's a legal firm down the way on the Quays, very close to the new court complex, and it has on their billboard on the signpost Criminal matters and Road Traffic Matters now hang on a second Road Traffic matters are processed in the Criminal Court as well so how are we distinguishing here what is and what isn't. That feeds through into what I'm saying is its feeding through into the regulation of the police misbehaviour by the Garda Ombudsman here but its also fed the models in other jurisdictions as well. So the problem there with service complaints its problematic in terms of if you don't put down what it is your defining well then the argument will run on and on and on. And in terms of the lease back there, people want independent oversight but time and again you'll see from the legislative amendments that GSOC has sought and from its move towards service complaints GSOC doesn't seem to be grappling the thorny issue which still comes out in the public attitude surveys but I don't think its been reported, that people still want

independent oversight as being independent from the Guards , I think off the top of my head when that question was asked last year and the year before the same result time and again was 95per cent of people want some one separate from the Guards to investigate complaints, and there's a question there, if that figure is there has GSOC released it publicly and I don't think it has, and separately what does independent mean if that is the case that people want it how do we go about and time and again unfortunately in the sense of the argument put forward, we don't have the resources to do but having the resources and the moral need or the obligation to do it are two very different things, it's a bit like health care or housing, so housing is enshrined in the constitution and that's been up before, for example there's children been up before Mr Justice Kelly in the past and in terms of should there be homelessness in society you begin to go from simple issues there like what's in a regulation or not or a law or a statute you push then to wider questions about it, what is it that actually people want and still time and again I'm seeing the results of the public attitude survey, is that people want it separate from the Guards The question is why? And I think, I don't think this is something that's been grappled with in house , I don't think people still believe that we've moved beyond a point where police will fully and openly say I have a problem Guard here, I'm going to deal with him or her, and I don't think the public think the Garda is going to make it public in its report so while its annual report notes issues about internal affairs it doesn't say to the best of my knowledge how many of those weren't upheld or how many cases or what were talking about in terms of the internal affairs complaints received or who submitted them was it by peers or otherwise, whereas in Australia in western Australia off the top of my head, the Ombudsman there has made significant efforts to work alongside the police but also say well look there's still problems here with your complaints system and separately we are noting that a lot of them are coming in from police peers because they no that they push forward the discipline regulations or equivalent and said well misbehaviour is not going to be tolerated and I think its section 56 of the Garda Siochana act 2005, I think its if you fail to provide an account or fail to let known that misbehaviour has taken place you yourself could be liable for action and that's not one that I've seen GSOC ever talk about And the question is why? I'm not saying that



GSOC has been captured necessarily by the Guards but there is a question there that if this is what the public want and your coming out with a different message then this is going to leave a gap there first of all and ultimately raise the question, how far are you independent from the likes of Dermot Walsh and Vicky Conway's but separately from the likes of Joe Punter who comes in and an important point and very briefly there has been an argument and I'm doing my own studies at PHD out in UCD at the moment and one of the things that comes up time and again is in the early days, and it keeps cropping up is that GSOC is either cherry picking cases or that the complainants that come to GSOC are just those that are facing charges themselves, they're criminals or serious gangland criminals, We also get doctors, dentists architects you know, holiday makers, people seeking asylum and so on who have submitted complaints, housewives, carers male or female, so it's a wide spectrum of society who is submitting complaints to us in one hand but also what we are tending to see and I think this comes out in our annual report is we tend to get the politically effective people are making complaints to us not kind of the marginalised that Mulcahy and O'Mahony would have said in their 2005 report, for the combat poverty agency, its not those people who tend to come into focus a lot of the time with the police, they're not the ones making the complaints to us its Joe Punter, and its Joe Punter who is able to stand up for themselves and the research going back to Friedman there's an Australian researcher back in the 70's\_would have said that time and again the people that make complaints to any kind of an ombudsman service are politically effective, those who have education, are middleclass, and that's what were tending to see here at the Garda Ombudsman as well

**B Mahon**

But in terms of the police involvement in the actual resolution of this then, is it the case that what we have is the philosophy and morality and desire by the public is for absolute independence but the reality is in practice its probably not possible without huge resources?

**B Moss**

Without huge resources yeah and that is the reality, The reality is there is a gap there between the resource argument on the one hand and what people

want on the other and as I've said the British Parliament struggled with that back in 2000 while the police complaints authority was still in being before the IPCC came in and we've seen it again with PONI I think last year was a bit of an annus horribilus for PONI in terms of the criticism that it was subjected to and rightly or wrongly what seemed to come out time and again was well it seems that if I'm a police officer and a complaint is being made about me and if the families complain enough PONI will go back and revise all its findings and your kind of going hang on a second how does this stack up either you've found something or you haven't you know, and be kind of truthful and straightforward with it As I said the trend though in Australia and Canada is a growing frustration again, whether it's a cyclical thing and it's a bit like religion, one of my PHD colleagues out in UCD is arguing that were not seeing a cyclical trend in terms of religiosity in terms of affiliation with a religion like Catholics, Protestants or Judaism or whatever it might be but what were seeing is an absolute fundamental non reversible decline of religiosity in Ireland I was thinking to myself well hang on a second at the end of the 19<sup>th</sup> Century or after the kind of Gin epidemic in Britain and when people had fled Ireland and gone to America and Catholicism was on the wane then we had the Matt Talbot movement and you know that was resurgent and then in the 30's with the Eucharistic Congress, again resurgence, so while I know that the church at the moment to take that example is hitting a crisis you have to use historical data over time and in terms of the independent demand for , and resources and all that, the demand is still for an independent oversight but the problem seems to be, here and from the viewpoint of Walsh and Conway it's the legislation, and Barry Vaughn who is of the IPA, the legislation isn't strong enough to get the independent thing put in place And in other jurisdictions what there saying is they've seen such failing time and again that they need to move toward that but the problem is what does that entail But they have to be separate arguments, the resource argument is separate from the demand argument And one of the problems, I know that GSOC at the moment I think has made notions or callings about changing the IR model I'm not sure which way because I know it really has struggled with its Informal Resolution model but I'm looking at the figures here and its not something that's ever been made public, In terms of the willingness of the Guards, and this is where I

come back to this point about, if you were to hived everything back to the police force An Garda Siochana or the Metropolitan police or whoever it might be, the Queensland police service, how able or willing are they to examine their own to investigate their own, now some would say yeah they do a great job, but as I mentioned that article of Harris, there seems to be a threshold level, a level of misbehaviour is allowed or seen as acceptable up to a point, but in terms of informal resolution here in terms of a level of resistance the Guards in Ireland are between 9 and 30 times more likely not to consent to IR compared to complainants. Now when you're talking about now I've looked at figures for 2011, 2010 in 2011 there were something like 99 Guards refused IR compared to 10 members of the public and the year before was something like 41 Guards compared to three members of the public. So while the numbers in actuality are small and IR is a small part of the overall caseload the resistance there to go IR and bear in mind if you go back to Goldsmiths argument in Goldsmith and Lewis that thing about seeing complaints not necessarily as a good thing but as a learning process but what Goldsmith puts forward is the argument look if your disinclined to accept the complaint at all your never going to learn anything. And in this case what seems to be coming forward is that even at the lowest level complaint, GSOC has deemed right well just about let it in the door but were going to keep it at the lowest level possible for IR the high resistance there from guards is quite marked. And my point is if you hived everything back to the Guards or any police force would that level of resistance maintain and therefore would it generate any confidence in the complaints system.

### **B Mahon**

OK an observation on what you've just said there I don't know if its its not a question really but is the reason why Guards are resisting the IR may not be to do with rejecting the complaint as such it may be a lack of trust in as I understand the system if you go down the IR route and its resolved that there is an undertaking that the record is expunged within An Garda Siochana and it just may be that its more to do with a fear or lack of trust in the Garda Authorities record keeping than the actual IR process itself.

### **B Moss**

And part of the problem we have is we done a Garda attitude survey in the past we did it two years and the third year it was in effect rejected by the Garda Management and we were trying to look towards questions about the level, have you as a Guard been aware of anything that didn't comply with the code but it wasn't that sole reason that ended up with the survey not happening but what we found was that the majority of the Guards came back to us and said that the complaint should be dealt with independently so if there is an internal process there that's not something that GSOC can resolve. But it's arguably more of a reason to keep the complaints system independent. So yeah on the one hand you could say that yes the problems not with GSOC its with the Guards but on the other hand that's even more reason for a strong whoever that might be, oversight body to say well look you need to deal with this professionally were getting a serious amount of complaints about y or z but also one of the problems is and I think you'll note yourself as a third check in the system we have the confidential recipient function, no telephone number, no office details, no annual reports, no press releases, So we've no idea what that particular entity is doing, I know he's a nominal service in terms of remuneration but in terms of Guards feeling I don't like what garda management is doing and even if they don't want to go through the representative association, that argument provides a fourth leg if you like to which to go through but we no nothing about that service. There's not an iota and you have to wonder hang on a second if you're trying to reform both how people view the police in terms of complaints and how the police deal with complaints surely we need to know more about this independent fourth leg but silence. So yes the Guards may have problems with the management themselves and we've seen that in times in the past the macushla ballroom incident and before that I know there were potential strike action up in Finglas where they refused to go in before they redeveloped it, and that has to be taken into account but what you wont find is that being reflected in Garda Ombudsman reports what we tend to do is move beyond the problem to come up with a new forward policy initiative and I think that misses the beat. As a researcher at least for me that misses the beat. You need to factor all those things much like reasonable cause or reasonable suspicion,

GSOC took the view, we did an internal paper on stop and search and we spent quite a bit of time on it and it was submitted to the Commission and the then Chairman said stop harassing the Guards I thought now hang on a second we've made 7 simple recommendations which might improve and reduce the number of complaints and surely that's what it's all about its you know if a Guard can explain why he or she was doing something the complainant may not complain and the situation may be resolved, and funny enough the IPCC has also commented that stop and search issues could be resolved much quicker , in 2007 it literally opened its doors and said it's a huge body of complaints which would be more quickly resolved if police were willing to do x y and z The paper died, it's not being resurrected, you have to wonder, hang on a second, how adamant are we about putting forward simple things that will try and move the process forward both on behalf of the Guards but also on behalf of the complainants because lets bear in mind were seen as anti-Guard as much as the complainants are seen as anti-Guard what gets lost, for me particularly is, public sector reform, and the reason I say that is because I know in here it's not a thing that's been made public despite my own efforts to do it, I think we've had seven complaints against staff in here and we've a 100% non-substantiation rate So how is it that GSOC can go telling the Guards what to do if we ourselves have a 100% non-substantiation rate against our own staff It's a bit of an odd fish

**B Mahon**

And who would be responsible for investigating complaints against your own staff?

**B Moss**

GSOC, Our personnel manager and, again with a view to giving you the best background that I can my own position in GSOC would be seen as not problematic but conflicting I suppose, with the Culture of the organisation, I have had difficulties with the personnel officer before in terms of the answers that they give and come forward with certain things, but the personnel officer and he's directed by the director of administration and the director of administration is a former GSCB director and he himself when it came to the very first year here your probably aware of the allegation the O'Reilly report, it took us eighteen not all eighteen were put forward because some of

them were very small, but the issue of non-fatal offences or assault against a Garda he was absolutely adamant that that should not be contained in the report and we pointed out that the GCB had run with it in its very first year of operations in 1987 it disappeared after that and the reason for putting it forward is it's a significant issue both in terms of the legitimacy of the Guards but also in terms of civil cases against the Guards and the cost in Ireland and other jurisdictions and it needed to be included, so if you've got someone who's not inclined to adopt a reporting procedure that reflects global practice of police oversight and who's overseeing the personnel officer who's deciding on the complaints you kind of wonder about the whole issue of culture and unfortunately again the only OECD review of the Irish Public Sector is in 2008 its available on the Taoiseach's website talks about the issue of culture and interestingly in that it's at the level of AP Assistant principal in the Civil Service that, you can't allow non-civil servants into comparative organisational positions because they don't have the culture, you have to go hang on a second why do you need a culture if everything is written down in clear procedures and reflects best practice so there is an issue of culture that goes on both internally but also externally in terms of how we view the Guards, how the public view the Guards, but also how the Guards view themselves and their own managers Gordon and Lackey, they're two separate guys, I think there at the level of Superintendents or Inspector, lackey's an inspector and Gordon's a Superintendent, at least at the time, have articles in Communique published back I think about 2007 on the Garda training process, the Garda culture, and the interesting thing about those articles is fair dues to them in the sense that they put forward the issue, they touch upon the issue of policing culture or being socialised but at the same time they don't come forward with any kind of statistics in terms of what the Guards felt So in terms of the issue there about what the public wants and needs there's issues there that you could focus on, the unrealistic public expectations, but you also have to focus on whether GSOC and how it operates itself is in line with what people expect and the best example I can give you very briefly is the substantiation issue, GSOC has never used the word substantiation to the best of my knowledge in any of its reports And the question is why is that and the most recent figures that I did about two days ago for 2011, all those

complaints closed in 2011 the substantiation rate was 2% and within that 2% if you factor in that the Guards conduct section 94 investigations themselves as insiders then you have to subtract that from the 2% So if the public was to know that GSOC substantiates 2% of all complaints would that be above or below its expectations and so on and does that fit in with what it's looking for

**B Mahon**

And how does that match internationally?

**B Moss**

Internationally IPCC, and this is one of the problems I've tried to argue it in here, they're quite evasive both PONI and IPCC in particular I don't know what they are but as mentioned, the Johnson report back in 2005 said that again its between independent bodies is between 2 and 5 per cent and police substantiating was between 5 and 11 per cent So GSOC is well below that but the question is how is that portrayed publicly and does GSOC actually stand over that or put it forward, and I don't think you'll find the word substantiation in any reports, IPCC, PONI or GSOC, sorry I correct myself, IPCC mention it for the first time in the 2011 report on corruption, that arose on foot of the Levinson, what was to become the Levinson enquiry, That's the first time that I can note that substantiation emerged and then there's a difference between substantiating something and upholding something there seems to be upholding something is that yeah we agree the complainant seems to have a case here but we can't find that actually the police officer breached any code so yes we agree there is something wrong but we can't action it Whereas substantiation seems to be yes there's something wrong and it can be disciplined

**B Mahon**

That's interesting, I think there is an irony though that the independent body for supervising police complaints then investigates itself when there's issues, there is an irony there

**B Moss**

Look, time and again I said look, we can only throw the stone through the glass house if we are willing to stand up and take account, but yeah there's no one there for us and if you look, the Oireachtas hasn't yet assessed GSOC

and that's ultimately through Section 80 of the Act that's what GSOC is responsible to The Oireachtas has said next to nothing about us

**B Mahon**

But again I'm not trying to be argumentative but, just from the news today and the whole Mick Wallace thing, they're talking about a Dail committee to do the investigation so the culture thing you were talking about there seems to be ingrained that no one wants an outside body looking at them really

**B Moss**

No and to give you an academic reference politics and the republic of Ireland, Gallagher Laver and Meyer, has traditionally been the volume, its available in most university libraries, I think its Gallagher who's in UCD, presents a chapter on the parliamentary committee structure in Ireland, and basically puts forward the argument that look its very reflective of Whitehall, our whole parliament is reflective of the Whitehall model, what he says is the problem with the Whitehall model is when you're in power you don't when you're not in power you won't raise the prospect of a committee being put in place, or a strong committee because when you're in power you too don't want to be subject to that committee And the basic argument being put forward by Gallagher is look, that's why the Irish Parliamentary Committee system is not working it doesn't work Again I suppose putting my cards on the table I have significant issues with one of the Commissioners within the Commission here in terms of their functions to date and I sent letters to my local TD my local senators and so on because I graduated from Trinity so I've access to that Senator panel, and I pointed out various problems or things that had been happening that weren't made public or sorry were made public but seemed to fall short of the amount of oversight, not one of them came back to me And particularly with the Lusk report and again this is not criticising the Guard, the GSOC approach to the Lusk report we used a guy called professor Bill Lewinsky if you look up Bill Lewinsky on line I think the 125 cases that he's appeared for in the US in terms of as an expert in terms of police shooting incidents he's always only ever found on the side of the police Now GSOC presented him fair enough, but they didn't have any counter balancing to make sure that its findings were conclusive in the Lusk report But none of the 3 TDs and 2 Senators I wrote to made any acknowledgement or whatever so



you have to question why not give us some sort of indication here of the approach to independent oversight, but today Charlie Flanagan would be the best example, very vocal before he went into Government now since he's gone into Government we've heard next to nothing from him

So what is it and what going on?

**B Mahon**

Self-preservation, maybe?

**B Moss**

There may be that but my point, as always is trying to say well look, evidence based approach, there are concerns here, not alone in terms of the Irish model, but other models, and the question is how should the Seanad go about doing that and I think if the Seanads not going to do it, you get unfortunately the likes of Dermot Walsh and Vicky Connolly running forward again, Vicky Connolly has actually gone very quiet she seems to have dropped off the face of the earth the last two years, since her book. And they get criticised time and again, by police representative bodies, but also by individuals and they don't seem to get reflected in a lot of the work, not only in here but elsewhere, So there's a question there about how serious are we about warts and all, and that's the approach warts and all let's put it on the table and see what we're talking about. So in terms of over-viewing ourselves yeah there's a problem

**B Mahon**

Ok, It's kind of a different tack, it's the last heading I have but it's something I came across, I've done some research into the whole thing but obviously probably a lot less than you've done in your career but, one of the topics that comes up regularly as seeming to be a great idea and everyone's enthusiastic about, is mediation. But when you look at practice, it's almost non-existent, the only one that I can find that's actually up and running on any kind of a long term basis is in New York, and even then it's still a pilot program as I understand. In the 2005 Act it's mentioned specifically for GSOC, but talking to Graham the last day, I think he told me there's only been one full mediation case. So I suppose I'd just ask you what your view on the whole mediation issue is. Is it something that should be abandoned or is it well I won't put a

**B Moss**

There are, let me get this right, IPCC and PONI, I sent an email to Graham on viewpoints on IR and Mediation, there's two reports within PONI and two reports within IPCC you'll find them on their websites fairly easily and the overriding conclusions are they don't work. And the question is why and people seem to be happy-ish with the process but the outcome seems to just fall off the face of the earth in terms of satisfaction and it seems to be, 1 mediation is expensive, and there's significant interest in America, we had an American private mediation individual dropped over, they were in Ireland for some other business, they dropped in kind of on the spur of the moment and I got asked to drop down and have a chat with them about it. And they said they were looking to maybe set up a model here, and mediation and how it would work and so on, the commission made, undertook to look at mediation service providers back in 2008 I think it was and around that time that one mediation case took place and was closed out and so on, and they haven't looked at it since, and internally there's been no explicit message about it and externally there's been no explicit message about it, why it has or hasn't gone on. The problem I think, again we seem to be mixing up the arguments, the arguments seem to come down to cost as opposed to effectiveness, and if you consider that between the Guards, the health service executive and the probation service all run some form of mediation in terms of family conferencing, juvenile conferencing and welfare conferencing, There is a significant role there and that, in terms of numbers I'll come back to you in a second, but that was put in place on a statutory basis and it seems to have worked generally speaking,

Despite the cost and the question is how can it be so cost expensive or so unattractive if three other services can use it where you put the individuals face to face and you put a facilitator between them, if that is the way the mediation is to be structured, whereas informal resolution seems to be even more unsatisfactory because, be it led by the independent oversight body or be it led by the police, there's a feeling there that I'm still not getting interaction, what I'm being fed back is I will transfer this message to the police officer he or she will come back to me and give an account I will relay that account back to you, is that ok and you kind of get the sense that people just want to face them straight in the face and say I just want a simple explanation,

and you'll find in the Waters and Brown paper that I referenced earlier on you won't find it I think in the customer satisfaction survey that GSOC released and I'm not sure was it presented in the 201 report off the top of my head, but you'll find in the most recent survey that we did the customer satisfaction survey reported in the 2010 annual report, something like 1 in 5 people want a sanction, but about 28%, 29% want an explanation, Simply put why did you do it? Why did you act as you did and What doesn't seem to come across in informal resolution is, the Guard will say well that's my account that's what I'm giving, and the complainant will say well I want more than that and what seems to be happening is that people are unhappy with the approach that the IPCC, PONI, or GSOC are taken in terms of the Guard has told me this and the complainant says well actually I want more than that because it still doesn't explain, it's the why question, that's what any research it's the why question, why did X happen why did you do Y, and that's what doesn't seem to be coming out so Informal resolution and mediation, both of them have hit rocks in our two closest neighbours but as yet we don't seem to have internalised those problems so we're we haven't publicly internalised those problems, and hopefully if we do it will adequately reflect the figures that some people want discipline, some people want an explanation and simply putting forward an account is not going to cut the chase with the public because if you're stopped and searched with reasonable cause well what was that reasonable cause, and you know the Irish Courts still haven't defined it, It remains as vague as the day, or reasonable suspicion as well

And similarly if it's a search warrant on a house or if its seizure of a vehicle, people want to know the reason why now there is an argument and we face it time and again, ignorance of the law is no excuse but at the same time and there have been issues around the deaths in custody of a number of individuals since GSOC has opened I would say well if you knew the regulations you would know that you need to do 15 minute checks every so often, why didn't you and so on, and that's put down to systemic issues, so as much as Guards or us can defend certain actions as being systemic issues we then can't put forward such a thing as ignorance of the law, there has to be kind of an equivalence here and a fairness and balance between, the public need to be told x to a certain point and the Guards need to be told Y

and to ensure that there told of Y and what they can or cannot or should or should not tell people and very simply, a quick thing to put there, they used to hold on their website, the home office in Britain, kind of a guide of what you need to know if you are stopped by a police officer and there was nothing like that in operation until GSOC, not GSOC sorry, the Irish Council for Civil Liberties put forward a similar document about two years ago and its available now, I think it's called know your rights, now people dismiss it as kind of left wing, pinko type material, but a lot of people won't understand in simple language I think or are not going to have a piece of legislation to hand, section 8 of the public order act 1994, what does that mean, in straight terms, and unfortunately what we get is police officers, on occasion, not all ways saying Section 8 and that doesn't explain to a person what does that mean And so on and so on, and similarly once that's there a person should understand that this is the law and you need to comply with this I have an entitlement as a Guard to respond in certain situations but there's no there's a lack of information there and no statutory body has taken that role and tried to roll it out and fill that gap, now as I mentioned to you earlier on, the paper on stop and search was flattened in house here and it would have gone a similar way like the Irish Council for Civil Liberties but it didn't get out of the house So how effective are we being in terms of closing that gap So mediation, informal resolution you will find evidence for elsewhere that it's been unsuccessful, I've noted earlier on that there's a resistance at least on paper from the Guards more than from the public, but also I think the public are resistant to it because they say well look I really feel aggrieved by this and you're not explaining to me why this Guard is not going to be sanctioned because 1 in 5 people want a Guard to be disciplined in some way And I just don't know if IR is cutting to the chase of what people want, so yes there is an expectation that you need to explain to people why a certain action by a police officer shouldn't reach the level of automatically being disciplined That'll require something else

## **B Mahon**

Well that's all the topics I have Brian, in a general way, I suppose if there's anything that you think might be relevant that I haven't covered

**B Moss**

Quickly looking through it I think at the moment the Canadian and the Australian cases offer perhaps the most interesting examples in terms of friction or tension are actually New South Wales, and Queensland, if you look at what's called the CMC, the oversight body for Queensland it and the Government separately have just put out two reports criticising the whole police complaints process how police internalises complaints So there's an interesting perspective there about what's going to happen next, and similarly in Victoria the office of police integrity is the body there and in New South Wales it's the police integrity commission, All of them have either come in for criticism or are criticising the policing process and it's not about bashing the police, what it's saying is this hasn't worked we need something new, so there all in a very critical position, In Canada there are 2 new reports out on the G20 in Ontario and the independent police body there has come out and said it's bit there was a separate report by the federal Office that said its bit and the two reports don't necessarily chime in terms of their findings, but then separately you've got the Ombudsman for Ontario who was out a year ago saying this was a complete disaster for the following reasons,

**B Mahon**

You mentioned him earlier he's Jack Marin?

**B Moss**

I think its Jack Marin Anthony Marin, you'll find its Ombudsman Ontario website and you'll see there from the number of reports he's examined the police oversight kind of internal affairs bureau, as much as he has commented on policing practice, even though he doesn't have a police remit, So the Australian In terms of the tensions of moving from to go back to your very first question internal model to a mixed model or an independent model there's tensions there in Canada, Australia

The reason I don't mention the likes of Europe, and this is one thing we're very bad at in this country is our continental languages, but the French model's very interesting for 1 reason and 1 reason only, it had an independent body up until the start of 2011 and because it was being seen, from their point of view as too effective the French president at the time was quite aligned with the police he succeeded in putting legislation through parliament and the body

was dissolved in May or June of last year. So in effect now they've gone back towards an internal model and Le Monde which would be no favourite of the State but also the body itself before it went out of business, and human rights groups have all said, this is not the way to go, because between the French protests back I think it was 2005 and before that the Riots in Paris and other cities, would suggest there was a real need for an independent body but France just kind of put 2 fingers in the air and said that's not what we're doing. So Australia's going one direction, France seems to have gone the other and then ultimately if you take the far end, the Scandinavians particularly Norway, The Norwegian outfit, the equivalent of GSOC has the power to go the full way up to prosecute individuals themselves on its own basis. The reason I mention that and just to mention one of the points here, the problem with that is if you look at the DPP decision to prosecute in the cases I think it's something like, its decided to prosecute in 33% of the GSOC cases to date, something like that, and that may have changed over time the last time I looked was middle 201, If you compare that, it's difficult to compare that to how many files from Guards does the DPP prosecute but its somewhere in the region of about double that its about 70% of the Garda Files are prosecuted. So the question is well hang on a second, If you've got some police staff here who are meant to have police backgrounds and experience and we supposedly trained our staff here to a level through Portsmouth was the main training university why is it that our files that there's such discrepancy in terms of the prosecution rates there.

I think again we have such a low level of files that go, and we have our in house legal team who vet them before they go to the DPP why is there a discrepancy there between the two? And the final thing I was going to say was, the reports, very briefly to mention that, between the Derek O'Toole report, the Lusk report or the 106 report last year, the rape tape report, sorry earlier this year, you will find on the Web particularly criticisms of the report, and critiques, so for the Derek O'Toole report what you'll find is, why was GSOC making notions about having it restricted itself to making recommendations about the accessing PULSE but when two years prior to the report the Data Protection Commissioner had already put a code of practice in place, so really was there any need, did GSOC do anything new

for all 12 months it spent on the Derek O'Toole case, did it really do anything new. With the 106 I've talked about the expertise they used, this Bill Lewinsky guy, and ultimately when reporting on a systemic error because the Guards went to the wrong didn't cover all access points to the post office, it concludes that it was a systemic error, you kind of go well if the operation had been more correctly organised would that systemic error or the death occurred but GSOC doesn't go into that discussion and similarly with the 106 report you'll find on the Shell to Sea Website quite a fair, I have to admit, criticism of how GSOC seem to have approached the case and took one journalist's viewpoint over what was and what wasn't said in the report, its interim report to the minister last year. So there's criticisms there that when you stack them up that should be borne in mind in terms of GSOC's output but you'll find very little reflection in GSOC to date, and the one thing I was going to end on was the Civil Process, leave aside the confidential recipient, what the Guards think of GSOC, what academics think of GSOC one of the most important factors and the best figure I can give you here would be one by Tim Prenzler I think it's on the Web, in terms of civil suits against the police and whereas these cost something like 15 million in the NYPD in 2011 and the figure of about 7 million I think, 17 million in Wales for 2010, similar high levels of money is being paid out in civil cases and the question is why do people go the civil route, when there is a police complaints process and what does it say about the confidence in the police complaints process and ultimately what Tim Prenzler, I think its Griffith University and he's a very well respected academic on police oversight, would argue is that, it basically suggests that the police oversight body is not being trusted they don't believe they can do what it can do, and the best example of that I can give you is Dean Ward who is the young boy knocked down in the, in 02 that case went all the way through and in the end GSOC found there was no misbehaviour there separately Dean Ward's family, and quite within their entitlement took a civil action against the Guards afterwards, the Guards admitted no liability and the family was awarded €22,000 now in terms of outcome I don't think anyone has ever surveyed awards and understandably its quite a raw issue the death of their son, but which did they feel they got more satisfaction or outcome out of? Nothing out of GSOC or and its not the award or financial but some kind

of acknowledgement that there was something wrong here, but there have been other cases, very briefly, there was a guy there home from England about two years ago and the Guards seized his €65,000 Aston Martin or something like that, and again he was awarded significant damages by the state with no admission of liability on the part of the state, so when you've got a low substantiation rate by a body like GSOC set up and meant to be independent and all that kind of thing, and a lot of money and resources put into it, and you still have this significant Bill going out of I think 3 million a year or in civil suits, you have to sit down and go well really are we talking about effective oversight So in terms of considering of between the 3 models and also to bear in mind that there's the civil suit thing runs on and finally, and just I meant to say, final point, Tim Prenzler with Caroline Ronkin, their papers would have considered the issue of, well how do we identify, is a police oversight body actually identifying the true level of misbehaviour, within the police force, and the argument or the answer that they put forward, and I think its reflected in, by Morris Punch, and Sherman as well back in the 70's, the answer is no what you need to do is have a proactive unit that actually can tap in and find police misbehaviour and not just rely upon it being reported because most police misbehaviour is not reported for a variety of reasons, now you get into a fine line there between setting up sting operations and infringing on the human rights of police officers, and that is a very cagey issue but the overriding contention from evidence based and from England Wales and Australia is, if you are just going to rely on the police complaints process it's not going to work, you're not going to ever get to the true heart of police misbehaviour and what'll happen is, and again the best people I can give you I think is, it's a network analysis of corruption that was in Queensland in the 70's and 80's and it basically said that look, police corruption went all the way to the police commissioner and again the police commissioner for Victoria has been up, and you'll be aware yourself there's Chief Constables in England have been up for serious allegations of corruption recently It's not just about individuals, but it's a cultural thing Now people say that's very hard to pin down, but unless you have a significant belief in, as Gordon and Lackey talk about that socialisation of police unless that ultimately and significantly changes the cyclical thing is going to reoccur, not only will it continue to recur,



my final observation, but you'll also find that the states will continue to regenerate and recycle their police oversight bodies, and Queensland is the best example and here we seem to be going through the motions of recycling but not getting to the heart of the problem

**B Mahon**

That's brilliant, listen thanks for that Brian I appreciate it

**B Moss**

As I say if there's anything else that we can send on to you or whatever if there's any references give me a shout, I know there was a couple there that I didn't have directly to hand but

## **Appendix 3A**

### **Topics for interview with GSOC personnel**

Types of oversight

Civil Review of Internal Investigations

Independent Investigation

Mixed Model

Difference between the model operated by The Garda Síochána Complaints Board and that of GSOC

Re Civilian review of police investigations, - civilian involvement in the investigations themselves Some suggest that the emerging practice is for no police involvement at all in investigations relating to police misconduct, in such a system all investigation would be conducted by an independent organisation

Most civilian oversight or review models involve at least some police involvement in the investigations

“ police deal with medium and low level complaints while the external agency audits these activities and investigates more serious matters ”

(Ede et al, 2002, P 29)

Independence of the Garda Síochána Ombudsman Commission from Garda or political interference

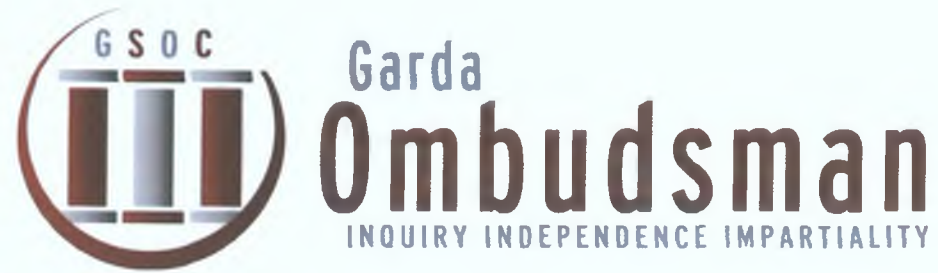
Police attitude to external oversight

Recent comments by GSOC Commissioner and reaction from AGSI re police investigating low level complaints

Mediation

Is there a role for mediation in the investigation and resolution of complaints against members of an Garda Síochána

While it is referred to in the 2005 act is it used or effective in practice



## BENCHMARK PUBLIC OPINION STUDY

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Quantitative Research

April 2007

BEHAVIOUR & ATTITUDES  
MARKETING RESEARCH

## **BACKGROUND & OBJECTIVES**

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- This report documents the findings from research into public awareness of and attitudes towards the Garda Síochána Ombudsman Commission ('GSOC').
- GSOC has been recently established to provide a more independent and impartial means of making a complaint in respect of the Garda Síochána.
- Although the Body is in its' relative infancy, it was decided to establish a baseline measure of awareness and understanding of the GSOC amongst the general public.
- This was considered to be useful in its own right, and could also provide a benchmark against which to monitor future progress in awareness and understanding of the body.

## SCOPE

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- The key areas covered in the research are:
  - Levels of basic and detailed awareness of GSOC, including knowledge of the Commission's powers.
  - A review of general attitudes towards An Garda Síochána
  - Experience of An Garda Síochána, including whether ever made a complaint against An Garda Síochána.
  - Willingness to make a complaint against the Garda Síochána and reasons behind any unwillingness.
  - Attitudes towards the GSOC.
  - Assessment of the potential impact of GSOC.

## METHODOLOGY

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- Research was conducted via Behaviour & Attitudes' National Barometer survey among a nationally representative sample of 1,059 adults aged 15+
- Barometer is a syndicated, multi topic research survey, facilitating comparatively inexpensive access to a large, nationally representative sample of the adult population. A fresh sample is used for each fortnight's survey.
- Quotas were used to reflect the national distribution of the adult population - gender, age, social class, region and area (i.e. urban/rural).
- All interviewing was conducted face-to-face, in the home at 60 randomly selected sampling points.
- Fieldwork was conducted between March 30th and April 10th 2007.
- Results are quotable with a margin of error of +/- 3.2%.

## SAMPLE STRUCTURE

	%	000		%	000
<b>SEX</b>		<b>(3,352)</b>	<b>MARITAL STATUS</b>		
Male	49	1,658	Single	38	1,277
Female	51	1,694	Married	45	1,518
<b>AGE</b>			Cohabiting	7	230
15-24	19	641	Widowed	6	209
25-34	21	714	Sep/Div	4	119
35-49	25	842	<b>REGION</b>		
50-64	20	686	Dublin	29	959
65+	14	469	R. Leinster	25	636
<b>CLASS</b>			Munster	28	946
AB	13	452	Conn/Uls	18	611
C1	27	913	<b>AREA</b>		
C2	24	804	Urban	59	1,989
DE	26	808	Rural	41	1,363
F	9	303			

## **GENERAL ATTITUDES TOWARDS AN GARDA SÍOCHÁNA**

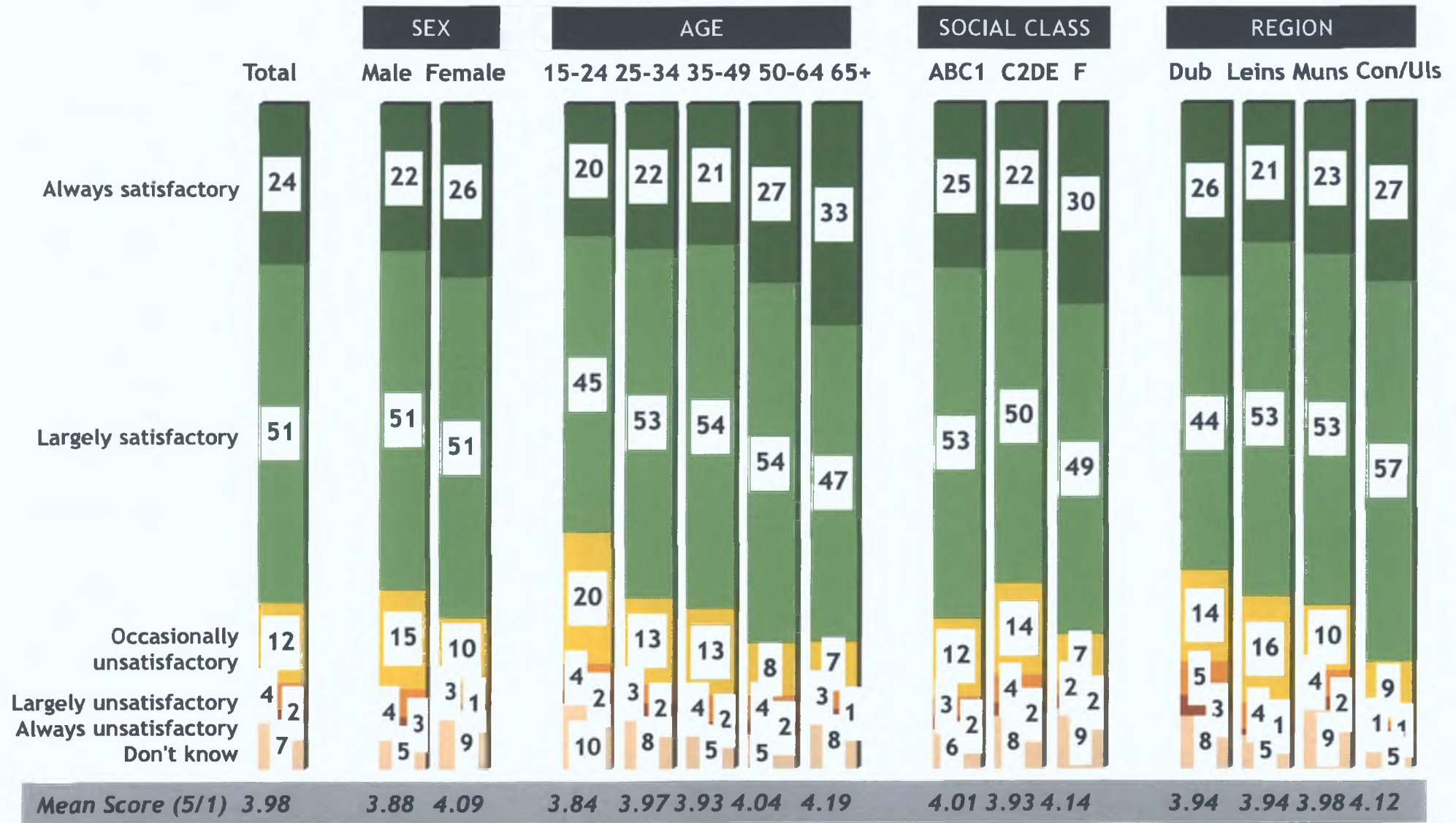
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# SATISFACTION WITH EXPERIENCE OF AN GARDA SÍOCHÁNA I

Page 163

(Base: Adults, Aged 15+, 1,059/3,352,000)



Q. In relation to the Gardaí generally, would you say your experience has been ...

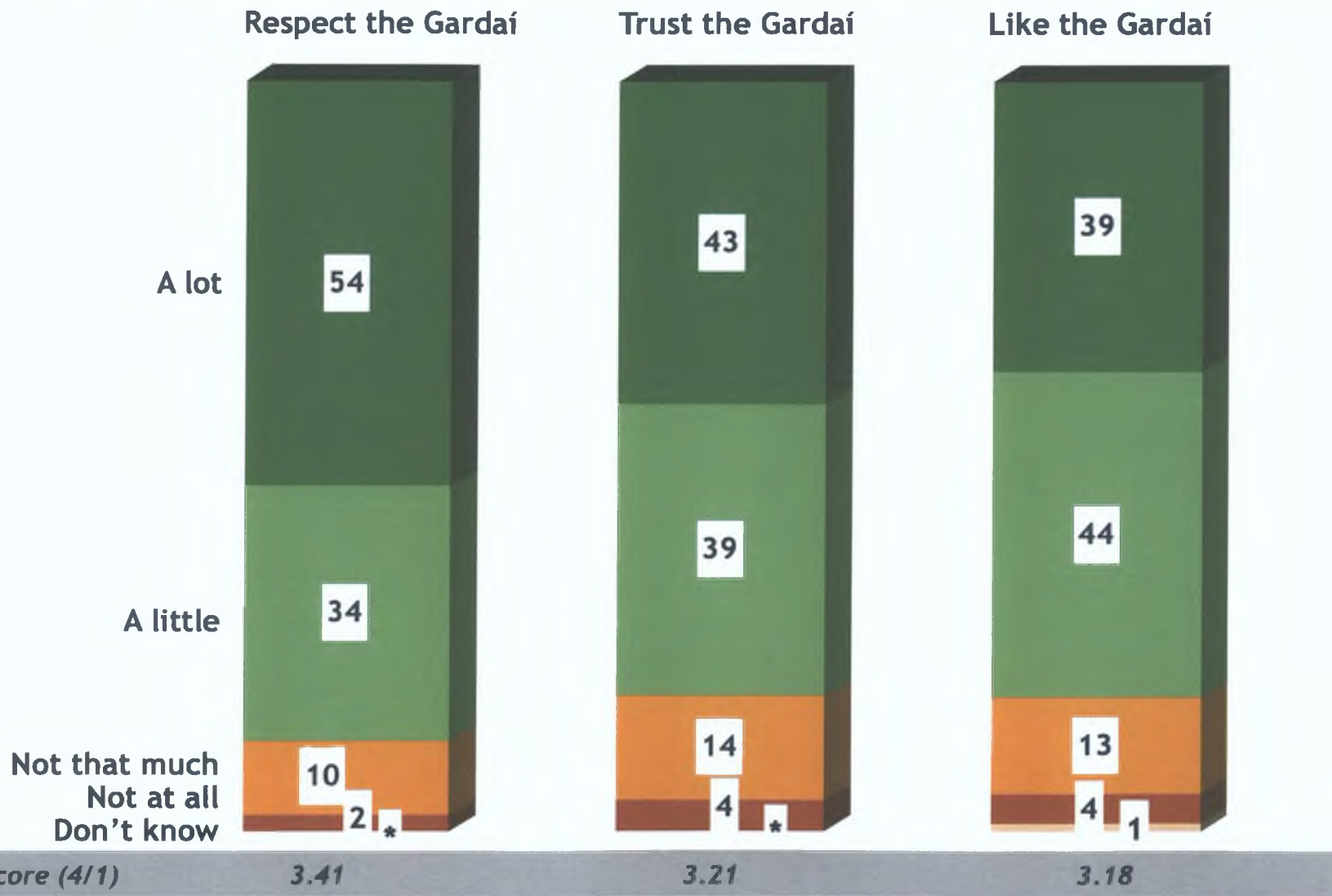
Page 163



# SUMMARY OF ATTITUDES TO AN GARDA SÍOCHÁNA

Page 164

(Base: Adults, Aged 15+, 1,059/3,352,000)



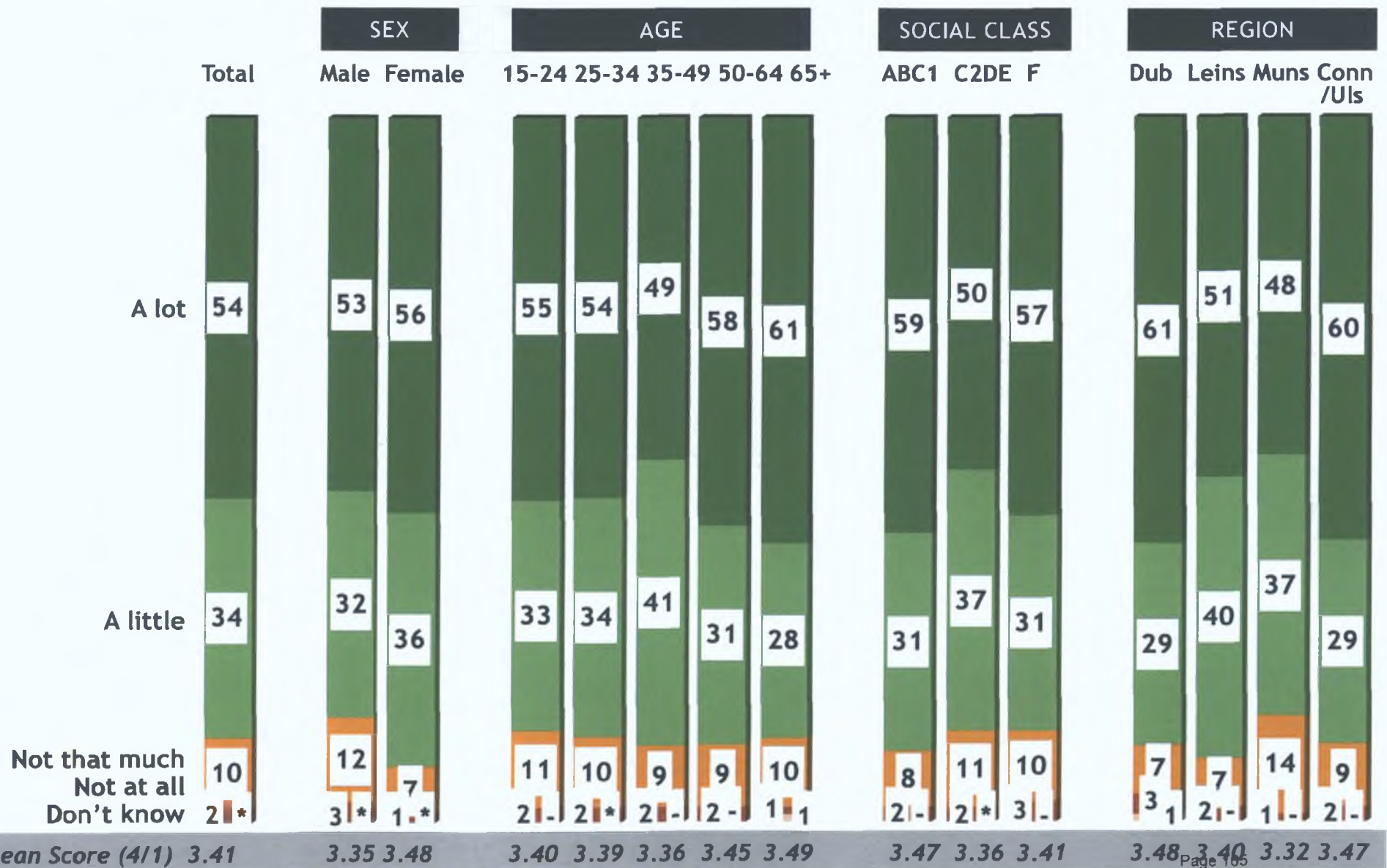
Q. Thinking about your attitudes to the Gardaí, to what extent do you ...

Page 164

# RESPECT FOR AN GARDA SÍOCHÁNA

Page 165

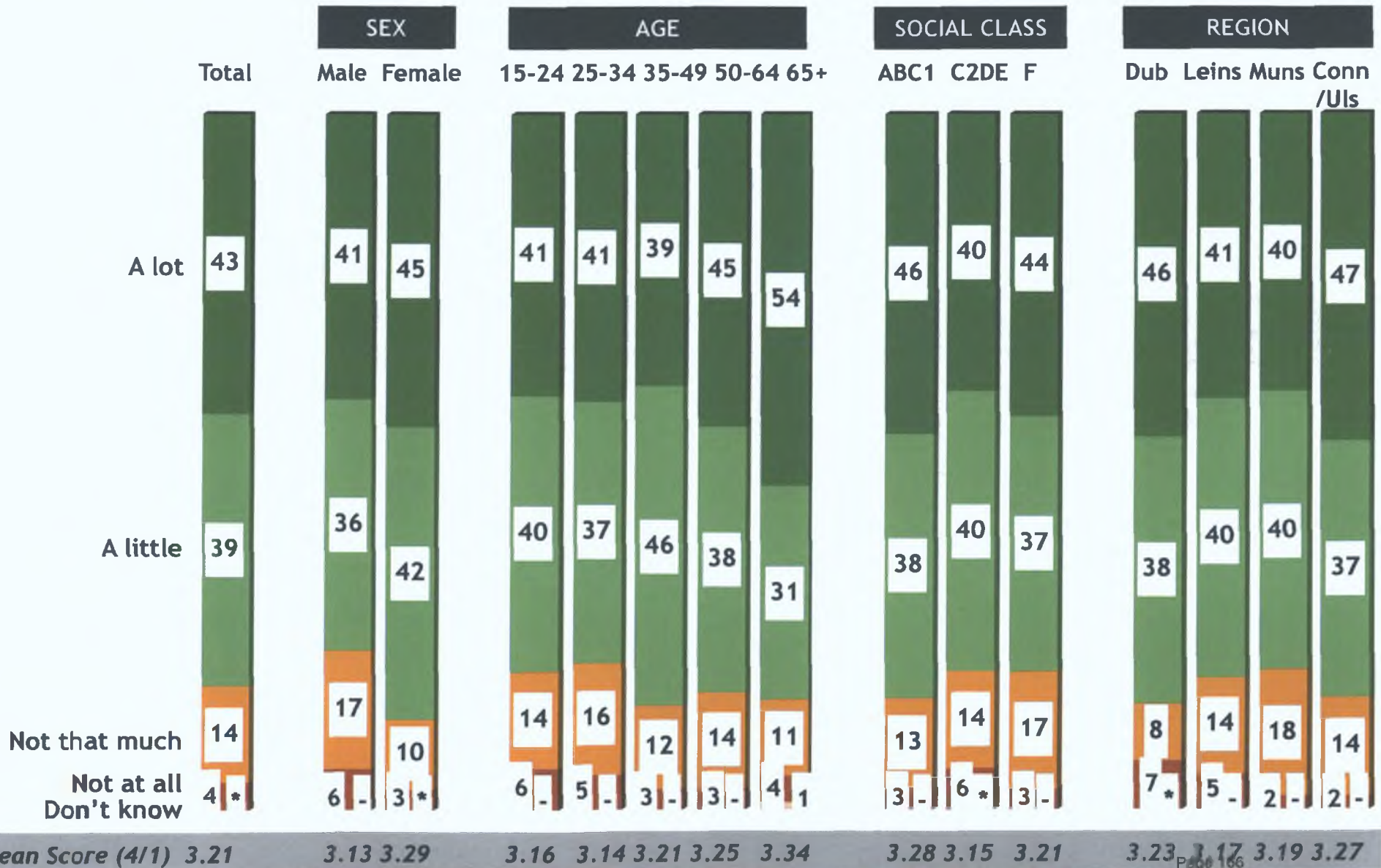
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# TRUST IN AN GARDA SÍOCHÁNA

Page 166

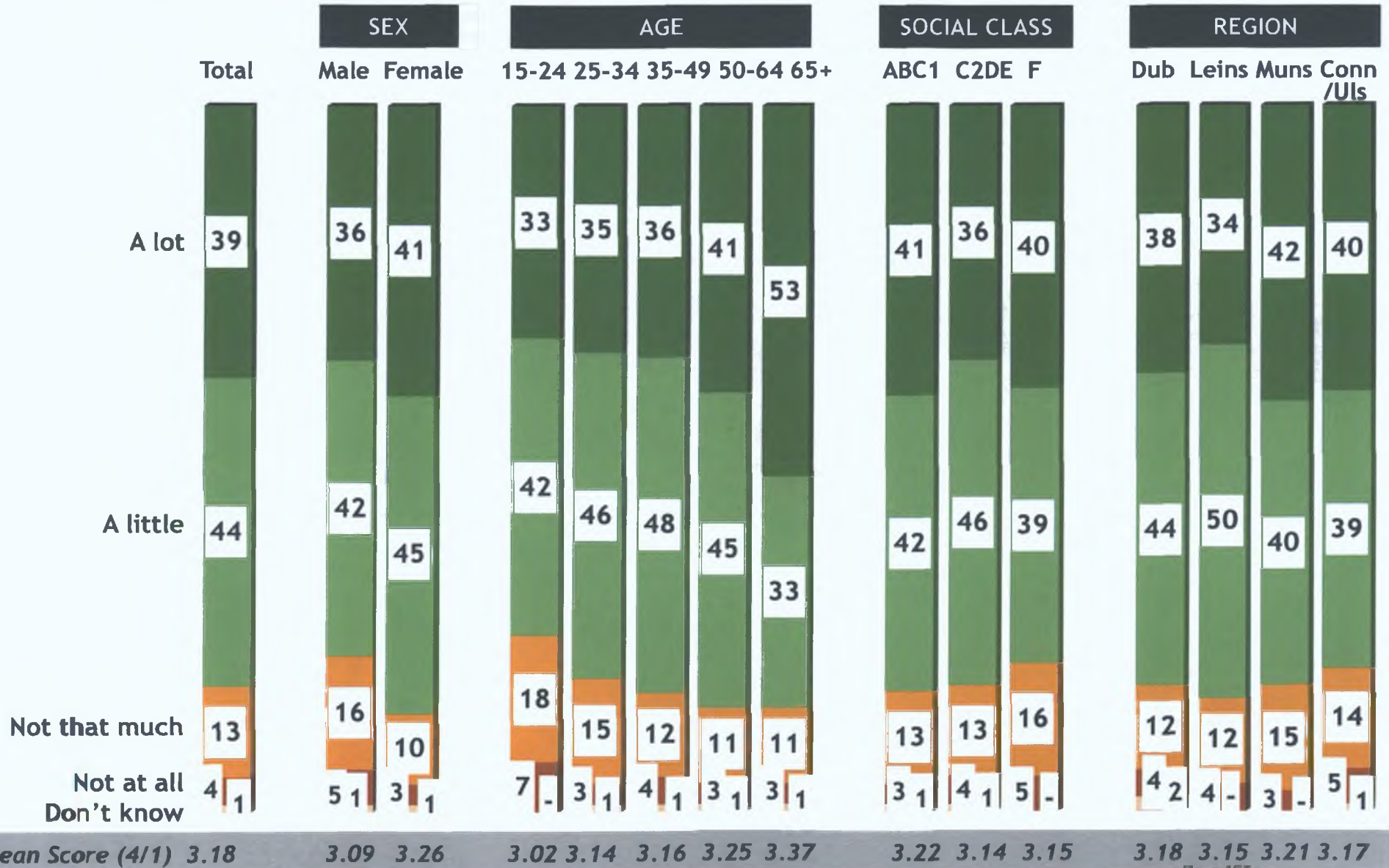
(Base: Adults, Aged 15+, 1,059/3,352,000)



# LIKING OF AN GARDA SÍOCHÁNA

Page 107

(Base: Adults, Aged 15+, 1,059/3,352,000)

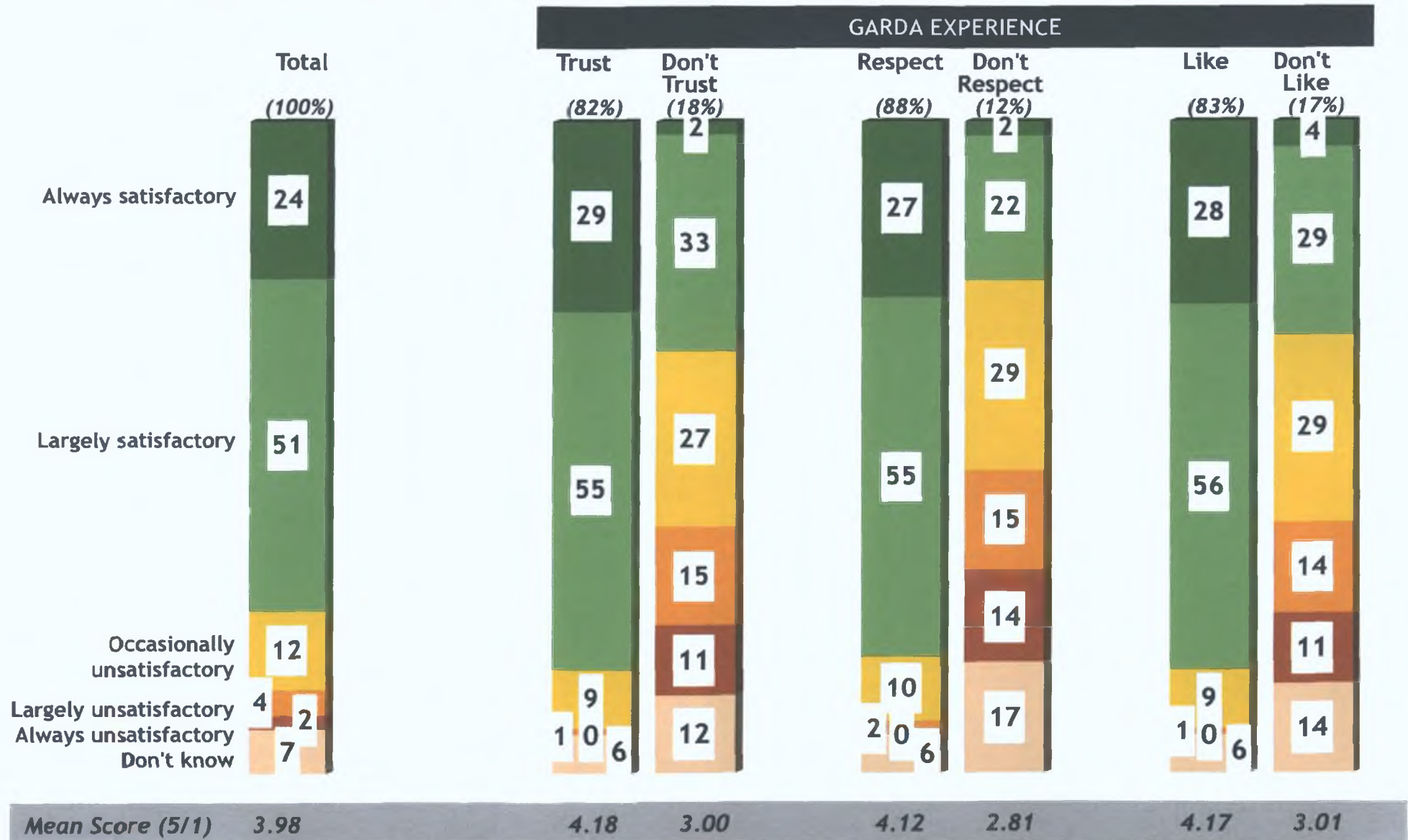


Page 107



# SATISFACTION X BROAD ATTITUDES TO GARDAÍ

Page 168  
(Base: Adults, Aged 15+, 1,059/3,352,000)

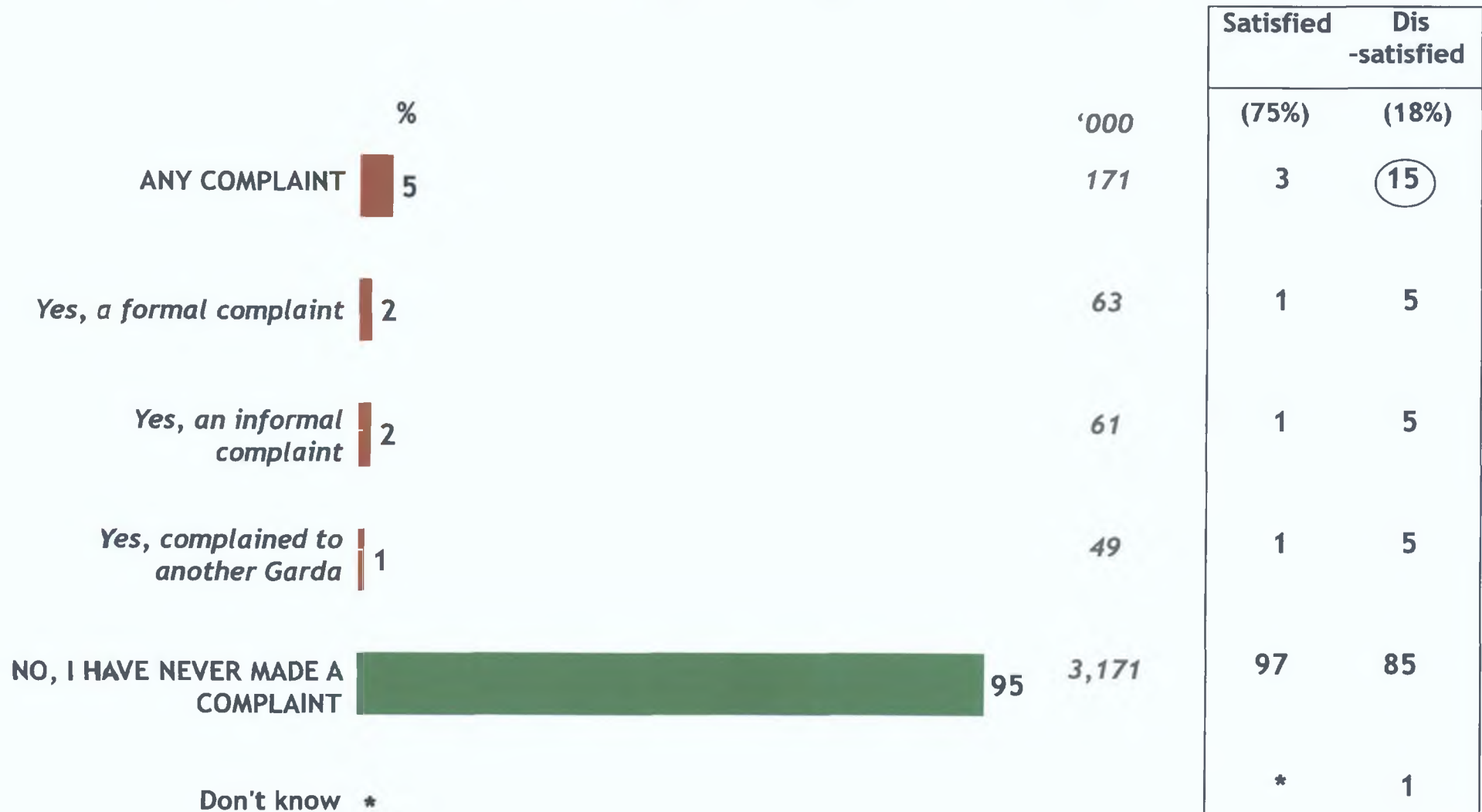


Of those who tend not to trust, respect nor like the Gardaí, at least half claim to have had an unsatisfactory experience at some stage

# EVER MADE A COMPLAINT AGAINST AN GARDA SÍOCHÁNA

Page 169

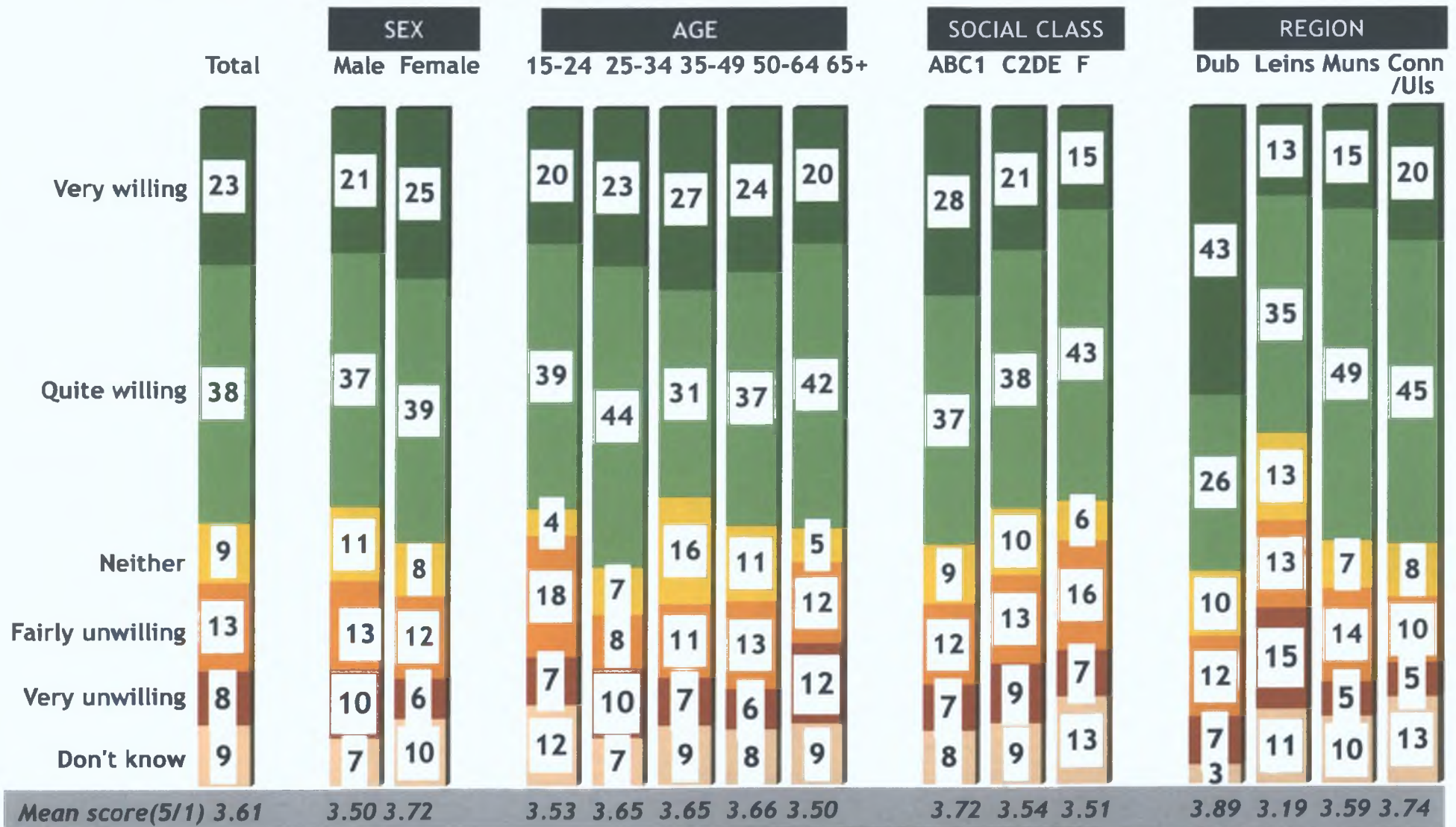
(Base: Adults, Aged 15+, 1,059/3,352,000)



# WILLINGNESS TO MAKE A COMPLAINT

Page 170

(Base: Adults, Aged 15+, 1,059/3,352,000)



Q. In the event of you being unhappy following an encounter or bad experience with the Gardaí, how willing would you be to make a complaint if you felt you needed to?

Page 170





# WILLINGNESS TO MAKE A COMPLAINT X EXPERIENCE

Page 177

(Base: Adults, Aged 15+, 1,059/3,352,000)

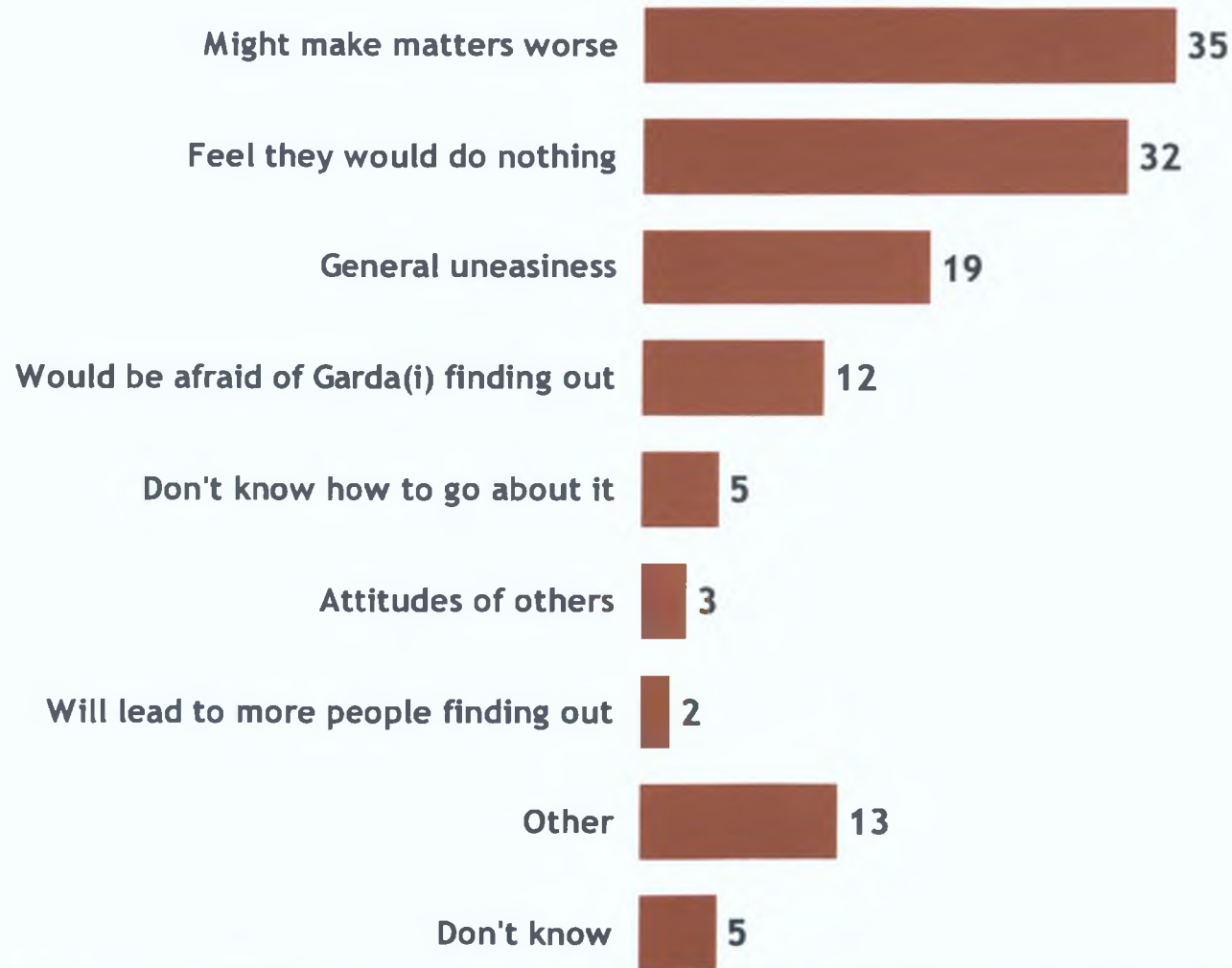


30% of those with unsatisfactory past experience would now be unwilling to make a complaint



Page 172  
**(SPONTANEOUS) REASONS FOR UNWILLINGNESS TO MAKE A COMPLAINT**  
**(Base: All unwilling to make complaint : 317/1,006,000)**

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Q. Can you tell me why you would be unwilling to make a complaint against the Garda Síochána? Page 172

# (SPONTANEOUS) REASONS FOR UNWILLINGNESS TO MAKE A COMPLAINT

## X DEMOGRAPHICS

(Base: All unwilling to make complaint : 317/1,006,000)

	Total	GENDER		AGE					CLASS		
		Male	Female	15-24	25-34	35-49	50-64	65+	ABC1	C2DE	F
<b>Base</b>	<b>317</b>	<b>176</b>	<b>141</b>	<b>54</b>	<b>54</b>	<b>86</b>	<b>67</b>	<b>56</b>	<b>113</b>	<b>170</b>	<b>34</b>
Might make matters worse	35	32	39	27	46	37	34	30	32	38	30
Feel they would do nothing	32	34	30	34	27	39	34	20	37	30	21
General uneasiness	19	17	22	12	15	17	29	25	15	21	32
Would be afraid of Gardaí finding out	12	13	12	10	24	11	8	9	13	13	4
Don't know how to go about it	5	3	9	4	3	10	3	5	2	7	10
Attitudes of others	3	2	3	9	-	-	-	8	2	2	8
Will lead to more people finding out	2	1	2	-	-	3	3	2	1	1	9
Other	13	10	16	19	10	6	14	21	17	11	5
Don't know	5	5	6	6	7	2	7	7	6	6	3

*Two key issues prominent across all groups*

**(SPONTANEOUS) REASONS FOR UNWILLINGNESS TO MAKE A COMPLAINT**  
**X REGION & SATISFACTION**  
 (Base: All unwilling to make complaint : 317/1,006,000)

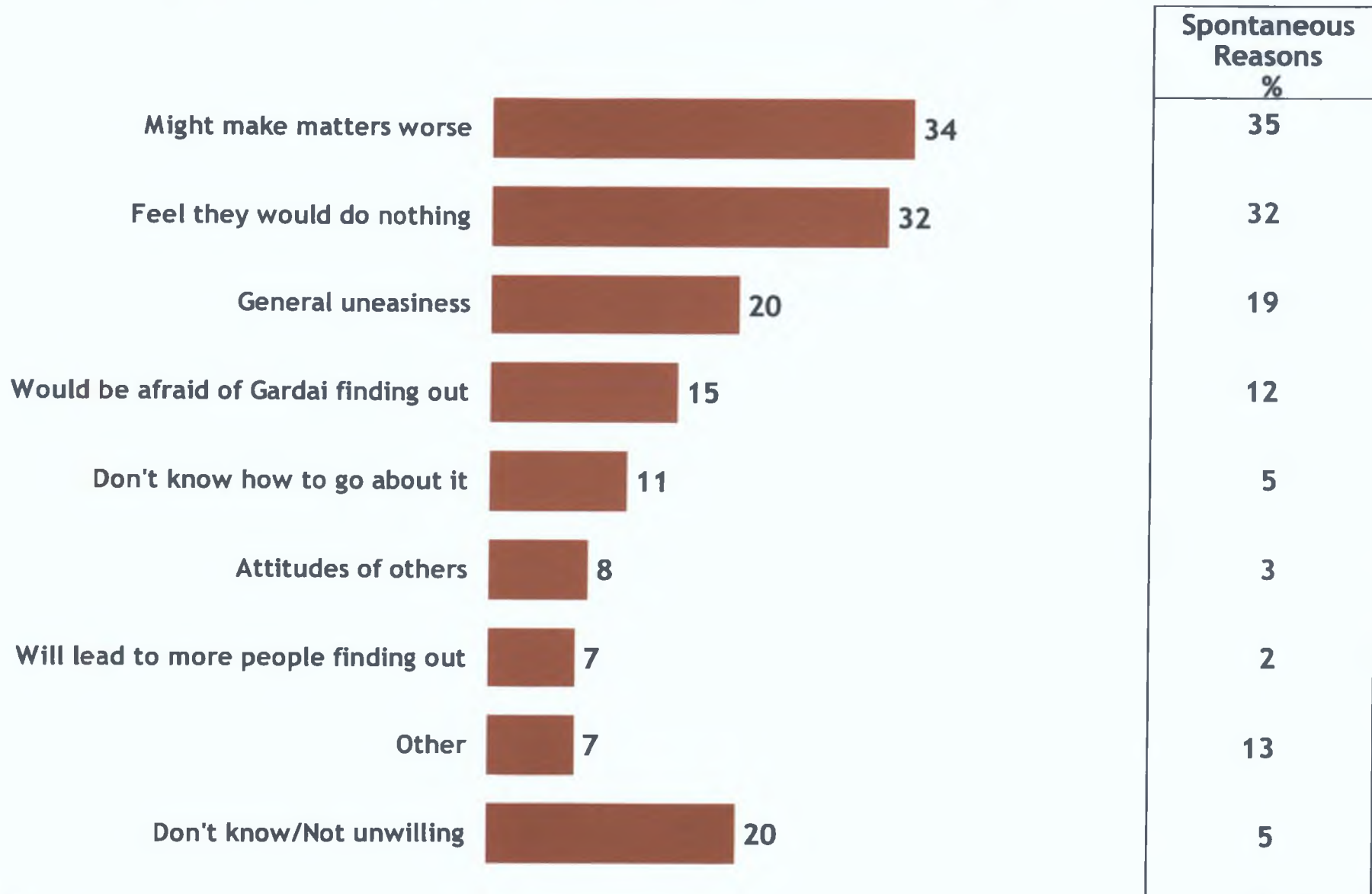
	REGION					SATISFIED	
	Total	Dublin	Leinster	Munster	Conn /Uls	Satisfied	Not satisfied
<b>Base</b>	<b>317</b>	<b>86</b>	<b>108</b>	<b>78</b>	<b>45</b>	<b>221</b>	<b>81</b>
Might make matters worse	35	25	41	43	26	36	32
Feel they would do nothing	32	40	33	36	11	28	47
General uneasiness	19	11	16	19	43	23	11
Would be afraid of Gardaí finding out	12	11	16	9	13	11	14
Don't know how to go about it	5	5	3	8	6	6	2
Attitudes of others	3	2	2	5	4	3	4
Will lead to more people finding out	2	-	1	-	9	2	1
Other	13	17	22	3	-	12	13
Don't know	5	10	3	6	2	5	6

# OTHER (SPONTANEOUS) REASONS FOR UNWILLINGNESS TO MAKE A COMPLAINT

(Base: All unwilling to make complaint : 317/1,006,000)

	Total	GENDER		AGE					REGION			
		Male	Female	15-24	25-34	35-49	50-64	65+	Dublin	Leinster	Munster	Conn /Uls
<b>Base:</b>	<b>317</b>	<b>176</b>	<b>141</b>	<b>54</b>	<b>54</b>	<b>86</b>	<b>67</b>	<b>56</b>	<b>86</b>	<b>108</b>	<b>78</b>	<b>45</b>
Fear - they could harass me	4	3	(7)	4	5	2	5	5	-	(12)	1	-
No point/not worth it	2	1	(4)	(9)	-	-	3	2	(7)	1	-	-
Not independent	2	(4)	1	2	2	1	(5)	3	3	(4)	-	-

**PROMPTED REASONS FOR UNWILLINGNESS TO MAKE A COMPLAINT I**  
 (Base: Adults, Aged 15+, 1,059/3,352,000)



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**PROMPTED REASONS FOR UNWILLINGNESS TO MAKE A COMPLAINT II**  
 (Base: Adults, Aged 15+, 1,059/3,352,000)

	Total	SEX		AGE					CLASS			REGION			
		Male	Female	15-24	25-34	35-49	50-64	65+	ABC1	C2DE	F	Dub	Leins	Muns	Conn /Uls
<i>Base</i>	1059	522	537	188	202	260	218	191	421	525	113	306	266	297	190
Might make matters worse	34	35	33	35	33	39	32	30	31	36	37	23	46	37	32
Feel they would do nothing	32	37	28	35	31	35	34	23	34	32	26	34	36	34	22
General uneasiness	20	19	20	16	15	21	24	22	17	21	23	12	22	16	34
Would be afraid of Gardaí finding out	15	15	16	19	16	16	13	13	14	16	19	12	26	10	14
Don't know how to go about it	11	9	13	13	11	9	9	16	9	12	19	8	15	9	13
Attitudes of others	8	9	7	8	13	6	5	8	8	8	7	4	5	10	15
Will lead to more people finding out	7	6	8	7	11	6	5	5	7	6	9	3	5	6	17
Other	7	6	8	7	6	7	7	10	9	6	4	10	15	1	-
Don't know/Not unwilling	20	19	21	18	22	19	24	18	23	21	8	33	14	15	18

Largely consistent response, whether prompted or spontaneous

# (PROMPTED) REASONS FOR UNWILLINGNESS TO MAKE A COMPLAINT X SATISFACTION & COMPLAINT EXPERIENCE

(Base: Adults, Aged 15+, 1,059/3,352,000)

\*Caution: small base

	Satisfied	Not Satisfied	Made* Complaint	No complaint
	(75)	(18)	(5)	(95)
	%	%	%	%
Might make matters worse	36	33	37	34
Feel they would do nothing	26	56	47	31
General uneasiness	20	18	22	20
Would be afraid of Gardai finding out	16	17	14	16
Don't know how to go about it	12	5	2	12
Attitudes of others	7	8	10	8
Will lead to more people finding out	6	7	9	7
Other	7	8	7	7
Not stated/dk	22	17	24	20

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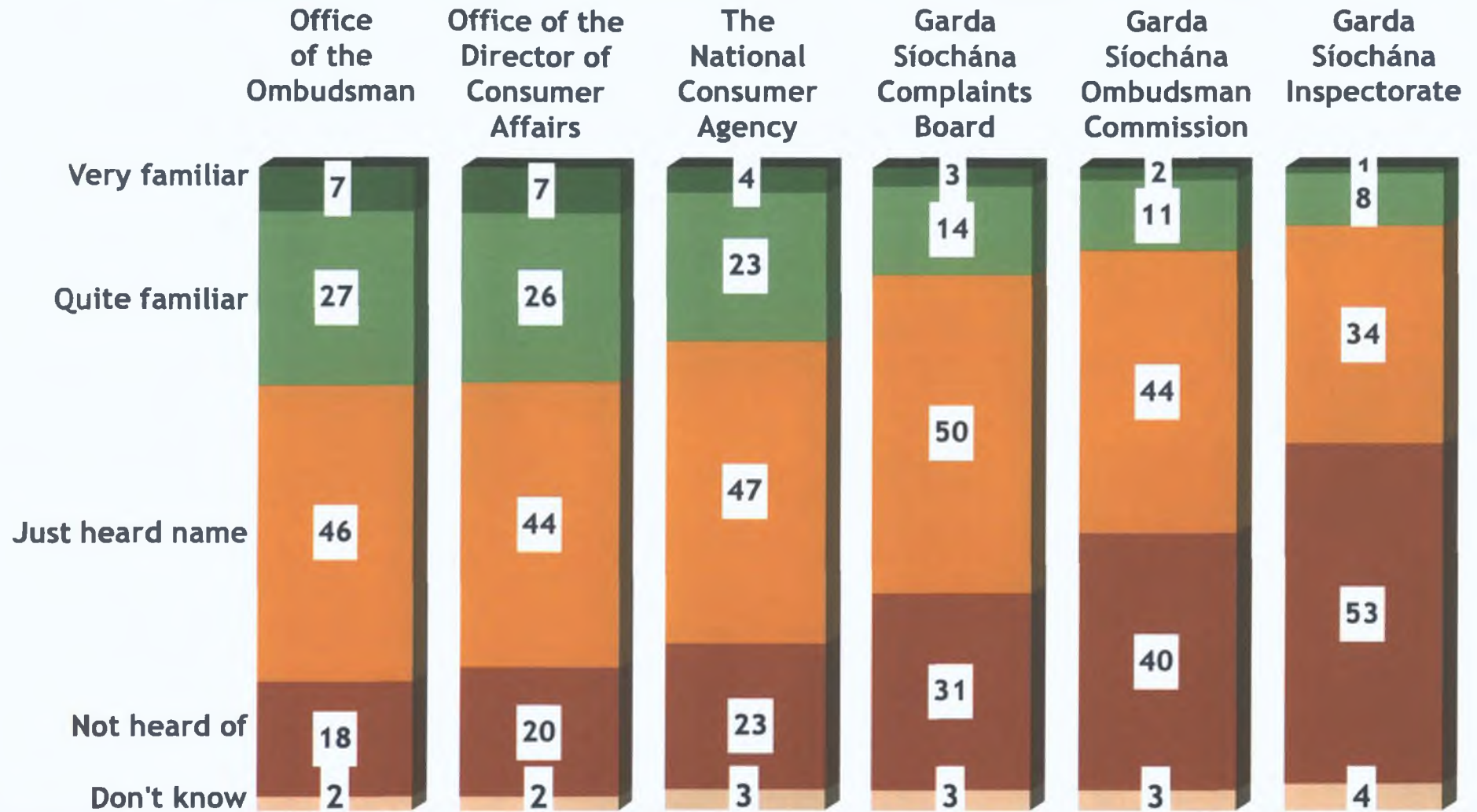


**AWARENESS & UNDERSTANDING OF  
THE GARDA SÍOCHÁNA OMBUDSMAN COMMISSION**

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# FAMILIARITY WITH VARIOUS AGENCIES

(Base: Adults, Aged 15+, 1,059/3,352,000)



Q. As I read out the following list can you tell me to what extent you are familiar/unfamiliar with each of these agencies?

57% have heard of Garda Síochána Ombudsman Commission but only a quarter of these know much more than its name

# FAMILIARITY WITH GARDA SÍOCHÁNA OMBUDSMAN COMMISSION X DEMOGRAPHICS

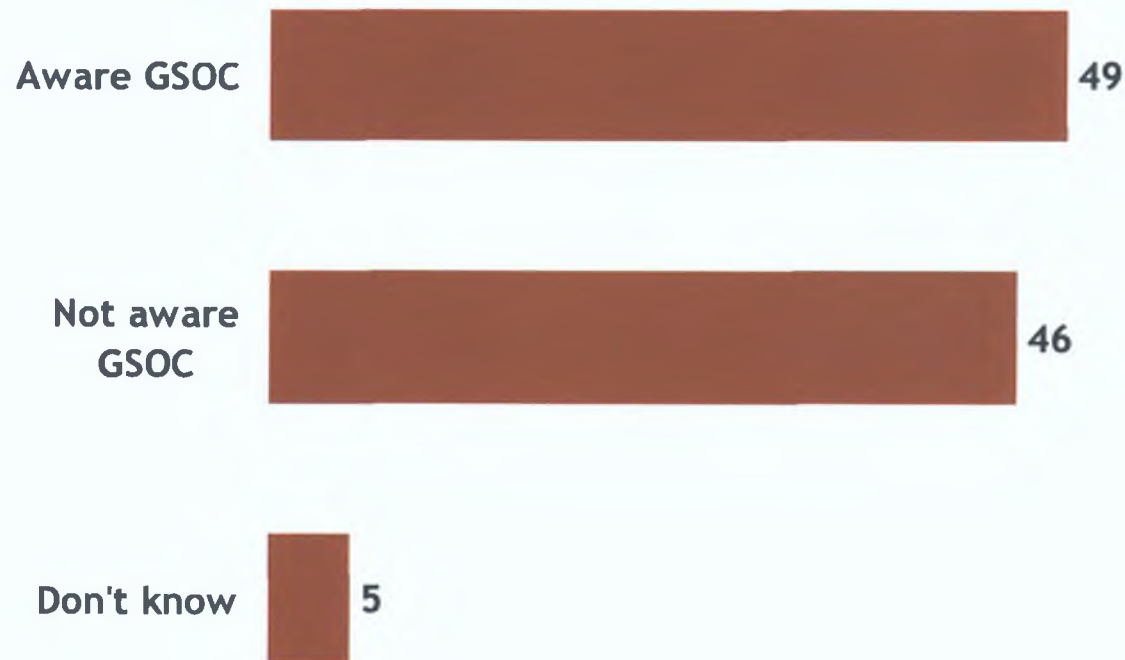
(Base: Adults, Aged 15+, 1,059/3,352,000)

	SEX			AGE					SOCIAL CLASS			REGION			
	Total	Male	Female	15-24	25-34	35-49	50-64	65+	ABG1	C2DE	F	Dublin	Leinster	Munster	Conn /Ul
<b>BASE</b>	<b>1059</b>	<b>522</b>	<b>537</b>	<b>188</b>	<b>202</b>	<b>260</b>	<b>218</b>	<b>191</b>	<b>421</b>	<b>525</b>	<b>113</b>	<b>306</b>	<b>266</b>	<b>297</b>	<b>190</b>
Very familiar	2	3	1	1	2	1	3	1	2	2	1	2	2	*	3
Quite familiar	11	12	10	9	12	10	15	8	16	7	12	15	10	9	8
Just heard name	44	46	43	36	46	50	42	47	45	44	42	46	40	46	46
Not heard of	40	37	43	50	37	35	38	39	35	44	37	36	44	39	41
Don't know	3	3	3	3	4	3	1	5	2	4	8	1	3	6	3

*Greater familiarity among men, middle aged and middle class respondents and Dubliners*

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**PROMPTED AWARENESS OF GARDA SÍOCHÁNA OMBUDSMAN COMMISSION I**  
(Base: Adults, Aged 15+, 1,059/3,352,000)

*A new body, The Garda Síochána Ombudsman Commission will begin operation during 2007. It is the new body for investigating complaints against the Gardaí. Its' objective is to provide a complaints system which is independent, transparent and fair. It is headed by a three person commission who are not Gardaí and it will replace the current Garda Síochána Complaints Board.*



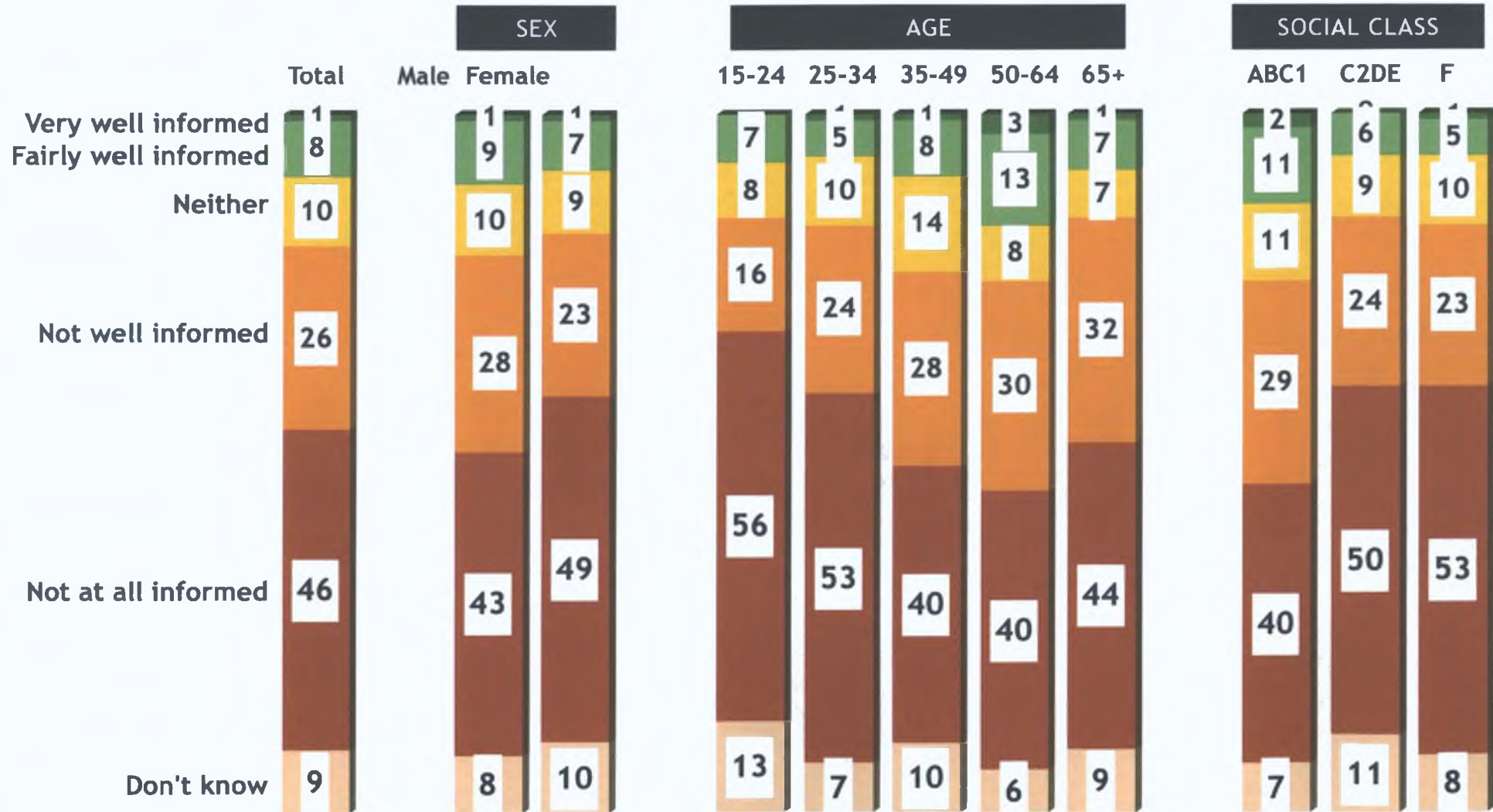
Page 183  
**AWARENESS OF GARDA SÍOCHÁNA OMBUDSMAN COMMISSION II**  
**(Base: Adults, Aged 15+, 1,059/3,352,000)**

	SEX			AGE					SOCIAL CLASS			REGION			
	Total	Male	Female	15-24	25-34	35-49	50-64	65+	ABC1	C2DE	F	Dublin	Leins	Muns	Conn /Uls
Base	1059	522	537	188	202	260	218	191	421	525	113	306	266	297	190
Yes	49	54	44	33	46	55	59	51	55	44	47	53	47	46	49
No	46	41	50	60	48	41	38	43	40	50	43	41	47	47	49
Don't know	5	5	6	7	6	4	4	7	4	5	10	6	5	7	2

# KNOWLEDGE OF NEW POWERS OF THE GARDA SÍOCHÁNA OMBUDSMAN

## COMMISSION I

(Base: Adults, Aged 15+, 1,059/3,352,000)

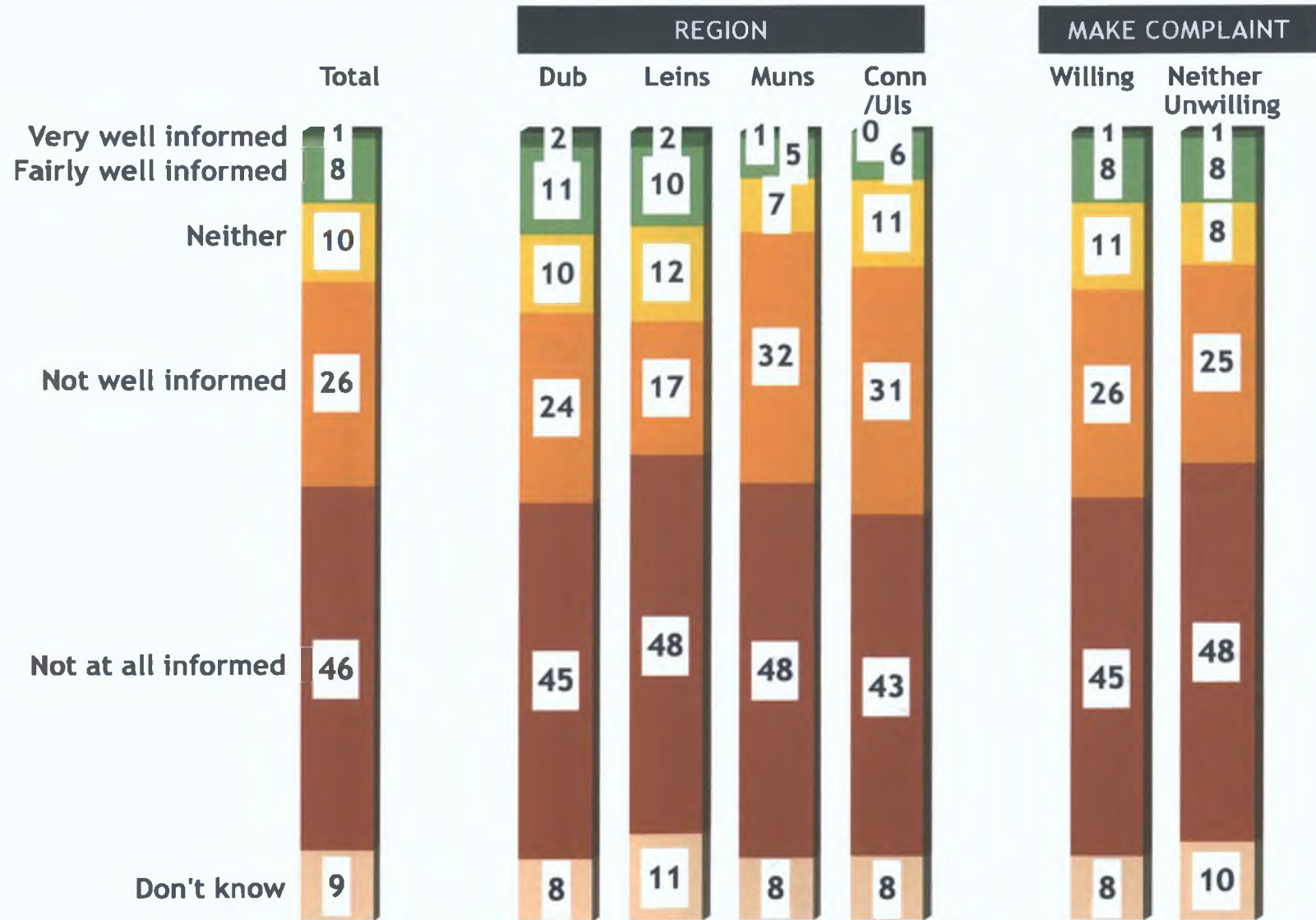


Q. How well informed are you about the new powers of the Garda Síochána Ombudsman Commission?

# KNOWLEDGE OF NEW POWERS OF THE GARDA SÍOCHÁNA OMBUDSMAN


## COMMISSION II

(Base: Adults, Aged 15+, 1,059/3,352,000)



# CAN YOU NAME ANY OF THE THREE COMMISSIONERS ON THE GARDA SÍOCHÁNA OMBUDSMAN COMMISSION?

(Base: Adults, Aged 15+, 1,059/3,352,000)

Carmel Foley  6

Conor Brady  3

Justice Kevin Haugh  3

Other \*

Don't know 91%

Male	Female	ABC1	C2DE	F
6	5	8	4	4
3	3	6	1	2
2	3	3	2	-
1	-	1	*	-

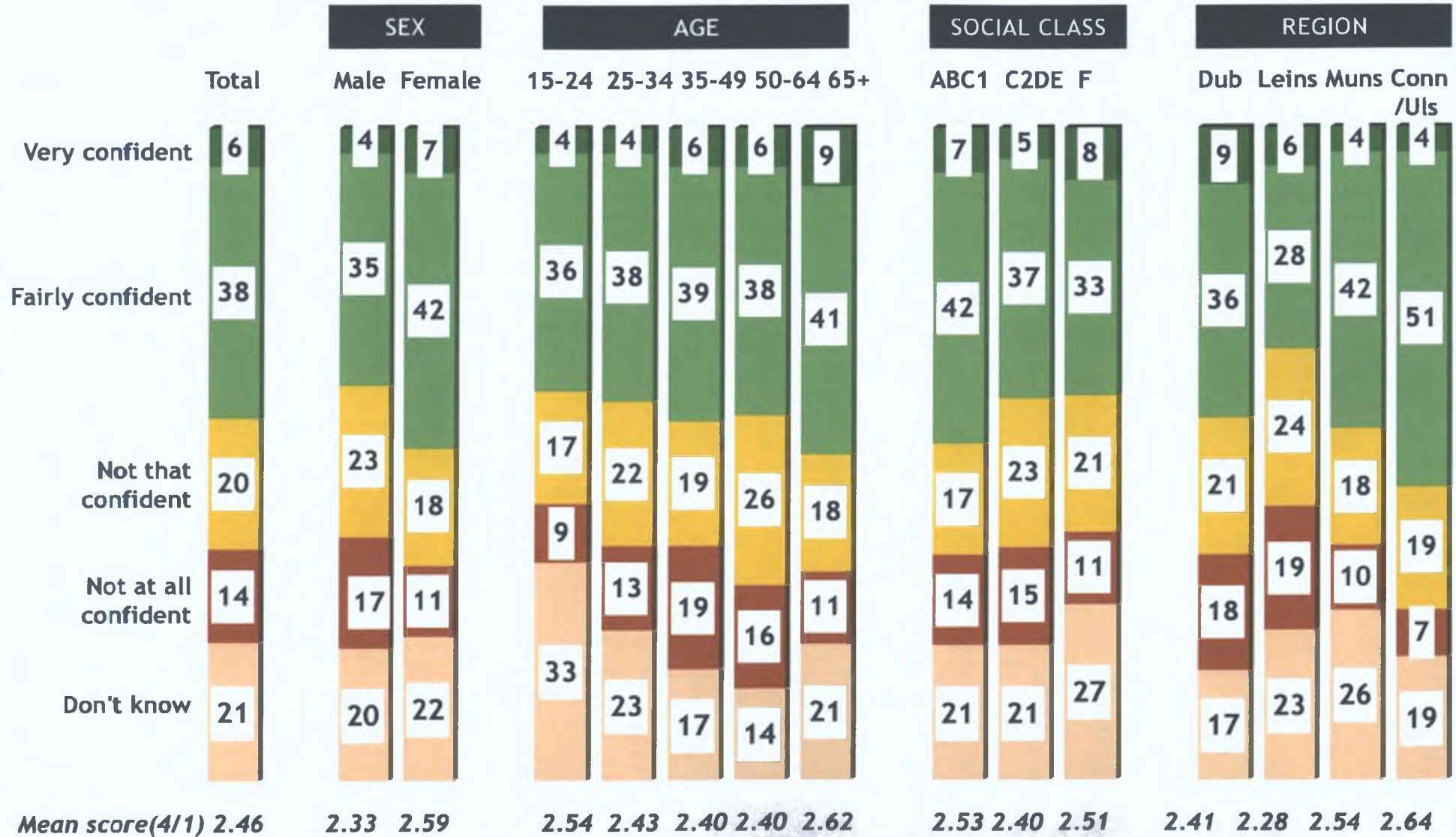


**PERSPECTIVES ON  
THE GARDA SÍOCHÁNA OMBUDSMAN COMMISSION**

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# CONFIDENCE IN THE FAIRNESS & EFFICIENCY OF (HISTORIC) GARDÁ SÍOCHÁNA COMPLAINTS BOARD

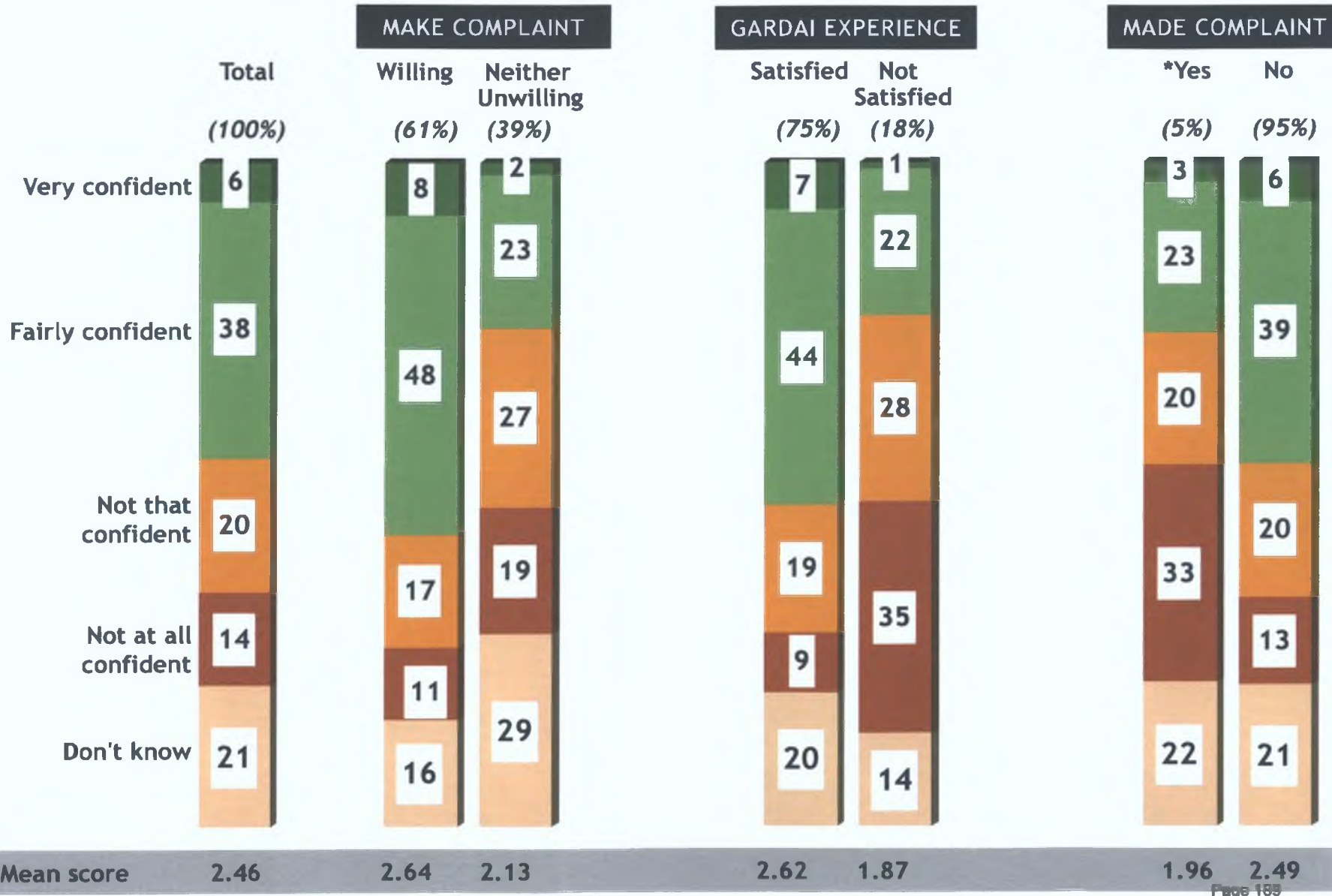
(Base: Adults, Aged 15+, 1,059/3,352,000)



Q. Historically, the Garda Síochána Complaints Board has provided the system for investigating complaints against the Police Force. To what extent would you say that you would have confidence in the fairness and efficiency of this current system?

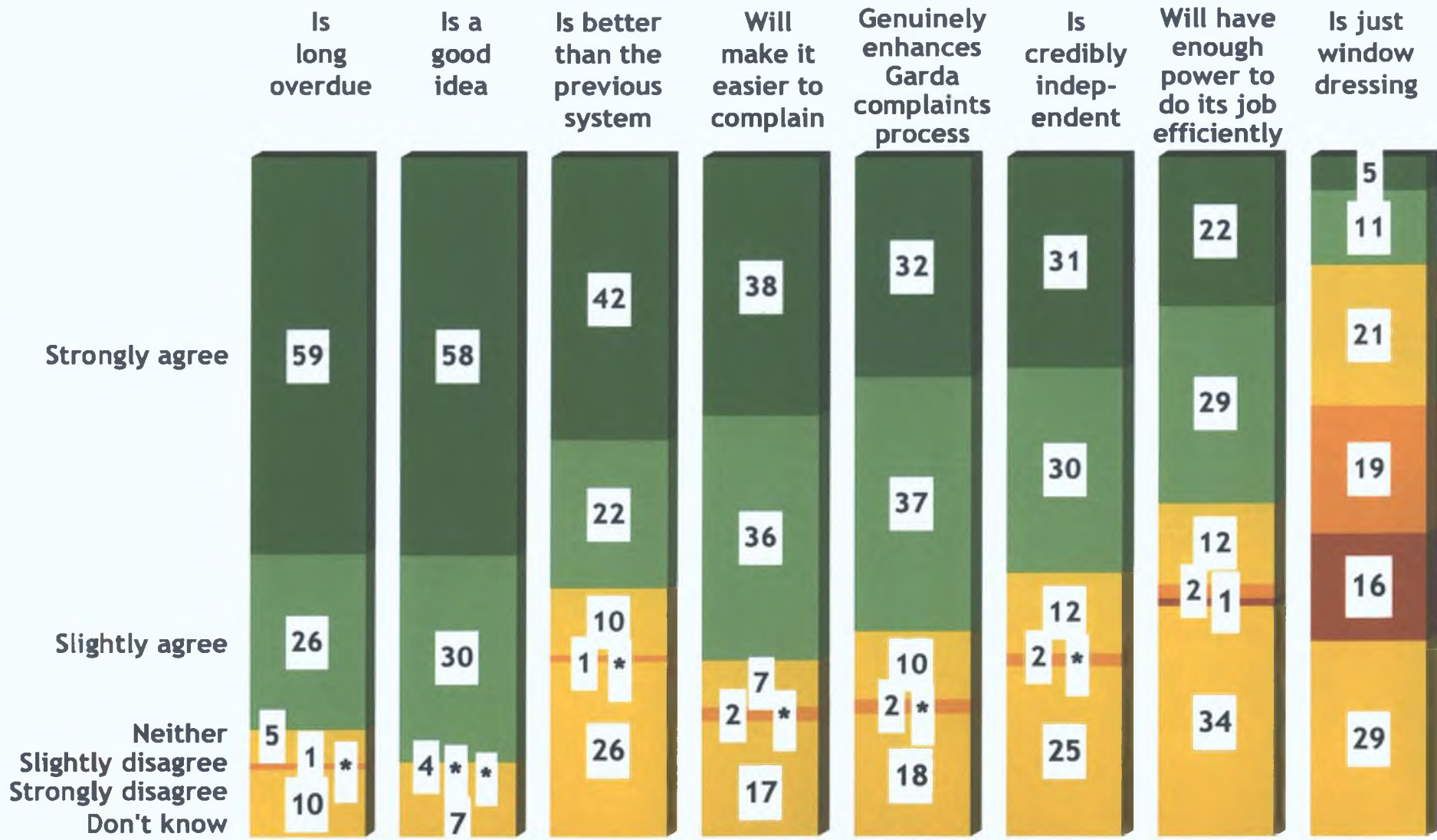
# CONFIDENCE IN THE FAIRNESS & EFFICIENCY OF (HISTORIC) **GARDA SÍOCHÁNA COMPLAINTS BOARD** X EXPERIENCE

(Base: Adults, Aged 15+, 1,059/3,352,000)



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Page 190  
**ATTITUDES TO (NEW) GARDA SÍOCHÁNA OMBUDSMAN COMMISSION**  
 (Base: Adults, Aged 15+, 1,059/3,352,000)

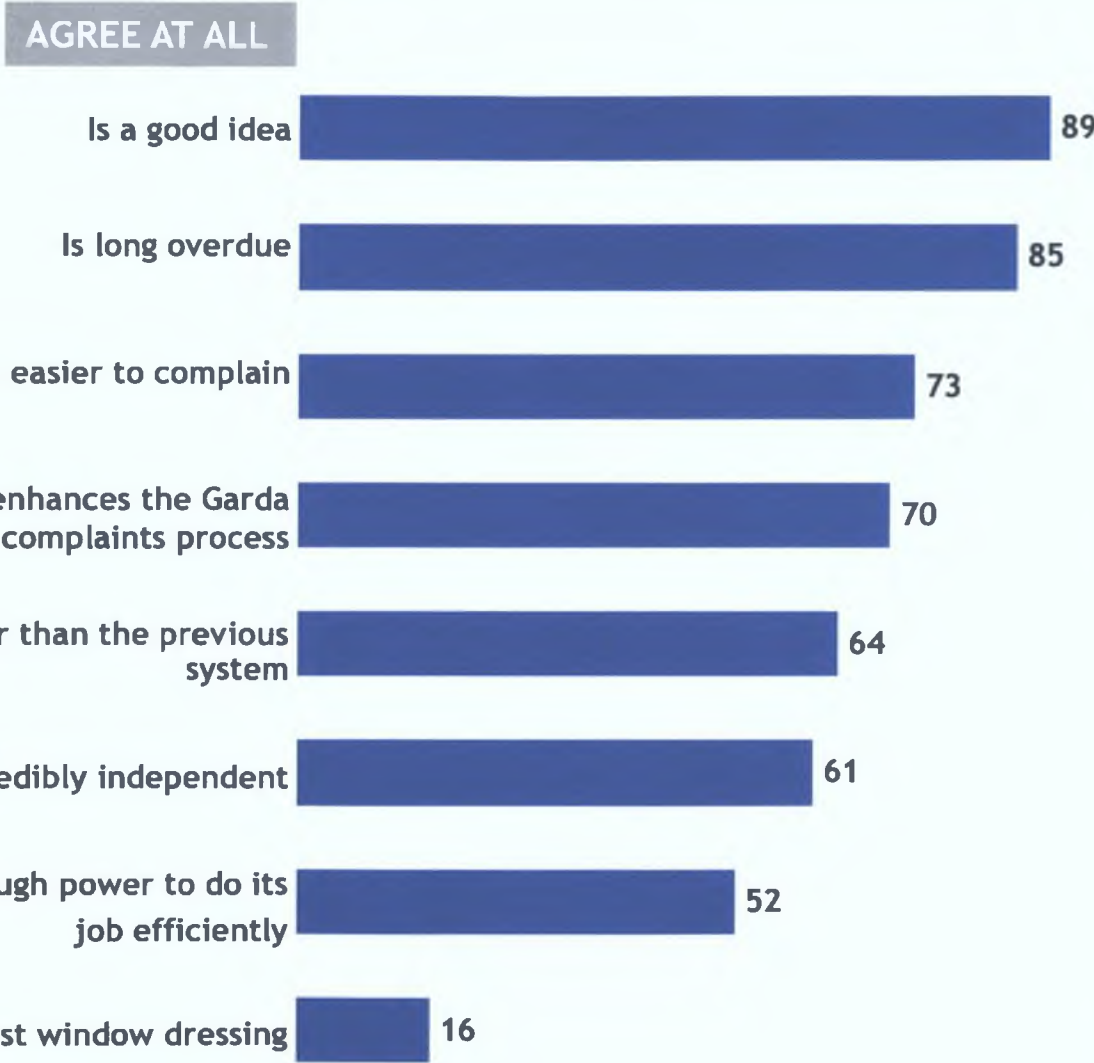


*General attitudes encouraging. Albeit, other statements can draw a more uncertain reaction (as measured by 'Neither' plus 'Don't know').*

# ATTITUDES TO GSOC X DEMOGRAPHICS

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(Base: Adults, Aged 15+, 1,059/3,352,000)

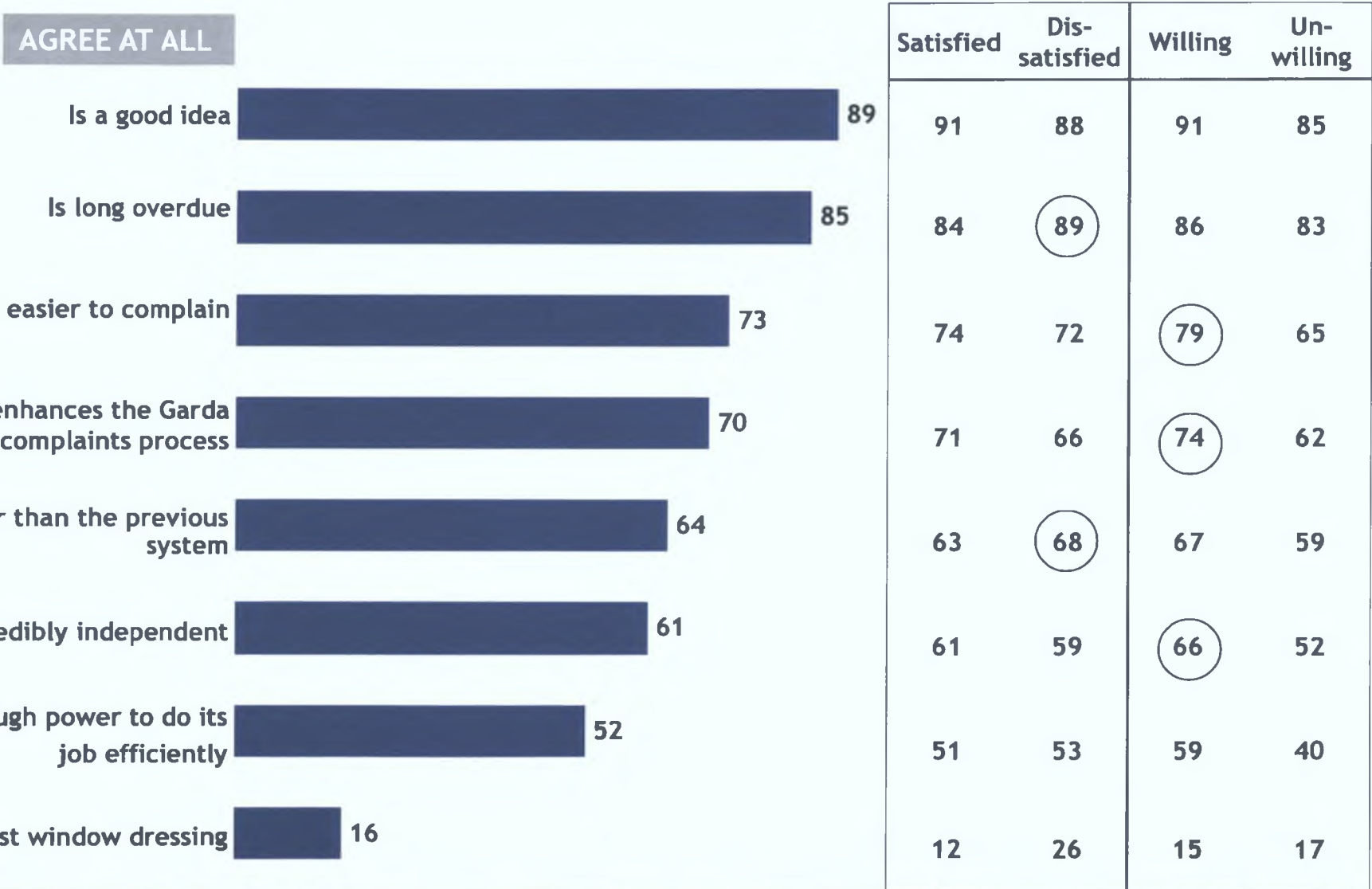


	Male	Female	ABC1	C2DE	F
Is a good idea	87	91	92	87	85
Is long overdue	84	85	88	83	78
Will make it easier to complain	70	76	78	70	71
Genuinely enhances the Garda complaints process	66	73	75	66	65
Is better than the previous system	63	65	66	61	67
Is credibly independent	59	61	64	56	63
Will have enough power to do its job efficiently	49	54	55	50	48
Is just window dressing	16	15	16	15	13

# ATTITUDES TO GSOC X EXPERIENCE

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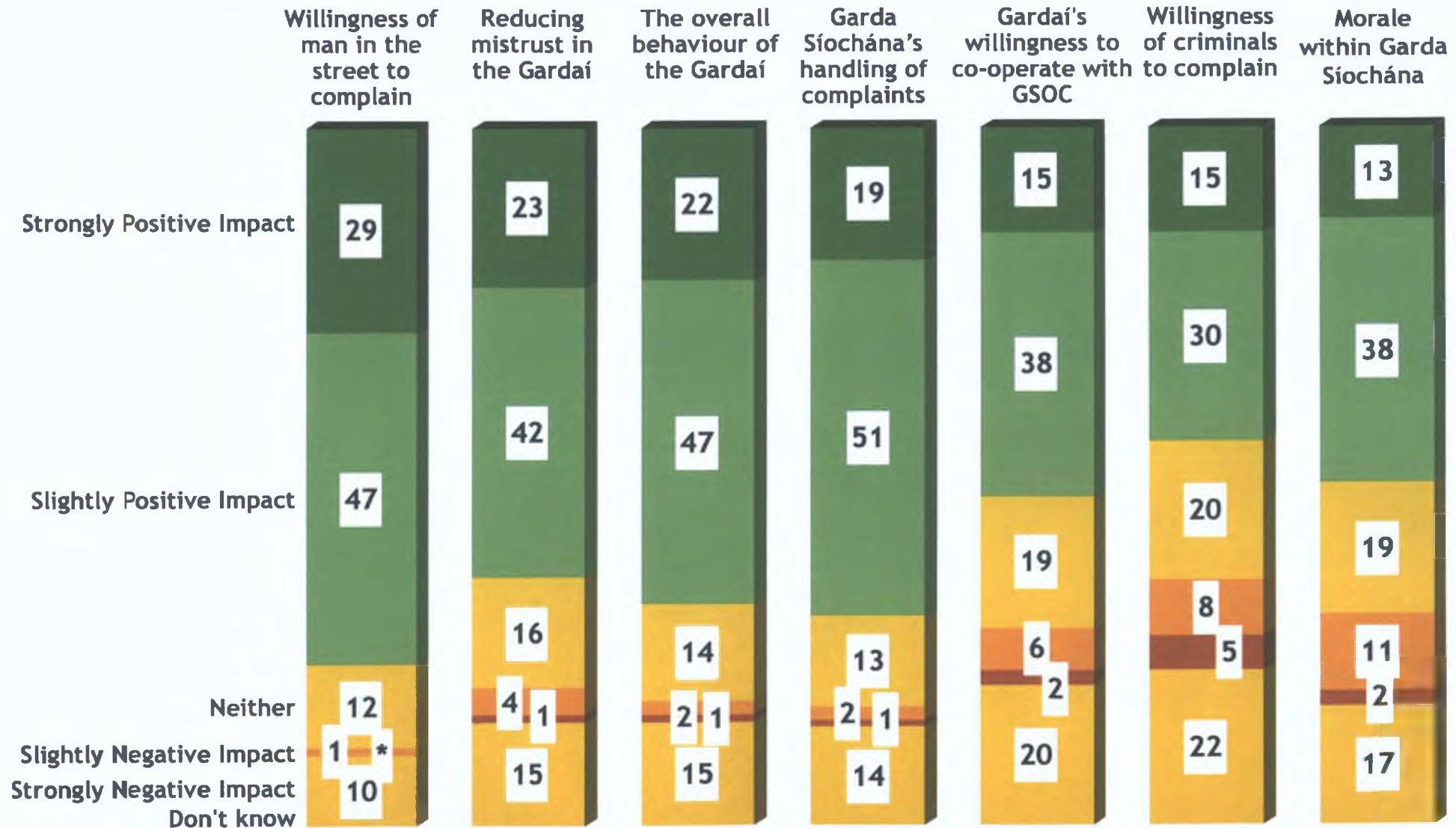
(Base: Adults, Aged 15+, 1,059/3,352,000)



*Greater caution evident among those unwilling to complain, but 6 out of 7 of these still feel it is a good idea*

# GARDA SÍOCHÁNA OMBUDSMAN COMMISSION WILL HAVE A POSITIVE OR NEGATIVE IMPACT ON ...

(Base: Adults, Aged 15+, 1,059/3,352,000)



General optimism evident (but again combined 'Neither' and 'Don't know' suggests some uncertainty).

# POSITIVE IMPACT OF GSOC X DEMOGRAPHICS

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(Base: Adults, Aged 15+, 1,059/3,352,000)

## ANY POSITIVE IMPACT

	Male	Female	ABC1	C2DE	F
The willingness of the man in the street to complain	76	77	80	73	79
The Garda Síochána 's handling of complaints	68	71	74	65	76
The overall behaviour of the Gardaí	67	71	74	64	70
Reducing mistrust in the Gardaí	63	66	67	62	69
Gardaí 's willingness to co-operate with the GSOC	52	55	55	52	55
Morale within the Garda Síochána	51	51	51	49	59
The willingness of criminals to complain	45	45	44	45	48

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# POSITIVE IMPACT OF GSOC X EXPERIENCE

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(Base: Adults, Aged 15+, 1,059/3,352,000)

## ANY POSITIVE IMPACT



Satisfied	Dis-satisfied	Willing to complain	Un-willing
76	82	79	72
72	65	74	62
72	61	72	63
67	58	69	58
58	42	59	44
54	43	56	43
44	47	46	43

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## KEY CONCLUSIONS

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## KEY CONCLUSIONS

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- 75% of the public describe their experiences of the Gardaí as having been ‘always’ or ‘largely’ satisfactory.
  - However, close to 1 in 5 characterise their experience, as unsatisfactory.
  - For males, this figure rises to just under 1 in 4 (23%).
- In relation to general attitudes towards the Gardaí, the overall response is again positive. Over 80% indicate they Trust, Respect and Like the Gardaí to some extent.
  - 88% Respect the Gardaí a lot or a little
- As with general satisfaction, there remains a comparatively small group who are more negatively disposed. 18% do not Trust (not that much/ not at all) the Gardaí and 17% do not Like the Gardaí.
  - These negative responses are also higher for men. Men are nearly twice as likely as Women not to Respect the Gardaí.

## KEY CONCLUSIONS

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- Only 5% has ever made a complaint of any type against the Gardaí.
- Close to 40% of the public would be unwilling or hesitant about making a complaint even if they felt they needed to.
  - Despite (or perhaps because of) their higher levels of general criticism of the Gardaí, Men are slightly more unwilling than Women to make a complaint
- Two key reasons emerge to explain this reticence:
  - ‘Might make matters worse’.
  - ‘Feel they (Gardaí) would do nothing’.

## KEY CONCLUSIONS

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- In relation to levels of confidence in the Garda Síochána Complaints Board, fewer than half the sample (44%) suggest that they were very or fairly confident in the fairness and efficiency of the Board.
- Familiarity with the Garda Síochána Ombudsman Commission is modest, although this should perhaps not be surprising at this stage of the Commission's existence.
- When provided with a more detailed description of Garda Síochána Ombudsman Commission, about half (49%) claim to have heard of it.
  - Awareness is higher among Men, older age groups, among the middle class and in Dublin.

## KEY CONCLUSIONS

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- These awareness levels have yet to translate into a depth of understanding however:
  - Only 9% are very/fairly well informed about the new powers of the Garda Síochána Ombudsman Commission and there is only limited knowledge as to the identities of the Commissioners themselves.
- Attitudes towards the Garda Síochána Ombudsman Commission are nonetheless generally encouraging.
  - 89% agree the Commission is a good idea.
  - 85% agree the Commission is long overdue.
  - 73% agree it will make it easier to complain.
- Other statements can draw a more uncertain reaction. This is evident particularly when one combines the ‘Neither Positive nor Negative’ response with that of ‘Don’t know’.
  - Combined ‘Neither’/ ‘Don’t Know’ response is 46% for ‘Will have enough power to do its’ job efficiently’.

## KEY CONCLUSIONS

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- Such uncertainty may well reflect the Commissions' stage of development and current levels of awareness.
- Perspectives on the potential impact of the Garda Síochána Ombudsman Commission are also typically optimistic.
  - (Albeit that the combined 'Neither/ Don't Know' response can again be high on occasion, e.g. 39% for Gardai's willingness to co-operate with GSOC).
- In relation to the positive response, most perceive that the Garda Síochána Ombudsman Commission will have a beneficial impact on:
  - The willingness of the man in the street to complain.
  - The overall behaviour of the Gardaí.
  - The Garda Síochána's handling of complaints.

**Headline results of the 2008 Garda Síochána Ombudsman Commission  
Public Attitudes Survey  
conducted by Ipsos-MORI**

- 1** 1 in every 20 members of the public has had a reason to complain about a garda
- 2** If they believed they had a reason to do so
  - 71% of the public would be willing to make a complaint
  - 25% of the public would not be willing to make a complaint
- 3** The most common spontaneous reasons for not making a complaint are
  - It might make matters worse
  - Nothing would be done
- 4** Of those who believed they have had reason to complain in the past one out of two did not make a complaint
- 5** Ipsos-MORI also sought views on the Garda Síochána Ombudsman Commission (GSOC)
  - 83% of the public believes that GSOC is independent
  - 50% believes that GSOC is effective
  - 48% believes that GSOC is efficient
- 6** Looking to possible changes in the culture surrounding policing in Ireland,
  - 84% believe that GSOC will have a positive impact on people's willingness to complain
  - 81% believe GSOC will have a positive impact on Garda response to complaints
  - 54% believe GSOC will have a positive impact on Garda morale

Ends



**Your details**

Division \_\_\_\_\_

Years of service \_\_\_\_\_

Rank \_\_\_\_\_

Gender \_\_\_\_\_

Have had direct dealings with GSOC Yes  No

**PLEASE SELECT ONE RESPONSE TO EACH OF THE STATEMENTS BELOW**

**1. Complaints and investigations into garda conduct are best handled by a body independent of the Garda Síochána**

I Strongly Agree  I Agree  Neither Agree/Disagree  I Disagree  I Strongly Disagree

**2. GSOC treats complainants and gardaí fairly**

Yes  No  If 'no' please select one of the following:  
complainants are treated in a better manner  gardaí are treated in a better manner

**3. Since commencing operations in May 2007, GSOC has discharged its duties efficiently**

I Strongly Agree  I Agree  Neither Agree/Disagree  I Disagree  I Strongly Disagree

**4. GSOC has been effective in discharging its duties**

I Strongly Agree  I Agree  Neither Agree/Disagree  I Disagree  I Strongly Disagree

**5. GSOC has been independent since commencing operations**

I Strongly Agree  I Agree  Neither Agree/Disagree  I Disagree  I Strongly Disagree

**6. GSOC's presence at scenes (e.g. road traffic incidents) creates a negative image of the Garda Síochána**

I Strongly Agree  I Agree  Neither Agree/Disagree  I Disagree  I Strongly Disagree

**7. GSOC's existence impedes me from doing my job properly**

I Strongly Agree  I Agree  Neither Agree/Disagree  I Disagree  I Strongly Disagree

**8. Given the nature of my work as a Garda, I expect a complaint to be made about me at some stage**

I Strongly Agree  I Agree  Neither Agree/Disagree  I Disagree  I Strongly Disagree

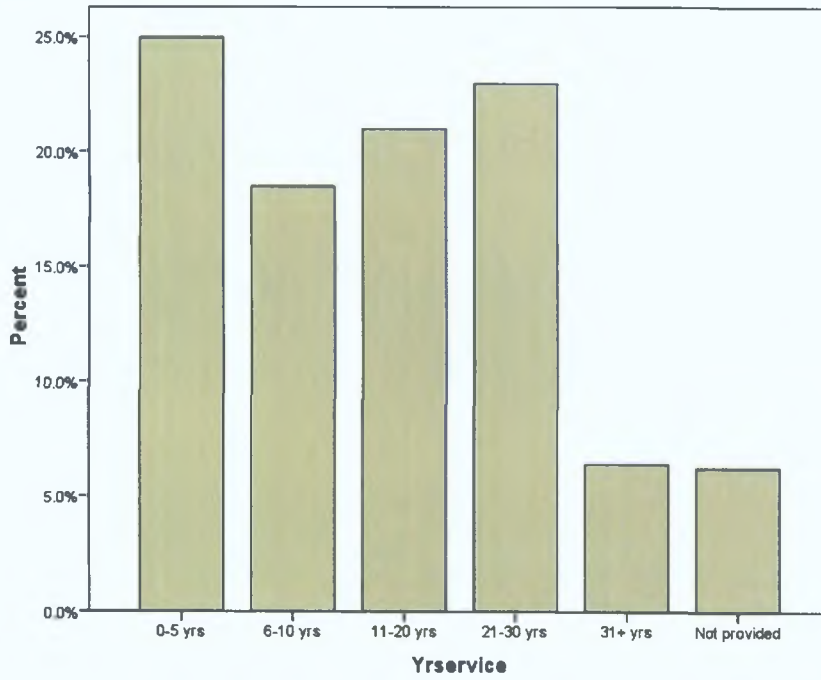
**9. Complaints to GSOC are made with good cause**

In all cases  In many cases  In few cases  In no cases  Don't Know

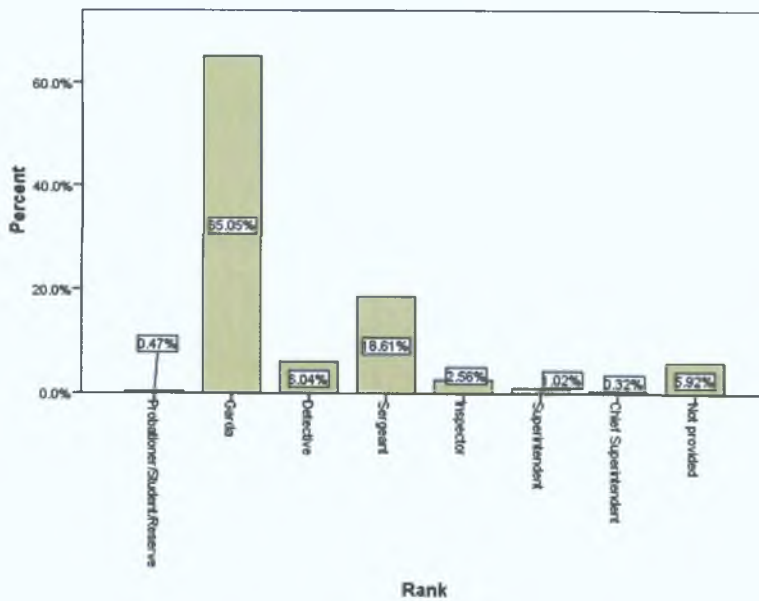
## GARDA ATTITUDES SURVEY 2008 RESULTS

Below are graphs illustrating the descriptive statistics (frequencies) for results to each question in the survey.

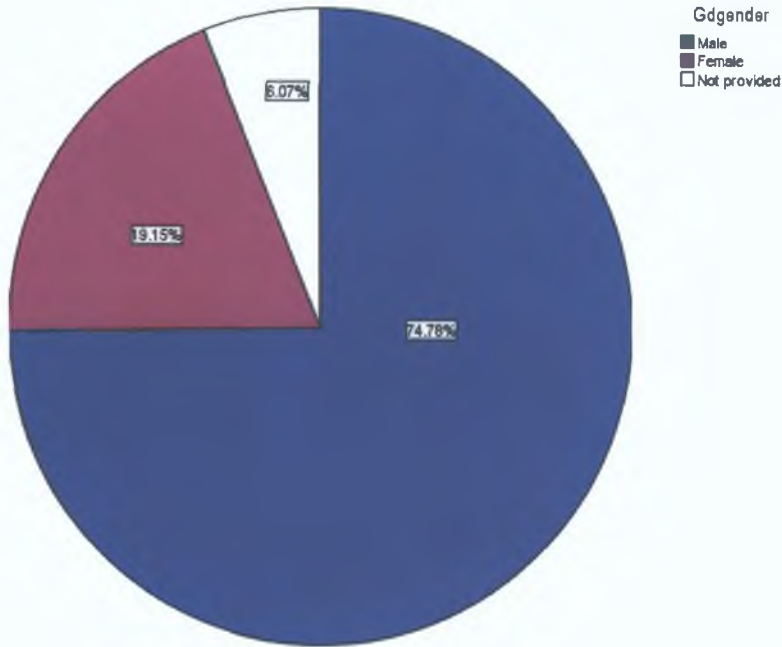
### Years of Service



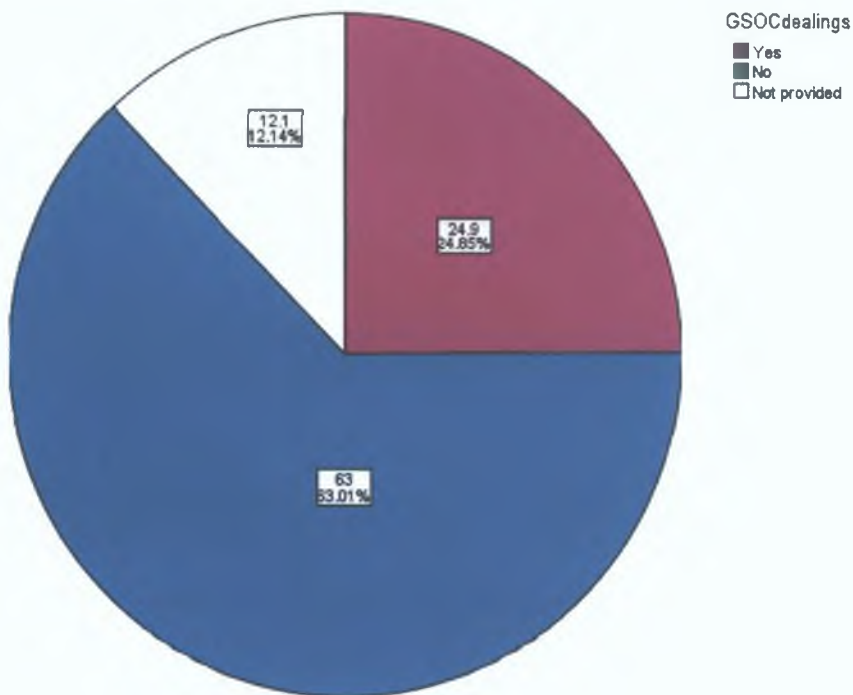
### Rank



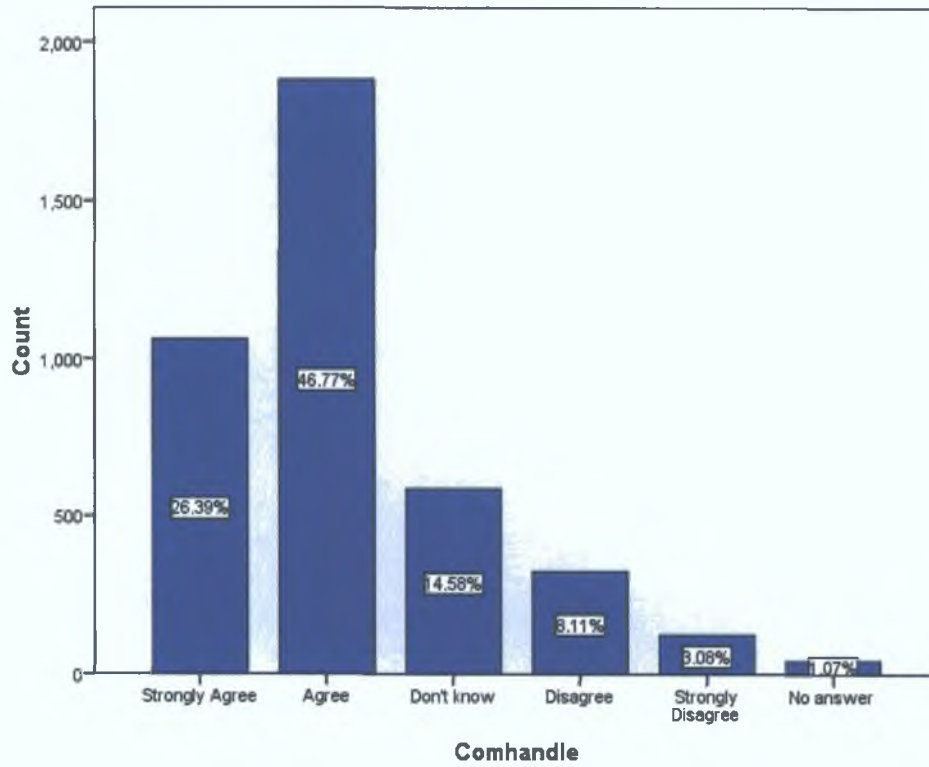
### Garda Sex



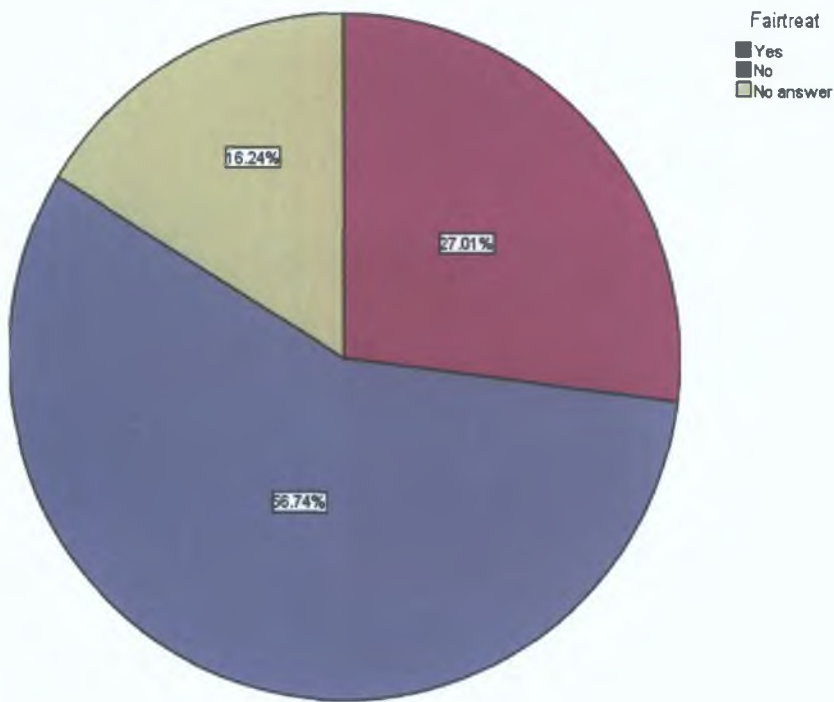
### Direct dealings with GSOC



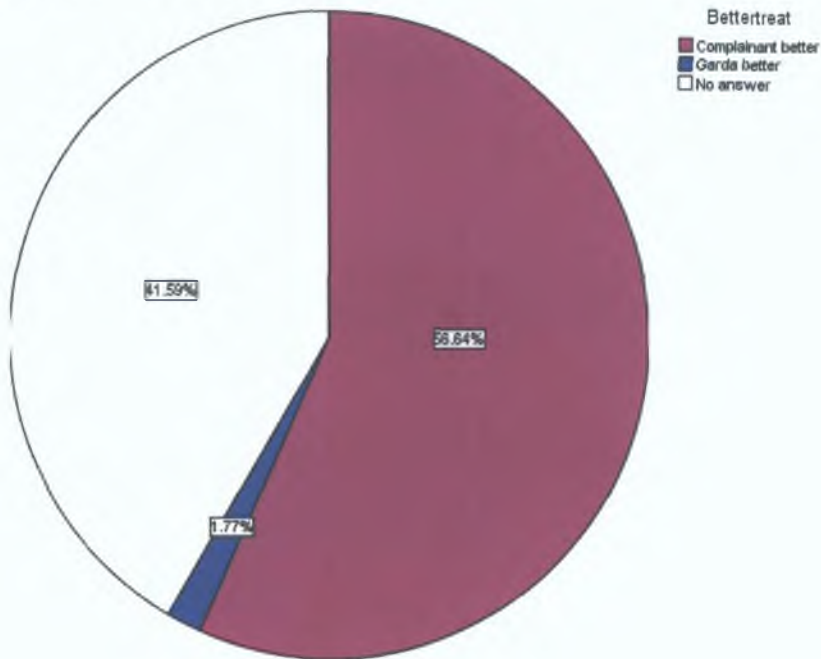
**Complaints should be handled by an independent body**



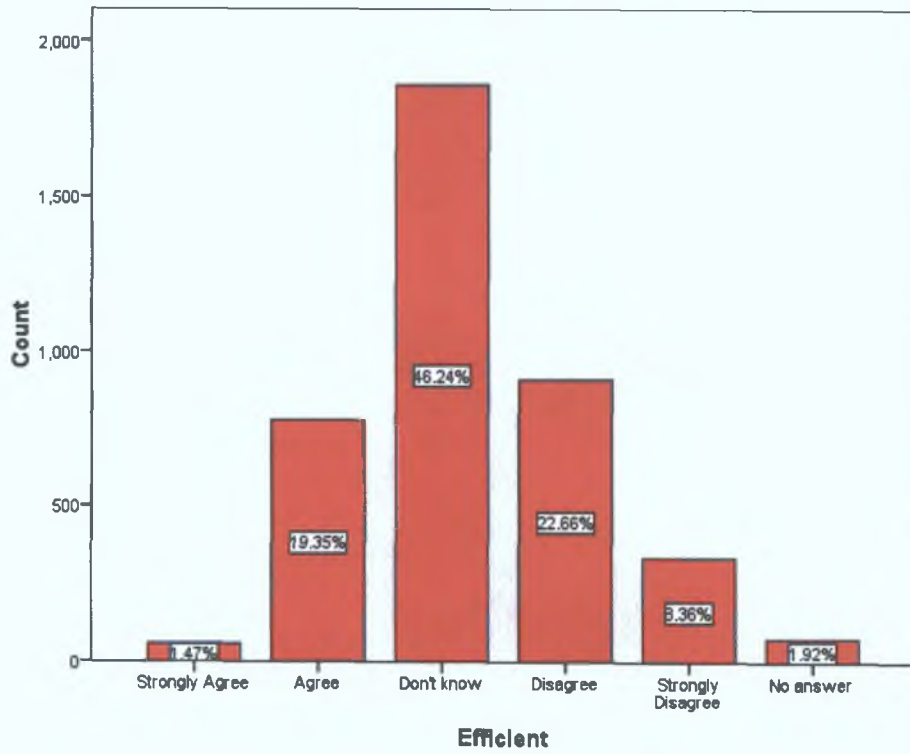
**Complainants are treated fairly**



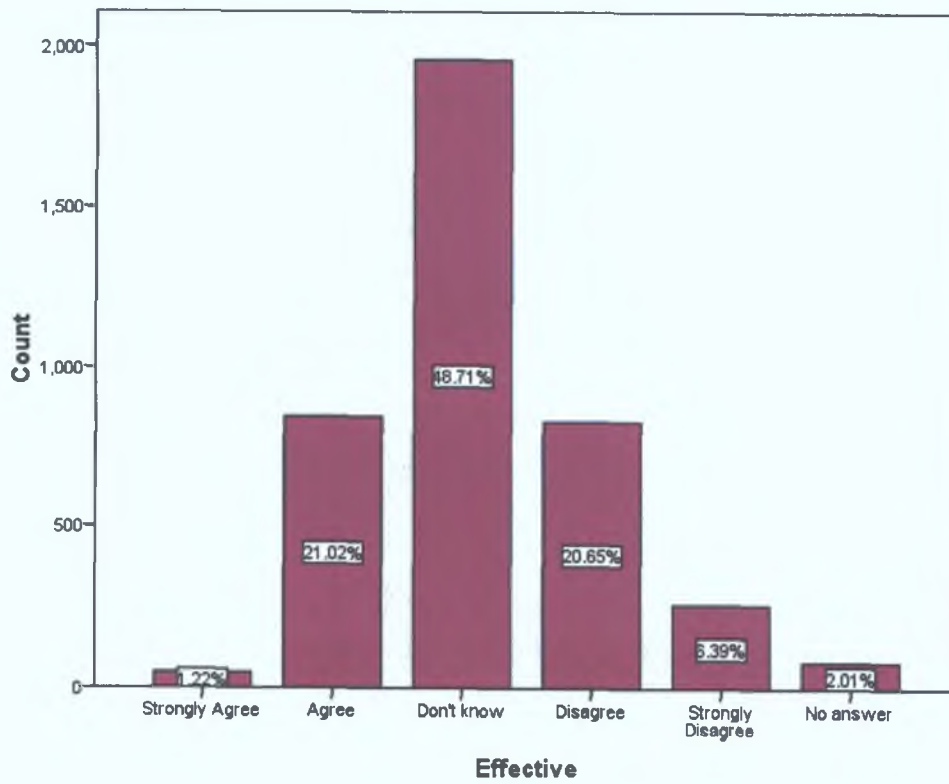
**Complainant/Garda treated better**



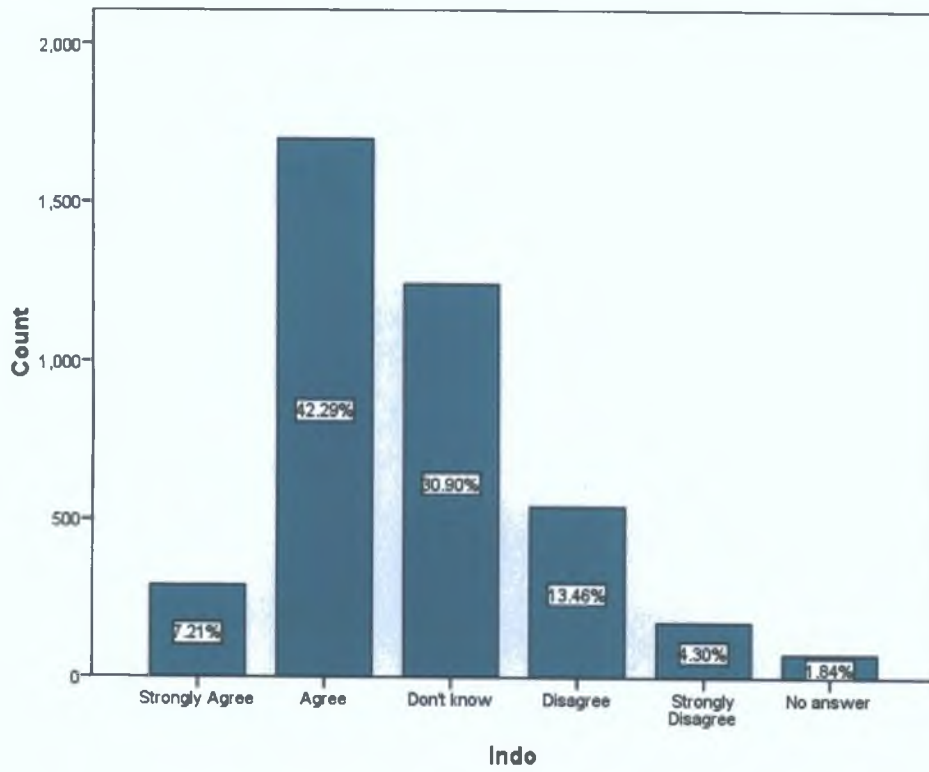
**GSOC efficient**



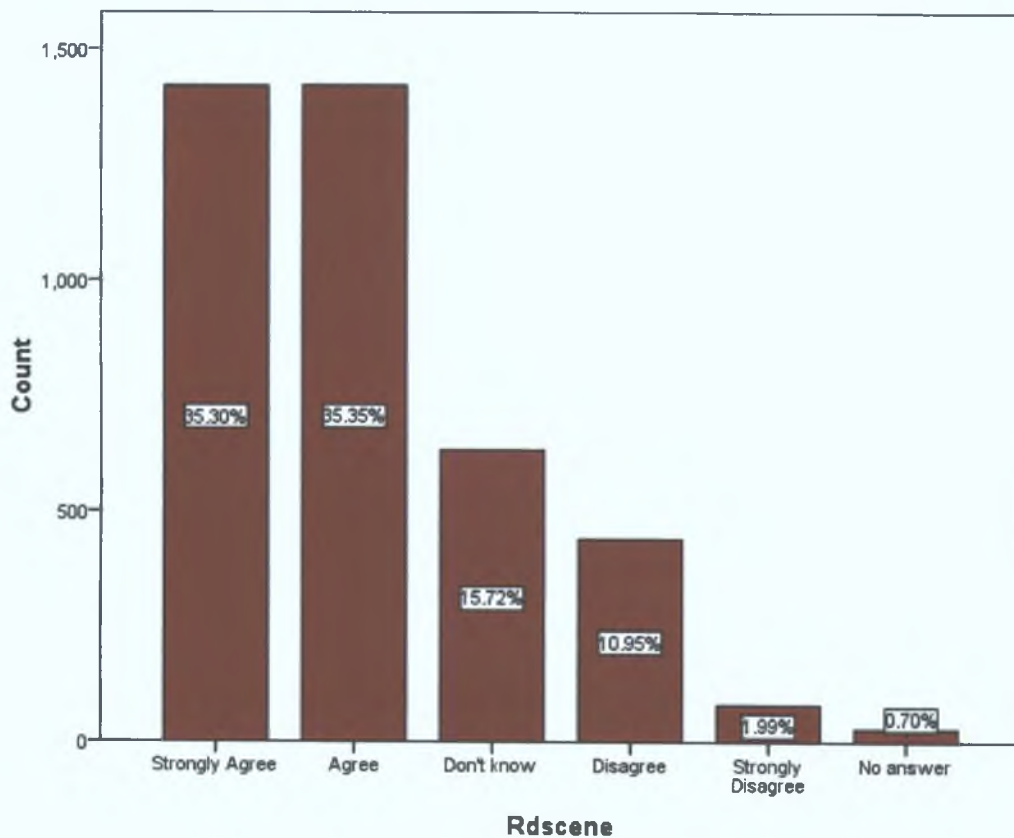
GSOC effective



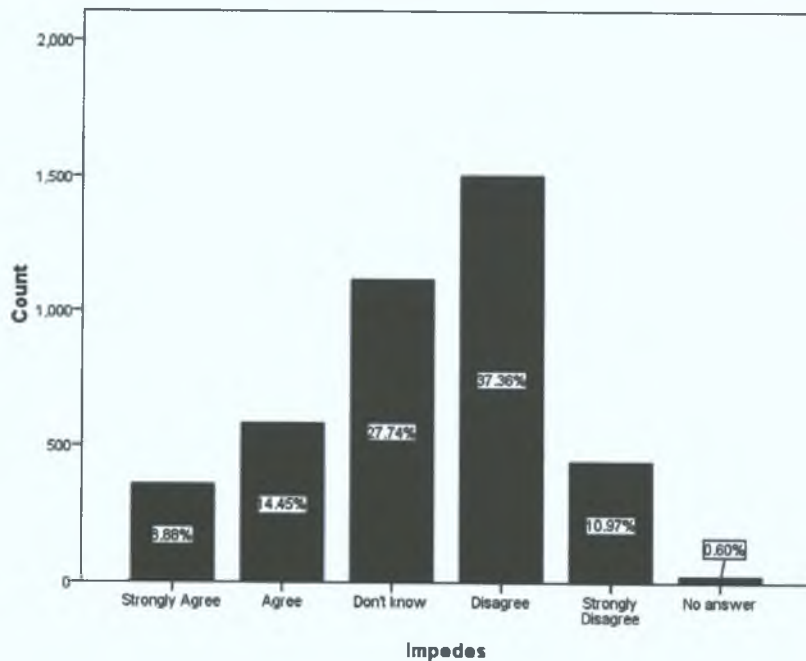
**GSOC independent**



**GSOC presence at scenes creates negative image of Garda Síochána**

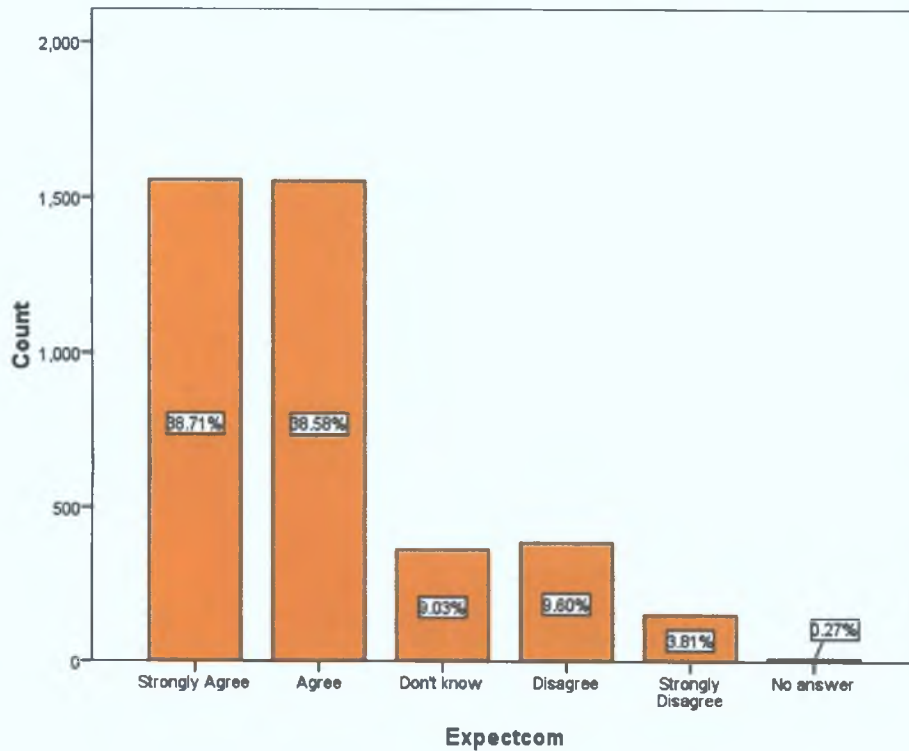


**GSOC's existence impedes me from doing my job properly**

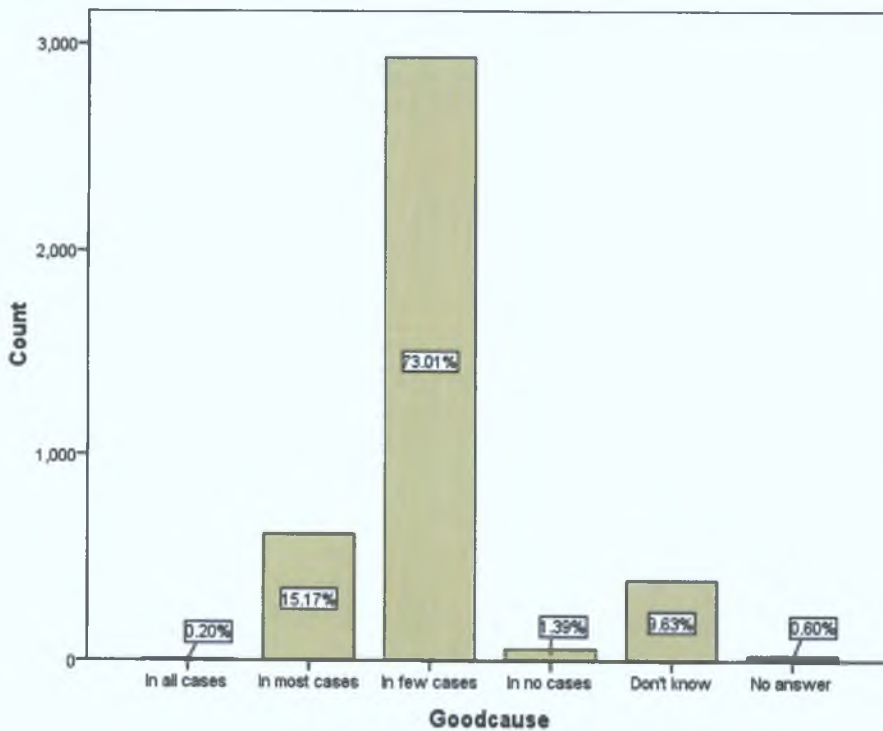


**Given the nature of my work as a garda, I expect a complaint to be made about me**

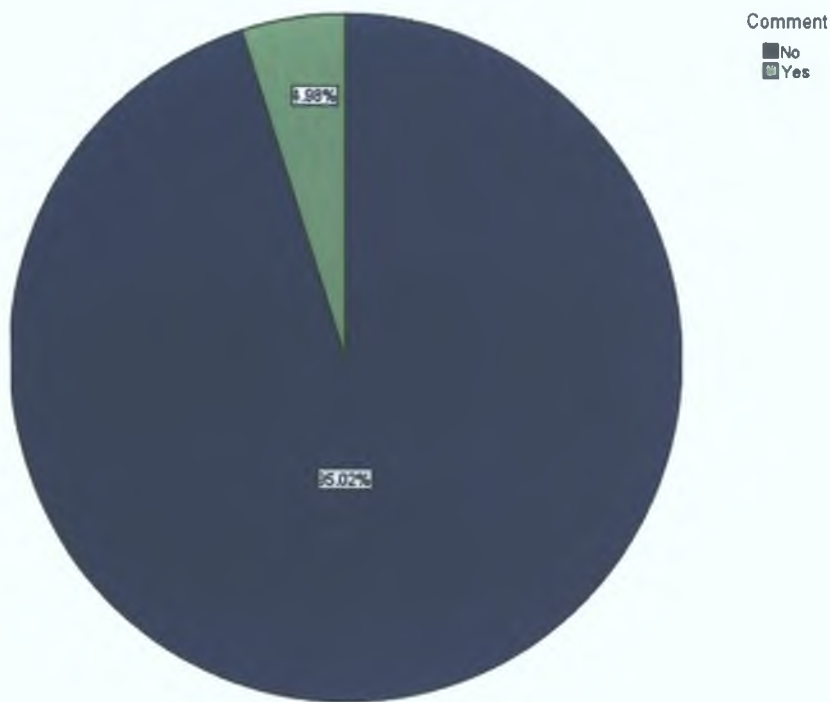




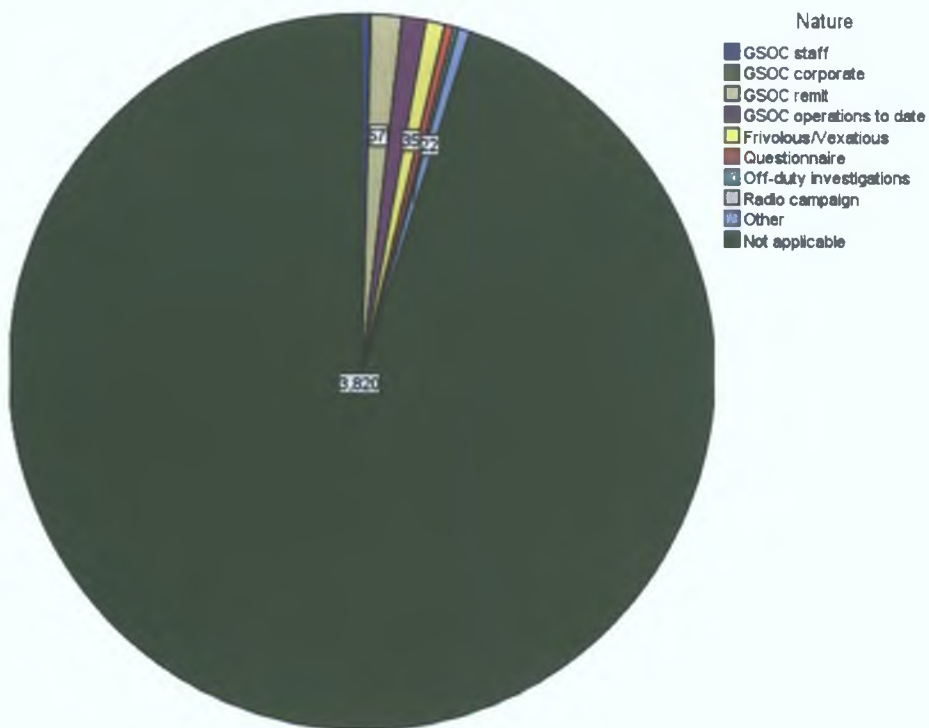
**Complaints to GSOC are made with good cause**



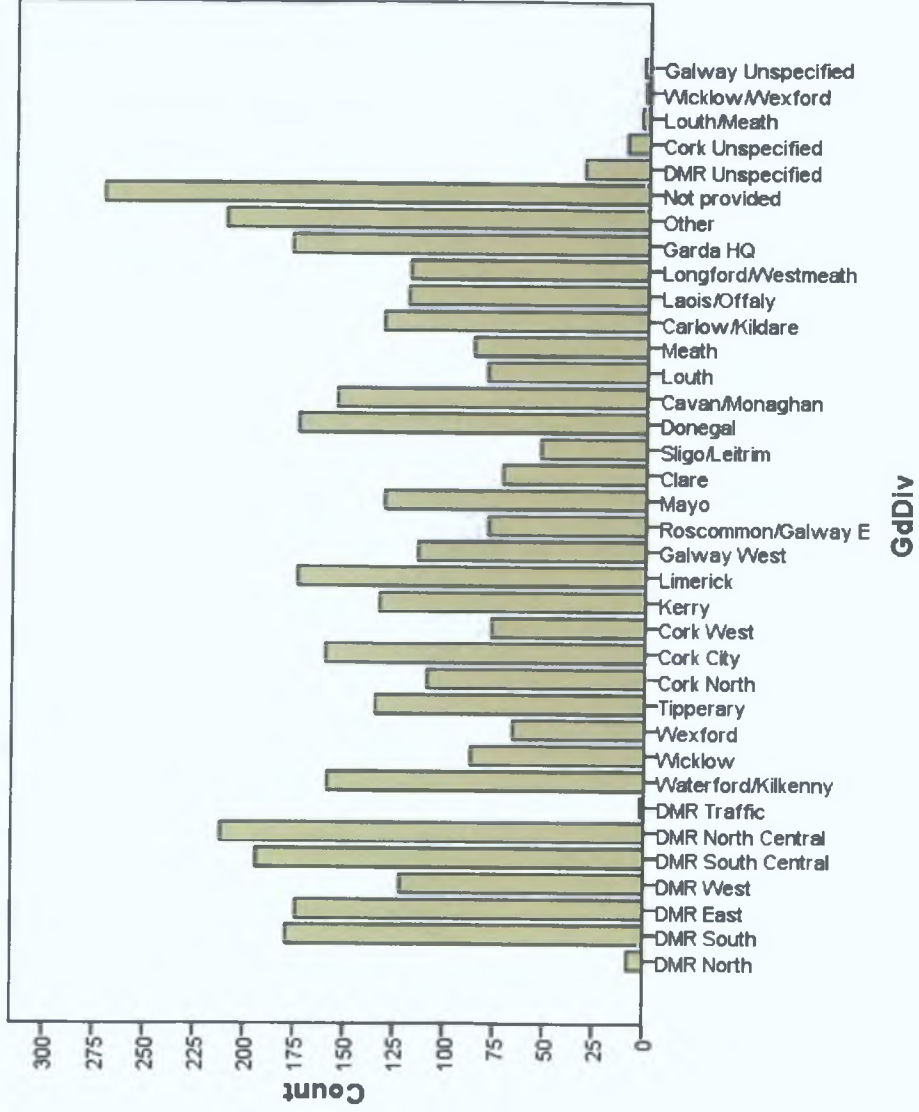
**Comments made on questionnaire**



Nature of comments



Division to which respondents belong.





Garda  
**Ombudsman**  
INQUIRY INDEPENDENCE IMPARTIALITY



## Public Attitude Survey 2010

411109883 CF/SB



MillwardBrown  
Lansdowne



- Background & Objectives.
- Research Method.
- The Findings:
  - Satisfaction with the Garda Síochána.
  - Confidence in the Garda Síochána.
  - Interaction with the Garda Síochána.
  - Awareness of the Garda Ombudsman and its functions.
  - Awareness of Garda powers investigating a crime
- Summary & Conclusions

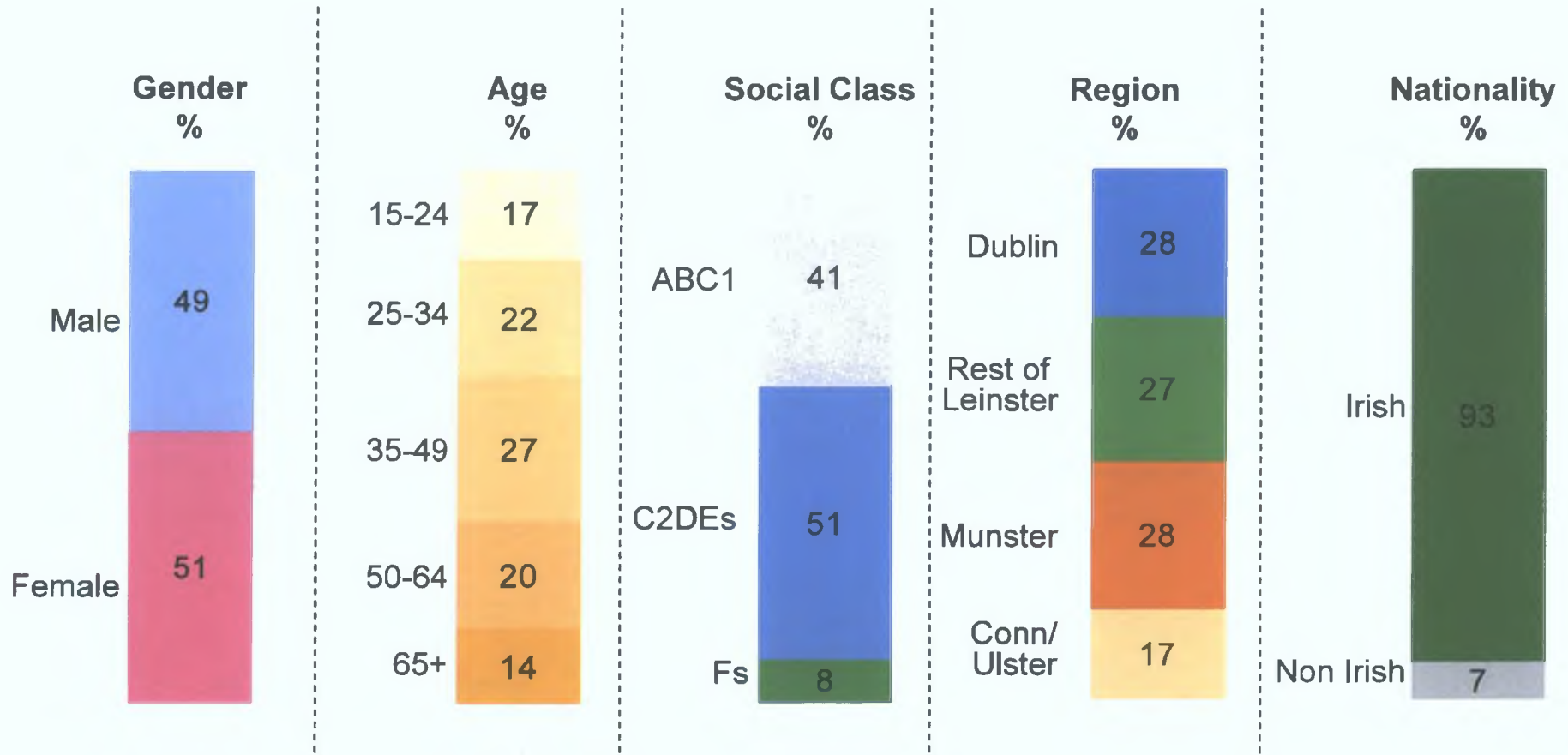
- The Garda Síochána Ombudsman Commission is an independent statutory body, established under the Garda Síochána Act 2005 which involved significant legislative changes for policing in Ireland.
- Under this Act, the Ombudsman is required and empowered to:
  - Independently investigate complaints against members of the Garda Síochána ,
  - Investigate any matters where it appears a Garda may have committed an offence,
  - Investigate any practices, policies or procedures of the Garda Síochána with a view to reducing the incidence of related complaints.
- GSOC is required to examine complaints in an efficient, effective and fair manner and promote public confidence in the complaints system.
- One of the ways in which the performance of the GSOC is measured is by surveying public attitudes. Because it ultimately serves the general public, the public's views are important in determining if GSOC is delivering on its requirements.
- Previous surveys of the general public were carried out in 2007 and 2008. This wave of research in 2010 provides the opportunity to track the changes in public attitudes and opinion over time.

- **Methodology:** Questions were included on one of the Millward Brown Lansdowne Omnibus surveys – face-to-face, in home interviews.
- **Sample Description:** Nationally representative sample of all adults aged 15+ in the Republic of Ireland. A booster sample of 114 non-Irish nationals aged 15+ was also included to provide a robust sample of this group
- **Sample size:** n = 1,123
- **Sampling Area:** 64 sampling points nationwide, representative of the actual size and spread of urban and rural localities nationwide.
- **Fieldwork dates:** 10<sup>th</sup> – 20<sup>th</sup> February 2010



# Sample Profile

Base: All Adults 15+ (n=1,123)





Garda  
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INQUIRY INDEPENDENCE IMPARTIALITY



**MillwardBrown**  
Lansdowne



Findings of the Research



Garda  
**Ombudsman**  
INQUIRY INDEPENDENCE IMPARTIALITY



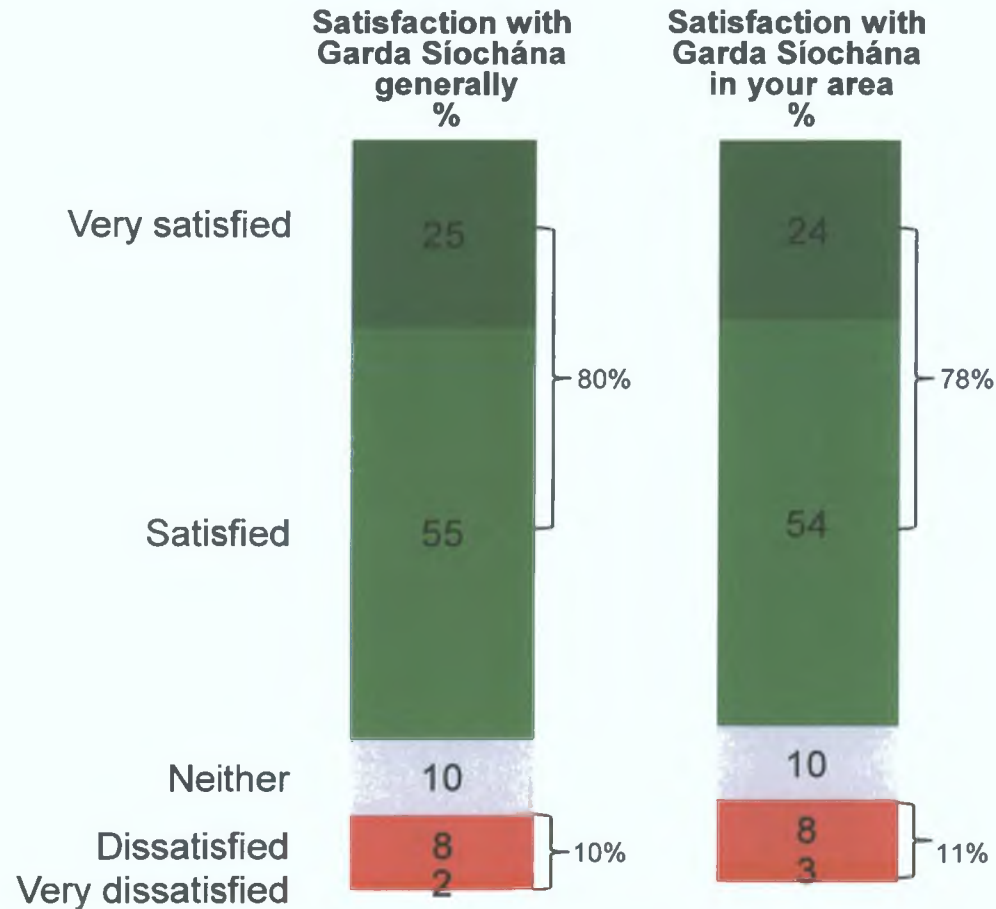
**MillwardBrown**  
Lansdowne



Satisfaction with the Garda Síochána

# Low levels of dissatisfaction with the Garda Síochána: only 1 in 10 are dissatisfied

Base: All adults 15+ (n=1,123)



Q. How satisfied are you with the Garda Síochána generally?  
Q. How satisfied are you with the Garda Síochána in your area?

# Adults aged 65+ are more highly satisfied with the Garda Síochána generally

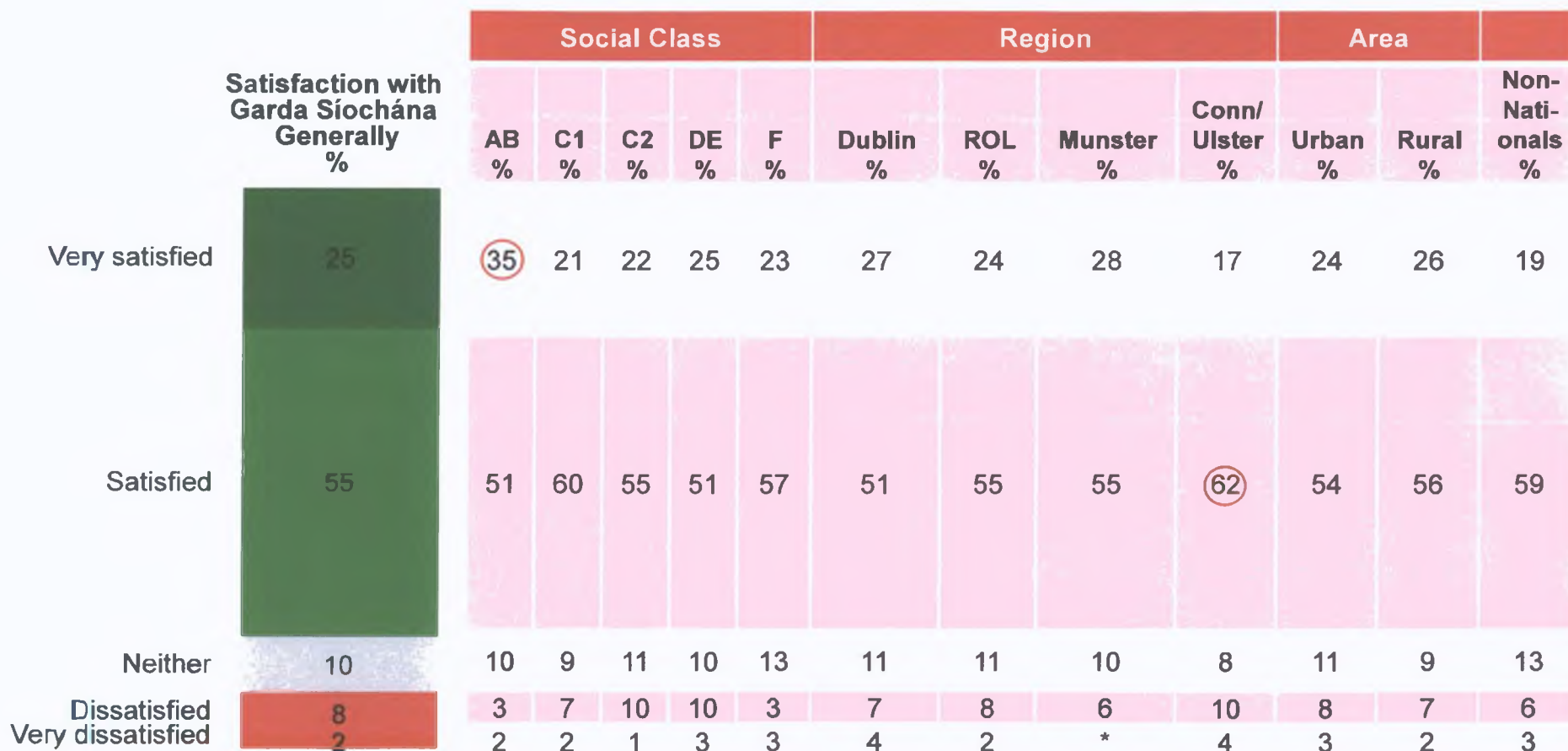
Base: All adults 15+ (n=1,123)



Gender		Age				
Male %	Female %	15-24 %	25-34 %	35-49 %	50-64 %	65+ %
24	25	14	27	22	25	38
54	57	62	55	56	54	47
10	10	15	9	10	11	6
9	6	6	6	9	9	6
3	2	4	2	3	1	2

# Those from more up market backgrounds are also more satisfied with the Gardaí generally

Base: All adults 15+ (n=1,123)



# Satisfaction with the local Garda Síochána is similar to general satisfaction with the Garda Síochána- it is highest among the over 65's

Base: All adults 15+ (n=1,123)



Gender		Age				
Male %	Female %	15-24 %	25-34 %	35-49 %	50-64 %	65+ %
25	23	15	23	22	26	36
51	56	57	53	54	53	49
10	11	15	11	11	7	7
9	7	10	9	8	9	5
4	2	2	3	4	3	2

# Satisfaction with the local Garda Síochána is similar to general satisfaction with the Garda Síochána – it is highest amongst the AB's

Base: All adults 15+ (n=1,123)



Q. How satisfied are you with the Garda Síochána in your area?





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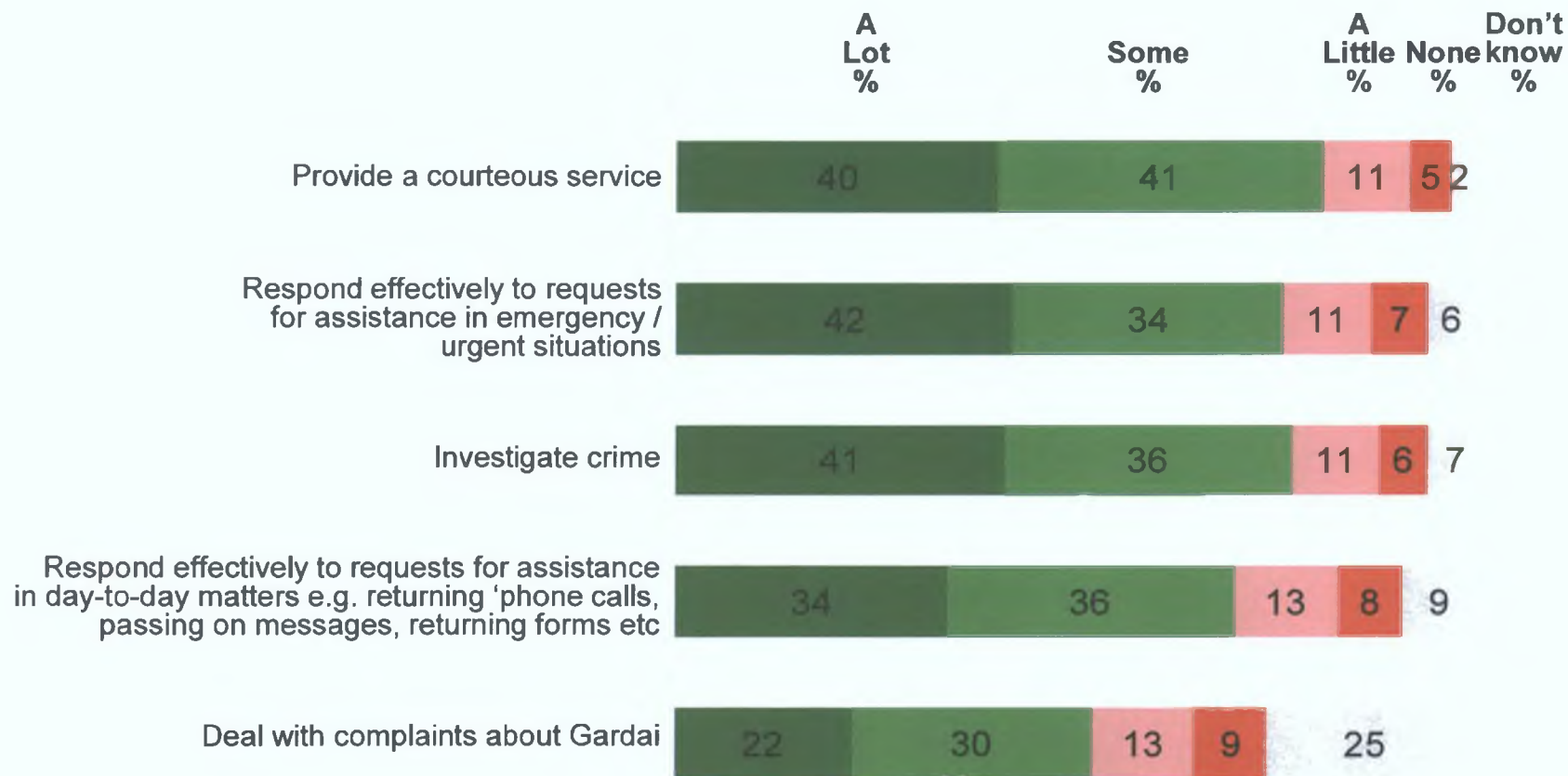
**MillwardBrown**  
Lansdowne



Confidence in the Garda Síochána

# The public generally have confidence in the Garda Síochána abilities, with weaker confidence in dealing with complaints about the Gardaí

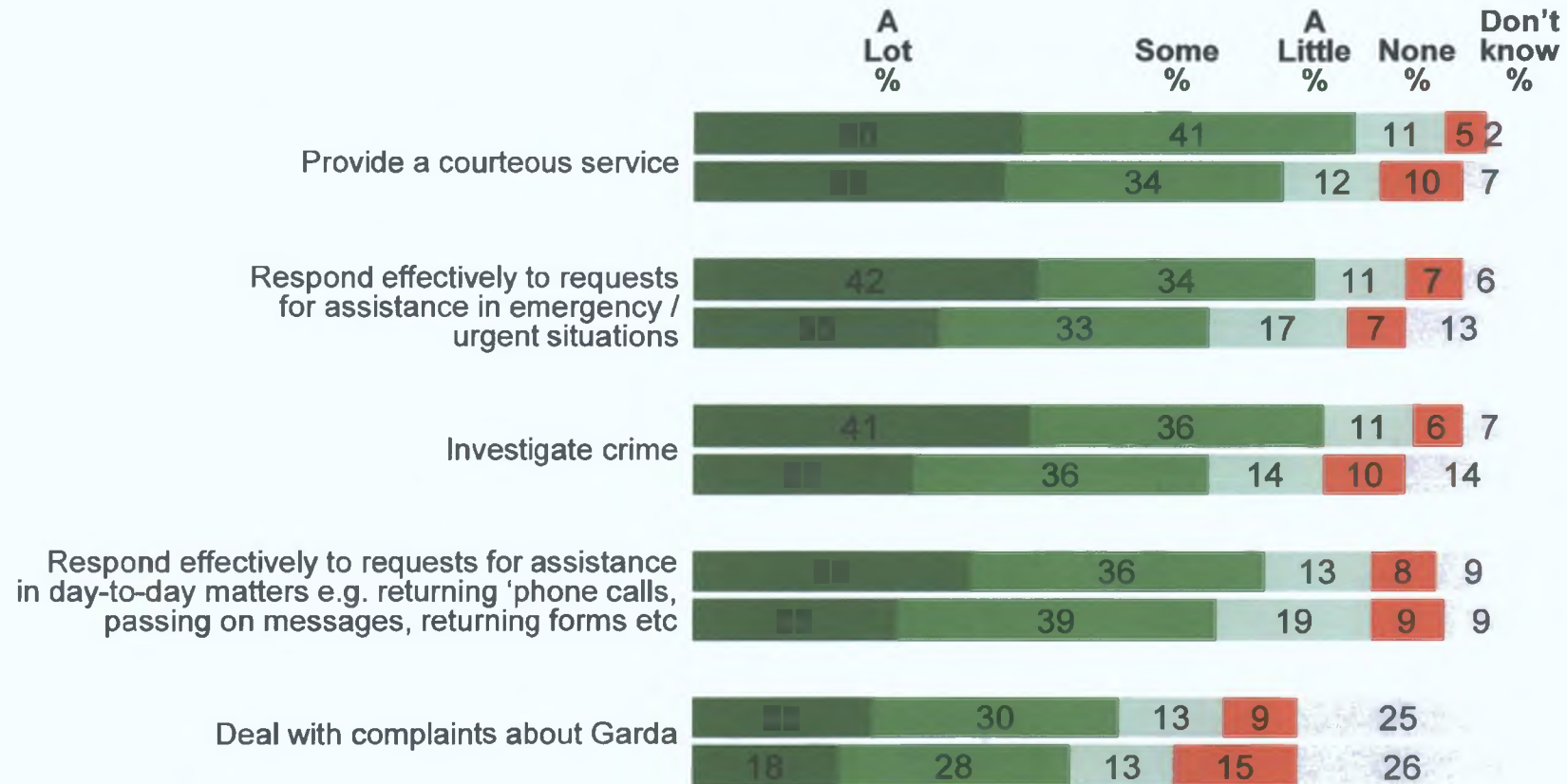
Base: All adults 15+ (n=1,123)



# Non-Irish nationals have marginally less confidence in the Gardaí; due mainly to a lack of knowledge

Base: All adults 15+ (n=1,123)

All Adults   
Non-Irish Nationals





# Garda Ombudsman

INQUIRY INDEPENDENCE IMPARTIALITY



Interaction with the Garda Síochána

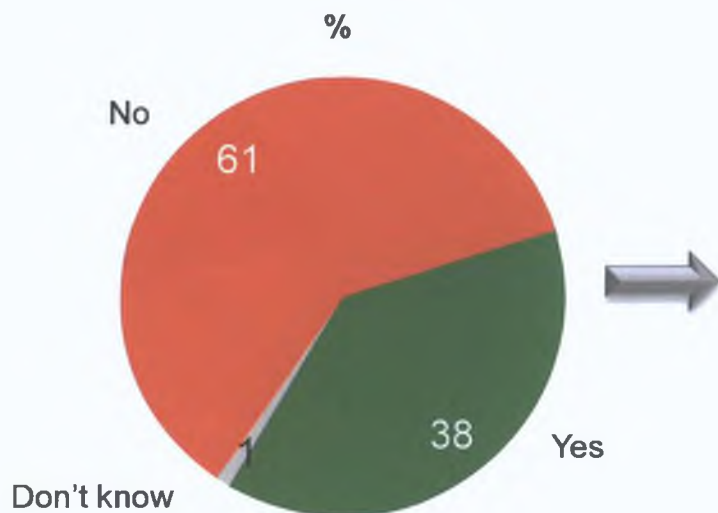


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# Nearly four in ten adults have had an interaction with the Gardaí in the last 12 months

Base: All adults 15+ (n=1,123)



## Had interaction by Demographics

%

### Gender

Male 42

Female 34

### Age

15-24 32

25-34 39

35-49 46

50-64 39

65+ 26

### Social Class

AB 42

C1 43

C2 38

DE 31

F 34

### Region

Dublin 36

Rest of Leinster 32

Munster 47

Conn/Ulster 37

### Area

Urban 37

Rural 39

Non-Irish Nationals 37

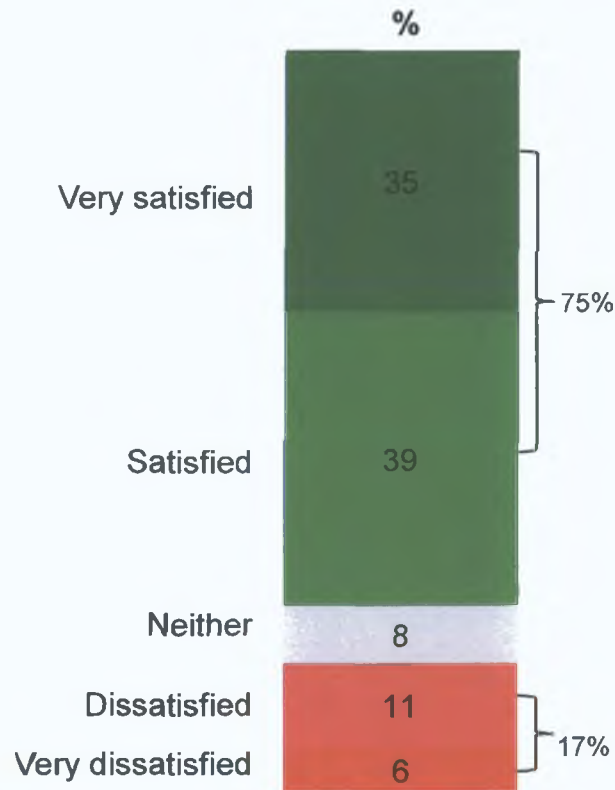
# The main interaction with the Gardaí was being stopped to check car tax/insurance

Base: All adults who had an interaction with Garda (n=422)



# Fairly high levels of satisfaction with Gardai based on last interaction with them but 1 in 6 were dissatisfied

Base: All adults who had an interaction with Garda (n=422)



Total Satisfied by Demographics	
	%
<b>Gender</b>	
Male	75
Female	74
<b>Age</b>	
15-24	70
25-34	70
35-49	75
50-64	78
65+	84
<b>Social Class</b>	
AB	81
C1	75
C2	72
DE	73
F	74
<b>Region</b>	
Dublin	69
Rest of Leinster	76
Munster	77
Conn/Ulster	74
<b>Area</b>	
Urban	71
Rural	79
Non-Irish Nationals	80

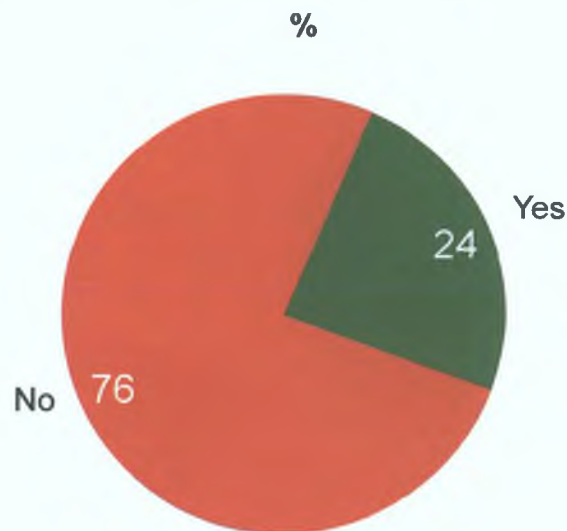


# A quarter of those dissatisfied with their interaction with the Gardaí subsequently made a complaint

Base: All dissatisfied after interaction with Garda (n=71)

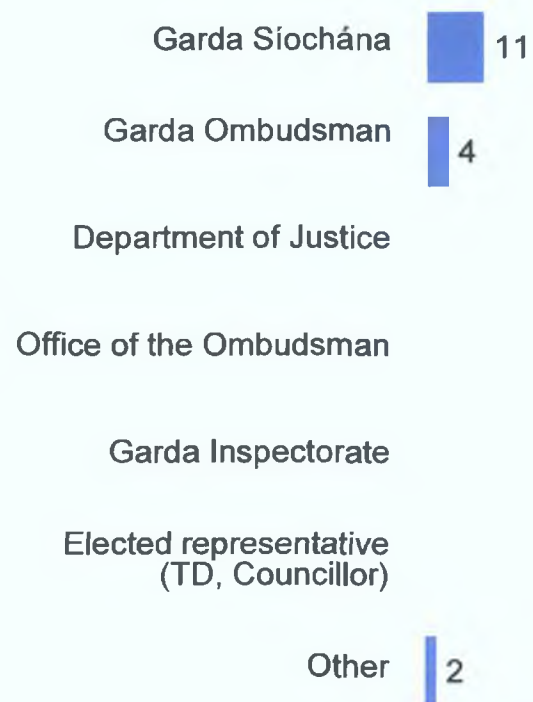
Base: All who made a complaint (n=17\*\*)

## Incidence of complaints



## To whom complaint made

Number of Responses\*\*



\*\*Caution very small base

Q. Did you subsequently make a complaint?  
Q. To whom did you make the complaint?

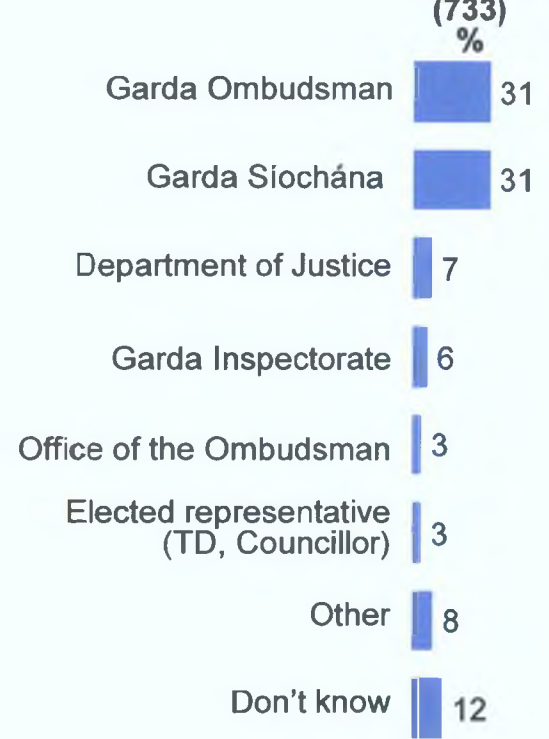
# Two thirds of adults would be willing to make a complaint if they had a bad experience with the Garda and 3 in 10 of them would go to the Ombudsman

Base: All adults 15+ (n=1,123)

## Willingness to complain



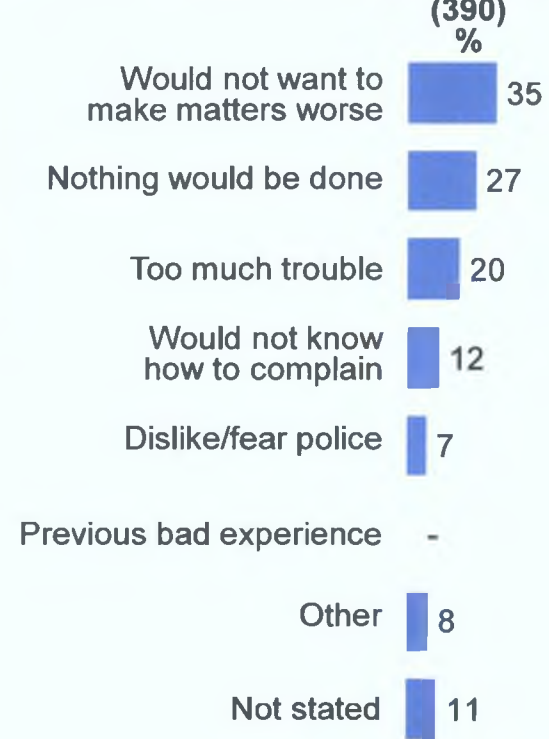
### To whom complaint would be made (733)



**Higher Among:**

- Males 34%
- Age 25-34 39%
- Age 35-49 38%
- ABC1s 39%
- Dublin residents 39%
- Urban 35%
- Recent interactions 40%

### Reasons for not making a complaint (390)





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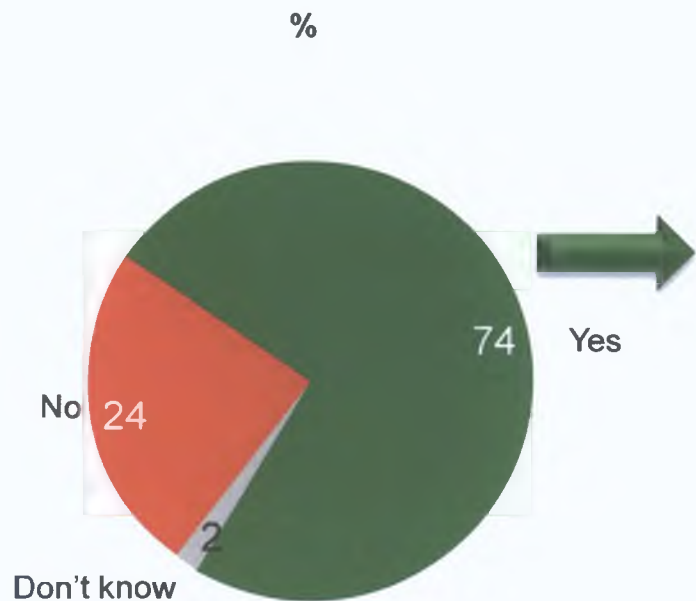
**MillwardBrown**  
Lansdowne



Awareness of the Garda Ombudsman and its functions

# Over 7 in 10 adults claim to be aware of the Garda Ombudsman

Base: All adults 15+ (n=1,123)

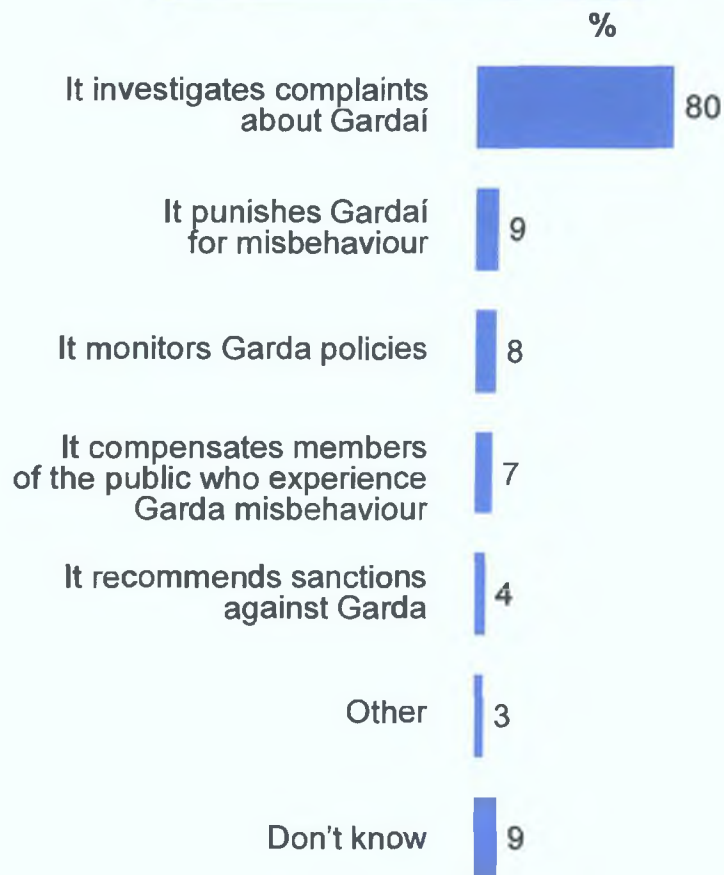


Awareness by Demographics	
	%
<b>Gender</b>	
Male	75
Female	74
<b>Age</b>	
15-24	52
25-34	80
35-49	78
50-64	81
65+	73
<b>Social Class</b>	
AB	83
C1	83
C2	65
DE	69
F	72
<b>Region</b>	
Dublin	83
Rest of Leinster	72
Munster	65
Conn/Ulster	77
<b>Area</b>	
Urban	77
Rural	70
Non-Irish Nationals	52

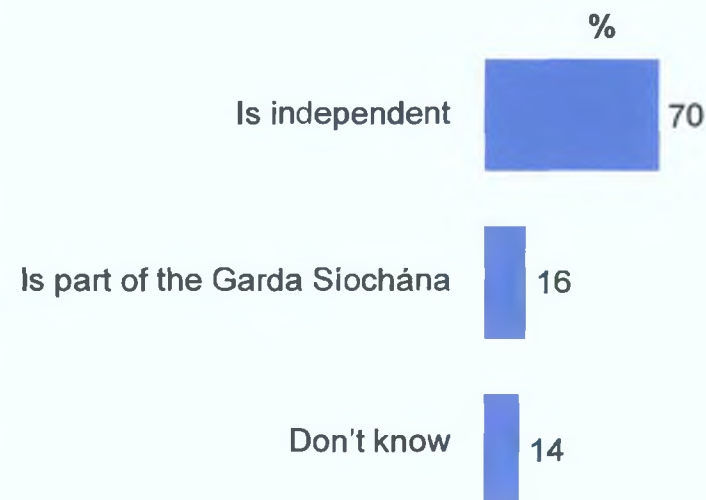
# The majority are aware that the Ombudsman investigates complaints about Gardaí and is independent

Base: All adults aware of the Garda Ombudsman (n=787)

## Awareness of functions



## Perceived Independence



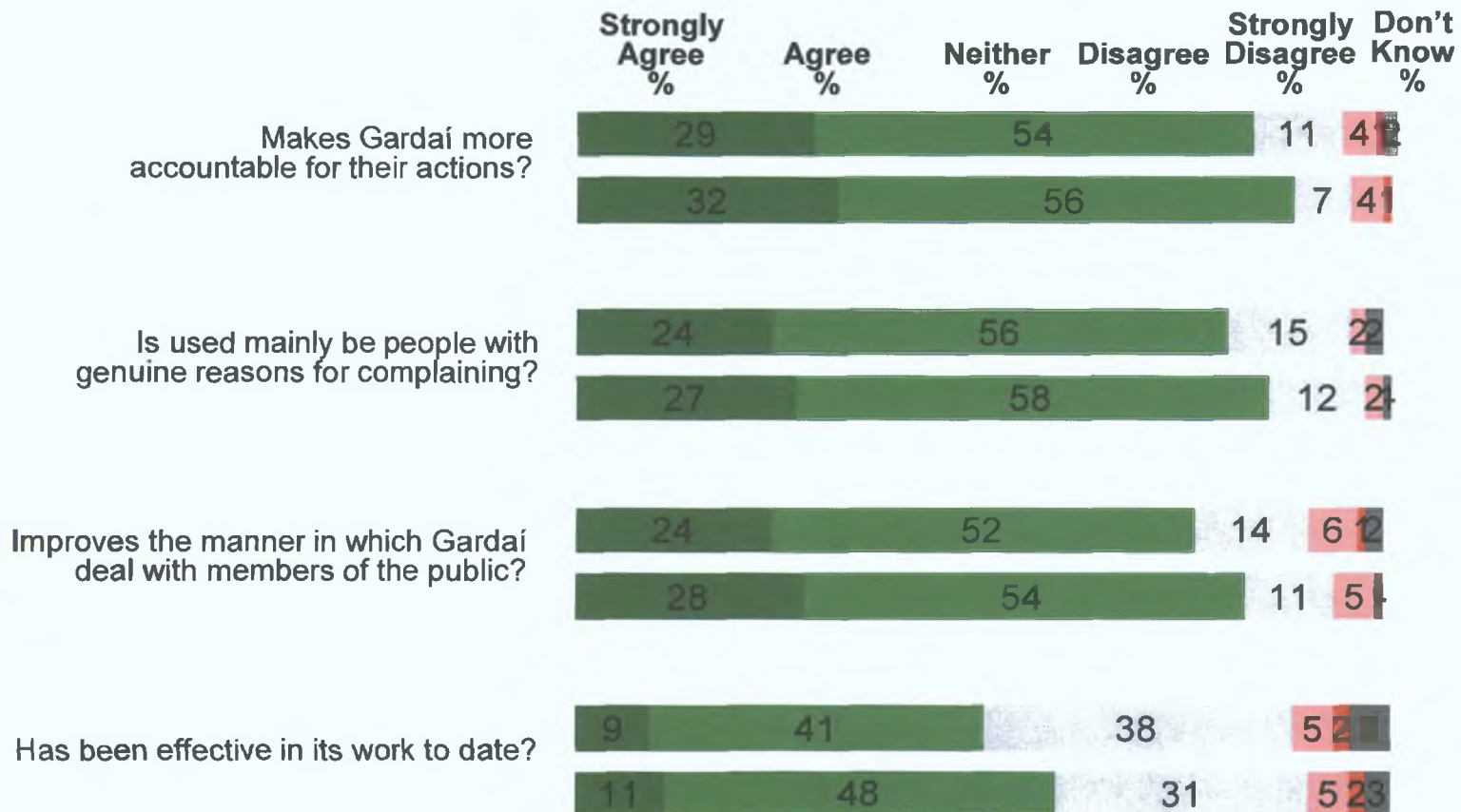
Q. What do you think the Garda Ombudsman does?

Q. Do you think Garda Ombudsman is part of the Garda Síochána or independent of it?

# The majority are aware of how the Ombudsman works but are unsure about how effective that work is

Base: All adults 15+ (n=1,123)

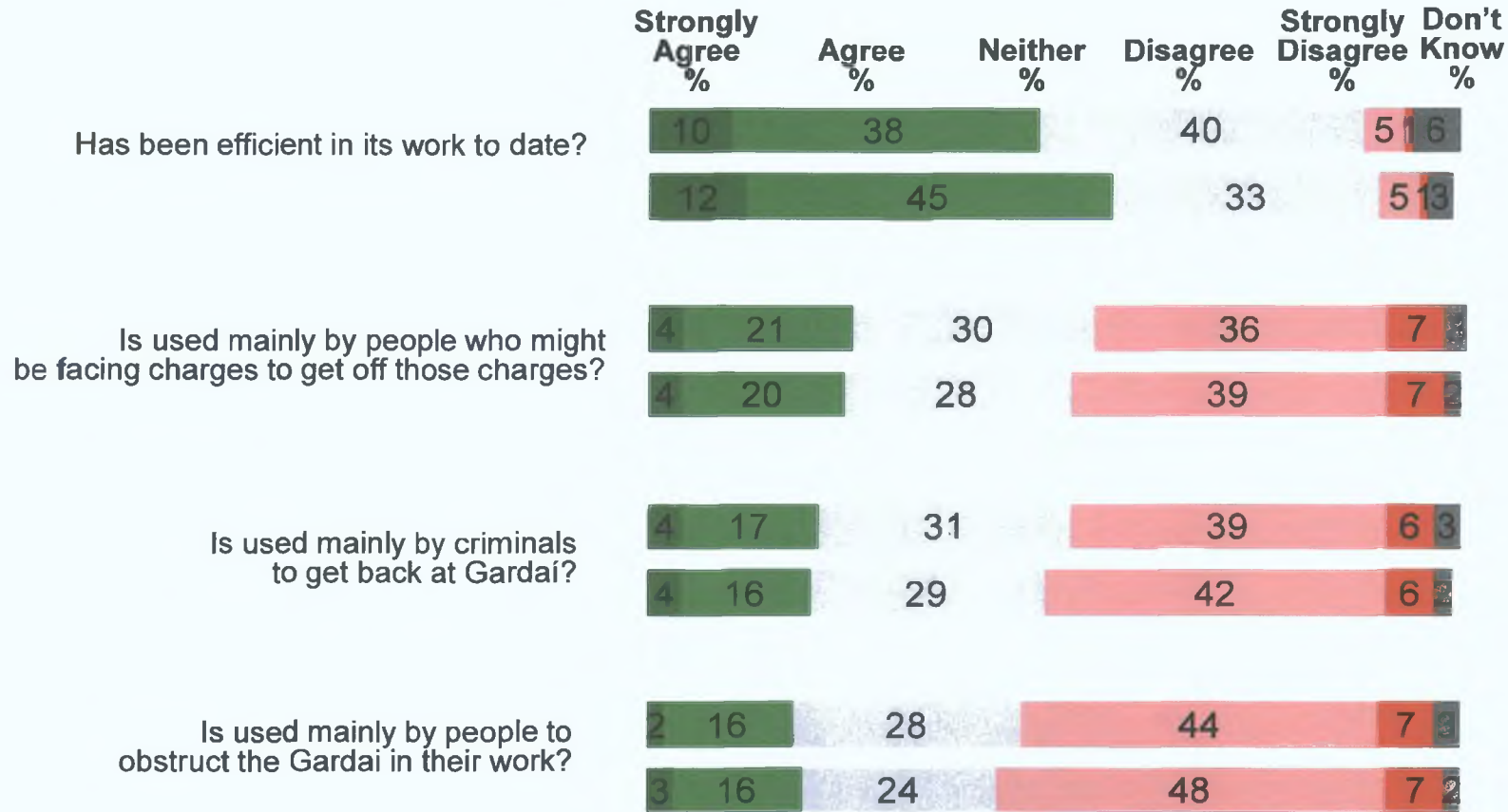
All Adults   
Aware of GSOC



# Some suspect inappropriate usage of the Ombudsman and many are unsure how efficient the work is

Base: All adults 15+ (n=1,123)

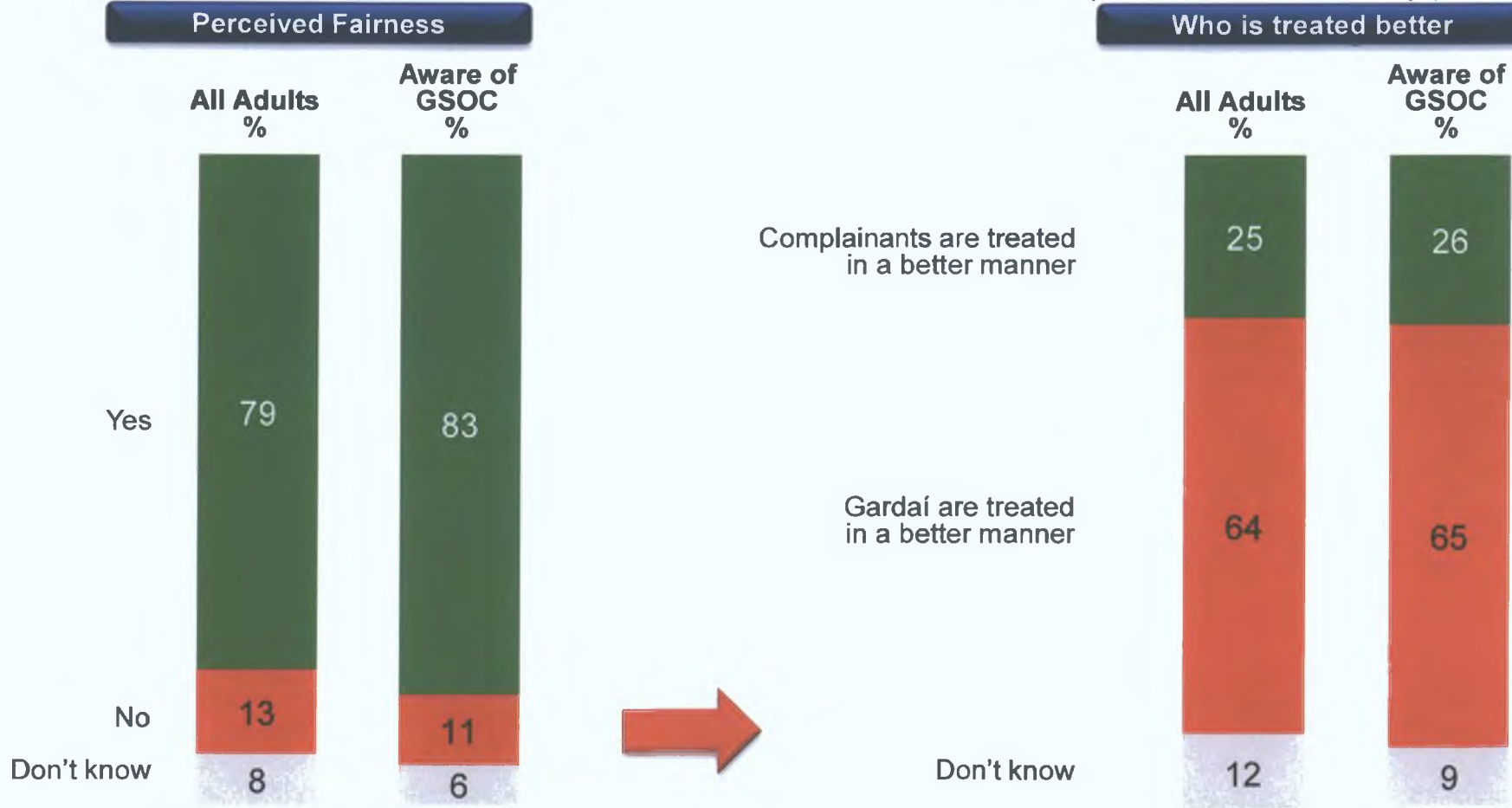
All Adults   
Aware of GSOC



The majority believe complaints and the Gardaí are treated fairly. A minority suspect Gardaí are treated better.

Base: All adults 15+ (n=1,123)

Base: All who think Garda Ombudsman doesn't treat complainants and Gardaí fairly (n=136)

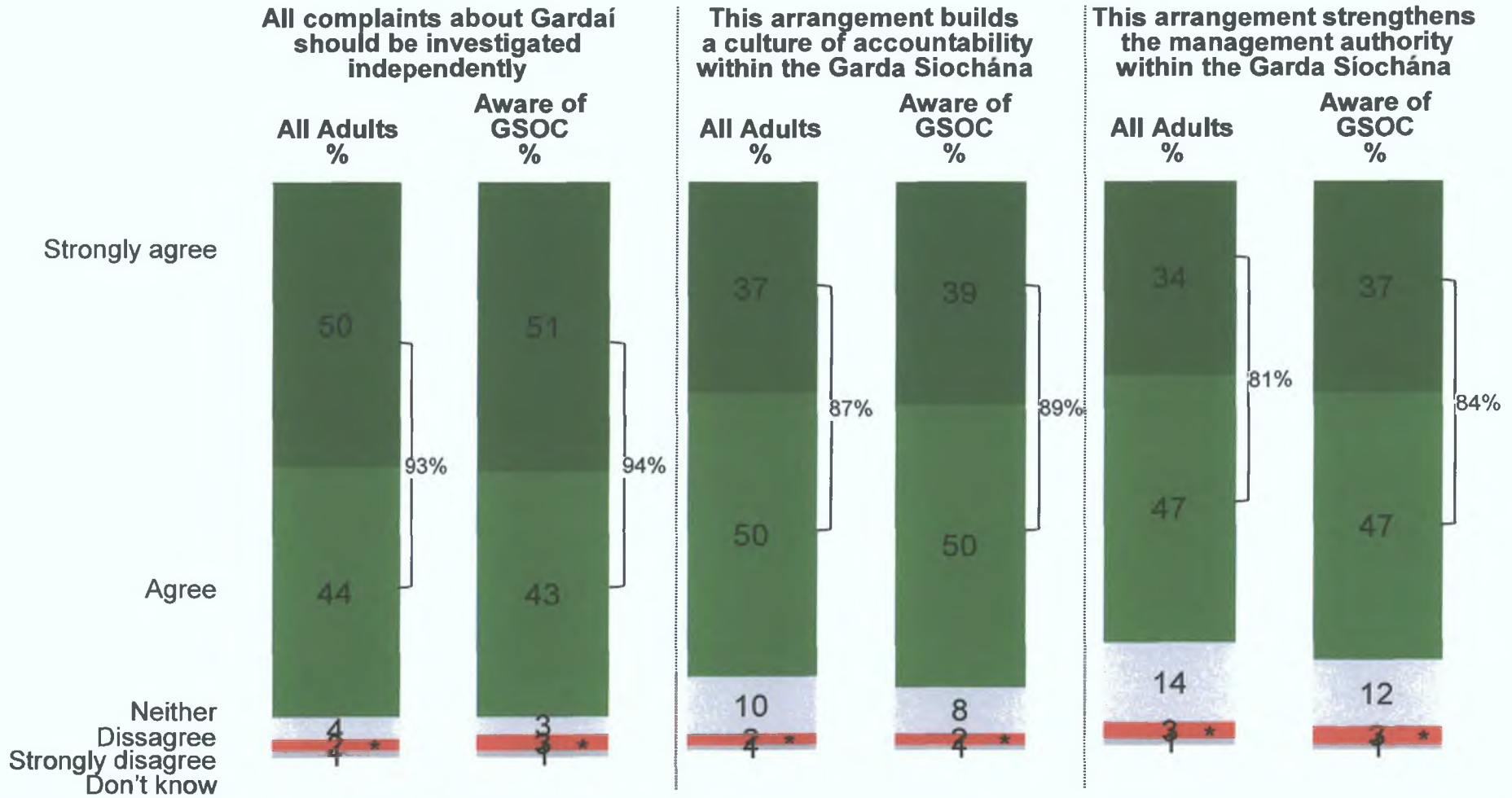


Q. Do you think the Garda Ombudsman treats complainants and Gardaí fairly?  
 Q. Which do you think are treated in a better manner – complainants or the Gardaí?



# The majority support the continued independent investigation of complaints about the Gardaí

Base: All adults 15+ (n=1,123)



Current legislation allows GSOC to have certain less serious complaint investigated by the Garda Síochána Page 241

Q. With that in mind, please select one of the following response to each of the statements.



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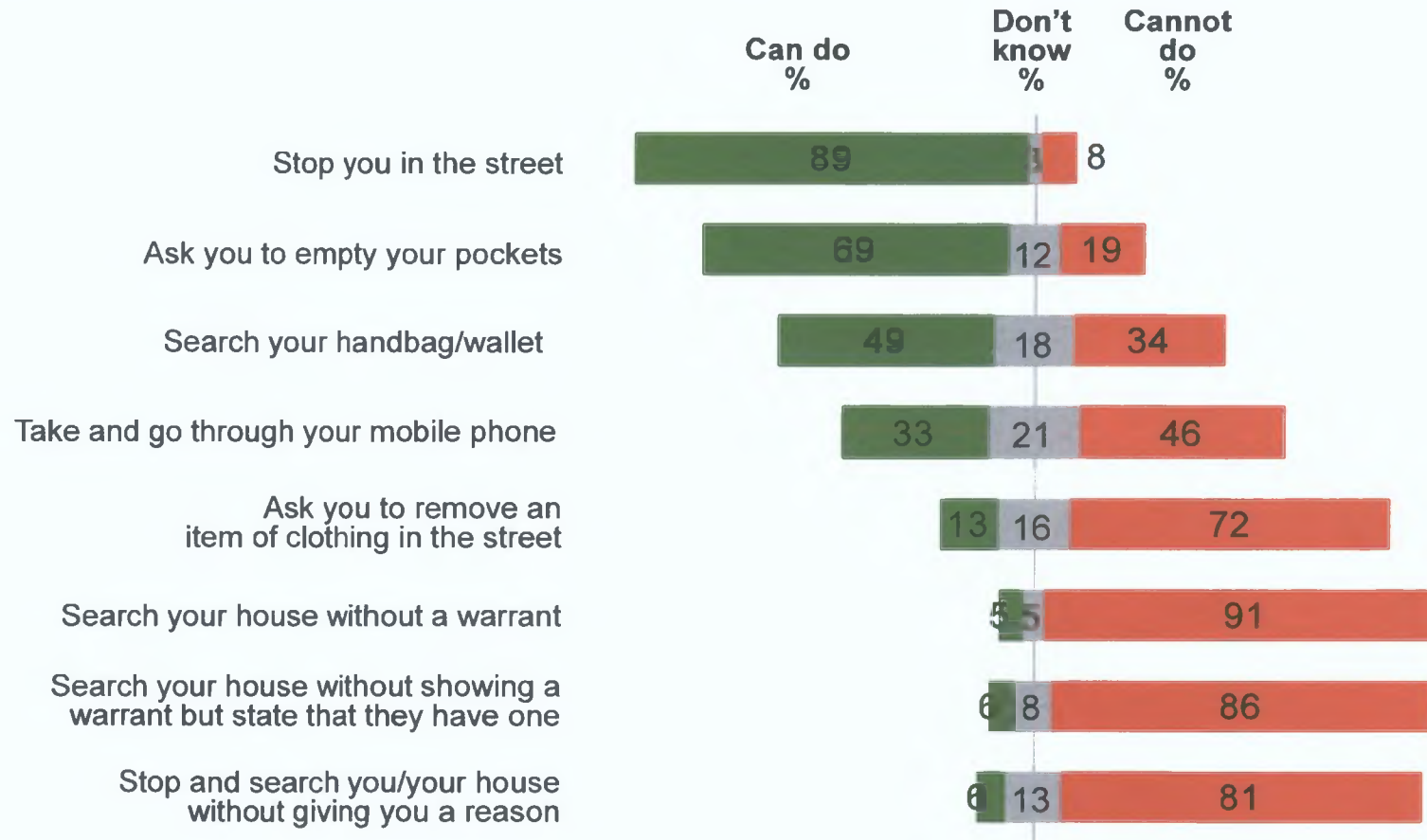
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Awareness of Garda powers investigating a crime

# Some confusion over the Gardaí's rights to search handbags/wallets and to take and go through mobile phones.

Base: All adults 15+ (n=1,123)





# Garda Ombudsman

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## Summary and Conclusions



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## Satisfaction with the Garda Síochána

- Satisfaction with the Garda Síochána both generally and at a local level is very high, with 8 in 10 adults saying they are satisfied or very satisfied with the Gardai, and only 1 in 10 expressing any dissatisfaction. Adults aged over 65, and those in the AB social grouping are more likely to say they are very satisfied with the Gardaí when compared to the general population.

## Confidence in the Garda Síochána

- About 4 in 10 adults have a lot of confidence in the Garda Síochána to provide a courteous service, respond effectively in emergencies and to investigate crime. There is also a high percentage of adults who would have some confidence in the Gardaí in relation to these matters. Fewer than 1 in 10 say they have no confidence in the Garda Síochána regarding these services.
- While there is a lower level of those who have confidence in the Garda Síochána's ability to deal with complaints about Gardaí, a quarter of adults also responded "don't know" to this question.
- Among the non-Irish national community in Ireland, the level of confidence in the Garda Síochána is generally lower, this is especially true for confidence in the the Garda Síochána's ability to investigate crime (27% have a lot of confidence v 41% of all adults) and also their ability to respond effectively in emergency situations (30% v 42% of all adults). However, lack of knowledge is also prevalent among non-Irish nationals.

## Interaction with the Garda Síochána

- Nearly 4 in 10 adults claim to have had an interaction with the Garda Síochána in the past 12 months. A third were stopped to have car insurance/tax checked by a Garda, while 1 in 7 stated that their interaction was for the purposes of more administrative matters i.e. getting a passport form signed/identity verified. One in ten complained to the Garda Síochána about anti social behaviour.
- Three quarters of those who had an interaction with the Garda Síochána, registered satisfaction with the encounter but as many as 1 in 6 were dissatisfied. Of these, nearly a quarter subsequently registered a complaint .

- Two thirds of adults in Ireland would be willing to make a complaint if they had a bad experience with the Garda Síochána, while nearly a quarter would not be willing to.
- Unwillingness to complain is a result of a fear that that complaining might make matters worse, or that nothing would be done. There is also an element of apathy, as two in ten also cited that complaining would be too much trouble.
- Nearly a third of adults who would be willing to complain, would make their complaint to the Garda Ombudsman. A similar percentage of adults would complain directly to the Garda Síochána.

### **Awareness of the Garda Ombudsman and its functions**

- The awareness of the Garda Ombudsman is very high with three quarters of all adults saying that they have heard of it. Of these 8 in 10 identify that the function of the Garda Ombudsman is to investigate complaints about Gardaí. The independence of the Garda Ombudsman is also widely recognised.
- There is very strong agreement that the Garda Ombudsman makes the Gardaí more accountable for their actions, is used mainly by people with genuine reasons for complaining, and has improved the manner in which Gardaí deal with the public.
- Agreement with the Garda Ombudsman having been efficient and effective in its work is less pronounced, however there is only a very small number (fewer than 1 in 10) who disagree with these statements. The balance neither agree nor disagree or simply don't know.
- In general, those who say they are aware of the Garda Ombudsman register stronger agreement with these statements, especially in terms of agreement that the Garda Ombudsman is efficient and effective.

- Over 9 in 10 agree that all complaints about the Gardaí should be investigated independently; half of adults strongly agree with this. However nearly the same proportion of adults agree that legislation allowing the Garda Ombudsman to have certain less serious complaints investigated by the Garda Síochána both builds a culture of accountability within the Garda Síochána and strengthens the management authority within the Garda Síochána .

### **Awareness of Garda powers investigating a crime**

- Most adults believe that when investigating a possible crime the Garda Síochána can stop people in the street, nearly 7 in 10 believe the Garda Síochána can ask them to empty their pockets and a further half of adults believe that the Garda Síochána can search their handbag or wallet.
- Most adults believe that when investigating a possible crime the Garda Síochána cannot search their house without a warrant, nor search their house without showing a warrant, nor search them or their house without giving a reason for doing so. Nearly 8 in 10 adults believe that when investigating a possible crime the Garda Síochána cannot ask them to remove an item of clothing in the street.





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# Thank You!

For further information contact:

Carol Fanagan or Suzanne Behan Ph. 2974500

email: [carol.fanagan@millwardbrownlansdowne.ie](mailto:carol.fanagan@millwardbrownlansdowne.ie)  
[suzanne.behan@millwardbrownlansdowne.ie](mailto:suzanne.behan@millwardbrownlansdowne.ie)

411109883 CF/SB



# Public Attitude Survey 2011



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# Presentation Content

- Background & Objectives.
- Research Method.

## The Findings:

- Satisfaction with the Garda Síochána.
  - Confidence in the Garda Síochána.
  - Interaction with the Garda Síochána.
  - Awareness of Garda powers investigating a crime
  - Awareness of the Garda Ombudsman and its functions.
- 
- Summary & Conclusions

## Background & Objectives

- The Garda Síochána Ombudsman Commission is an independent statutory body, established under the Garda Síochána Act 2005 which involved significant legislative changes for policing in Ireland.
- Under this Act, the Ombudsman is required and empowered to:
  - Independently investigate complaints against members of the Garda Síochána ,
  - Investigate any matters where it appears a Garda may have committed an offence,
  - Investigate any practices, policies or procedures of the Garda Síochána with a view to reducing the incidence of related complaints.
- GSOC is required to examine complaints in an efficient, effective and fair manner and promote public confidence in the complaints system.
- One of the ways in which the performance of the GSOC is measured is by surveying public attitudes. Because it ultimately serves the general public, the public's views are important in determining if GSOC is delivering on its requirements.
- Previous surveys of the general public were carried out in 2007, 2008 and 2010. In 2010 and 2011 the survey was conducted by Millward Brown Lansdowne. Comparable figures are included to provide an indication of, if and how attitudes have changed since 2010.

## Research Method

Page 252

- **Methodology:** Questions were included on one of the Millward Brown Lansdowne Omnibus surveys - face-to-face, in home interviews.
- **Sample Description:** Nationally representative sample of all adults aged 15+ in the Republic of Ireland. A booster sample of 99 non-Irish nationals aged 15+ was also included to provide a robust sample of this group
- **Sample size:** n = 986 (nationally representative sample)  
n = 149 non-nationals including booster
- **Sampling Area:** 64 sampling points nationwide, representative of the actual size and spread of urban and rural localities nationwide.
- **Fieldwork dates:** 2<sup>nd</sup> - 12<sup>th</sup> February 2011



## Findings of the Research

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## Satisfaction with the Garda Síochána

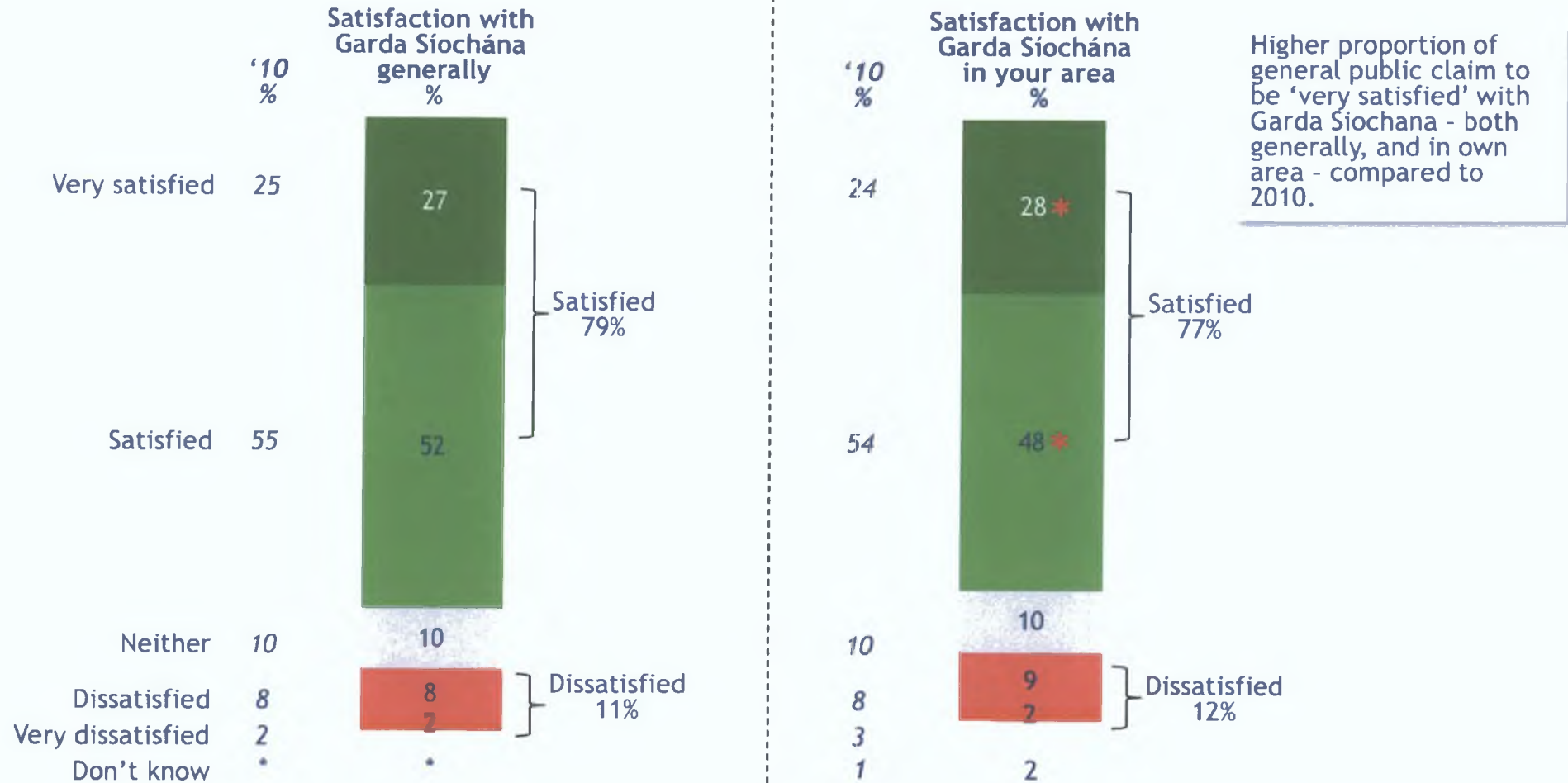


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INQUIRY INDEPENDENCE IMPARTIALITY

# Low levels of dissatisfaction with the Garda Síochána: only 1 in 10 are dissatisfied, unchanged from 2010

Page 255

Base: All adults 15+ (n=986)



*Italics denote '10*

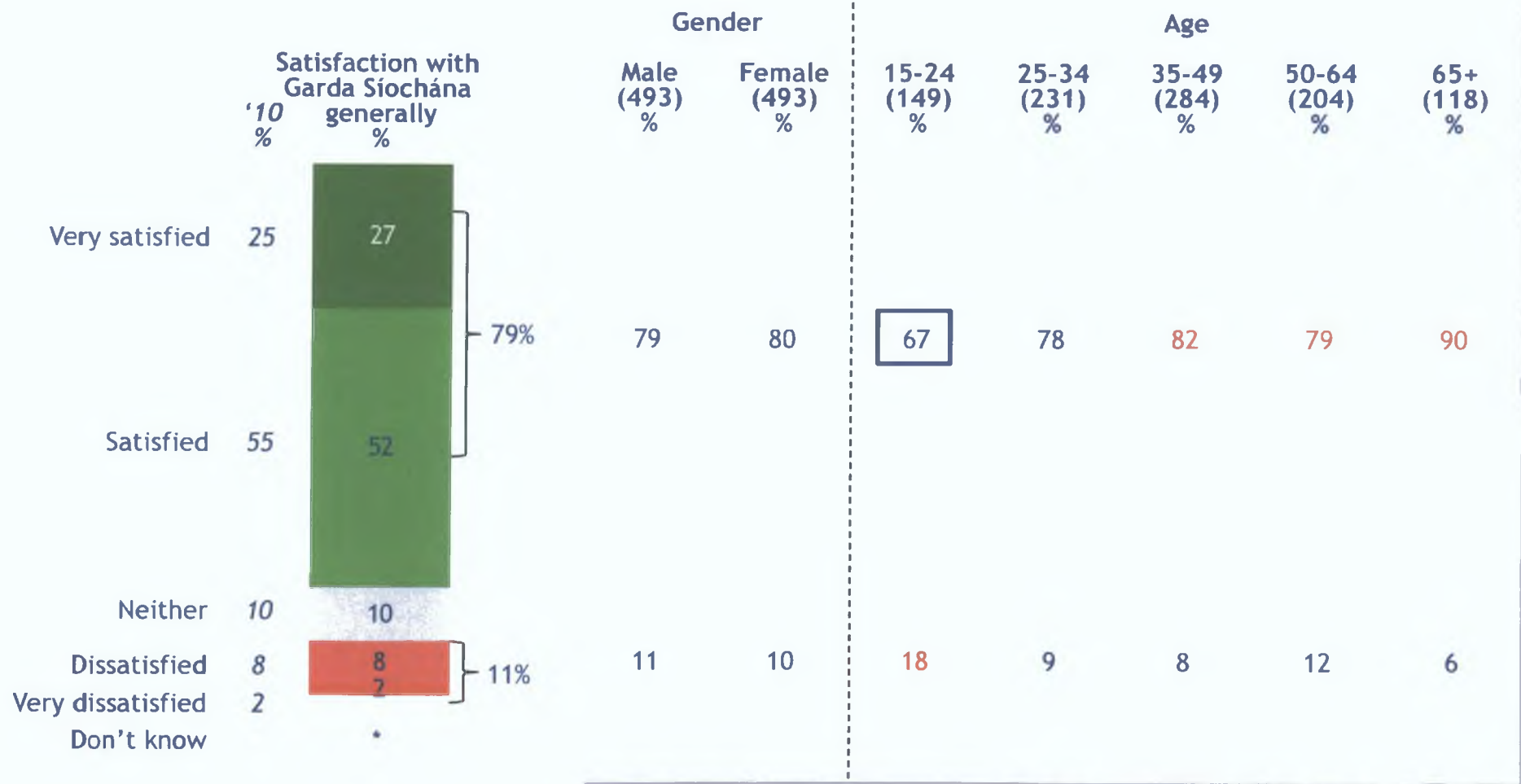
*\*Statistically significant difference*

- Q. How satisfied are you with the Garda Síochána generally?
- Q. How satisfied are you with the Garda Síochána in your area?



# Satisfaction with the Garda Síochána increases with age; those 65+ are most satisfied overall

Base: All adults 15+ (n=986)



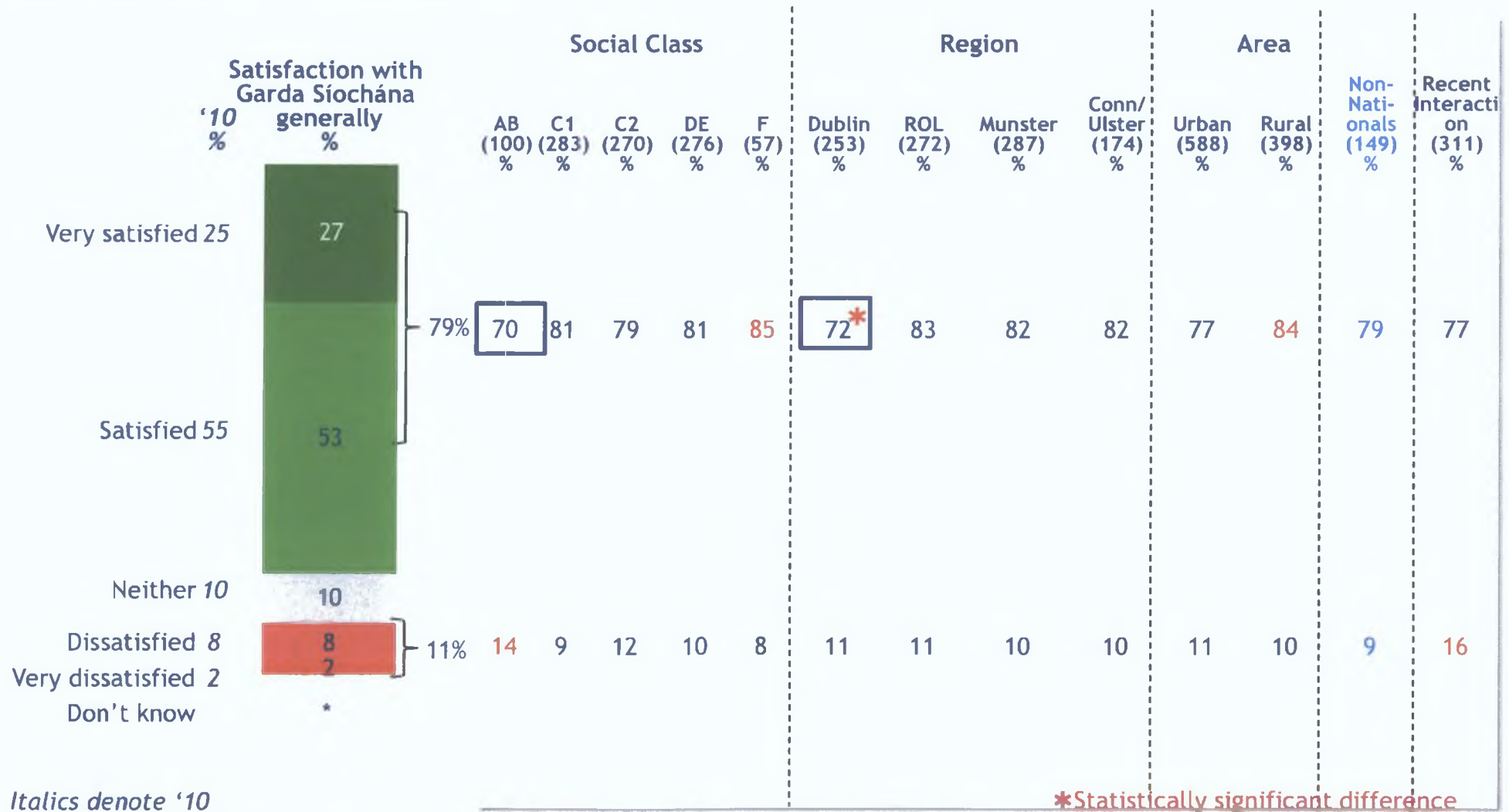
*Italics denote '10*

Q. How satisfied are you with the Garda Síochána generally?

# Dublin residents and AB's show lower than average satisfaction levels; farmers and those in rural locations the highest

Base: All adults 15+ (n=986)

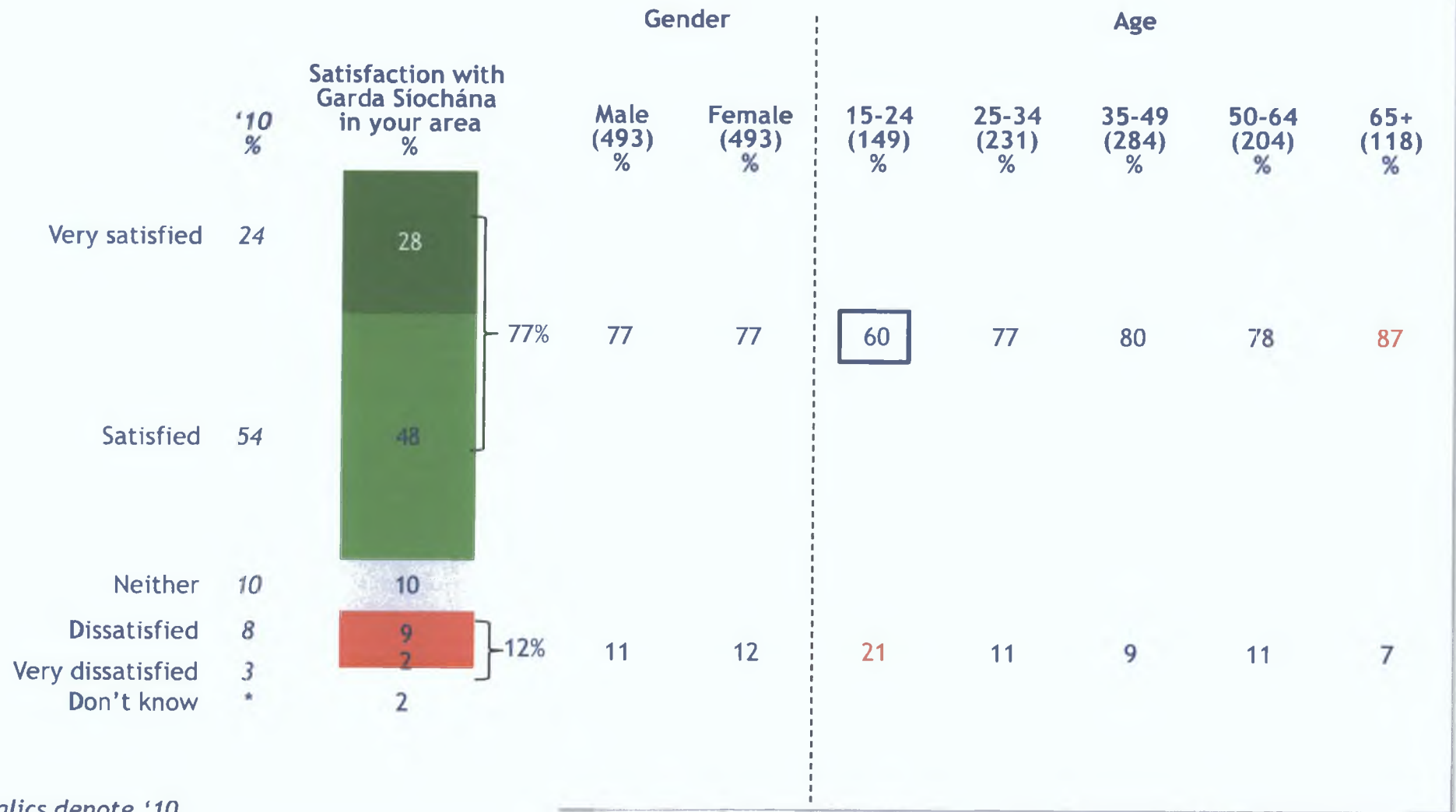
Base: All non-nationals including booster (149)



Q. How satisfied are you with the Garda Síochána generally?

# Age dictates local satisfaction levels - <25's are least satisfied

Base: All adults 15+ (n=986)



*Italics denote '10*

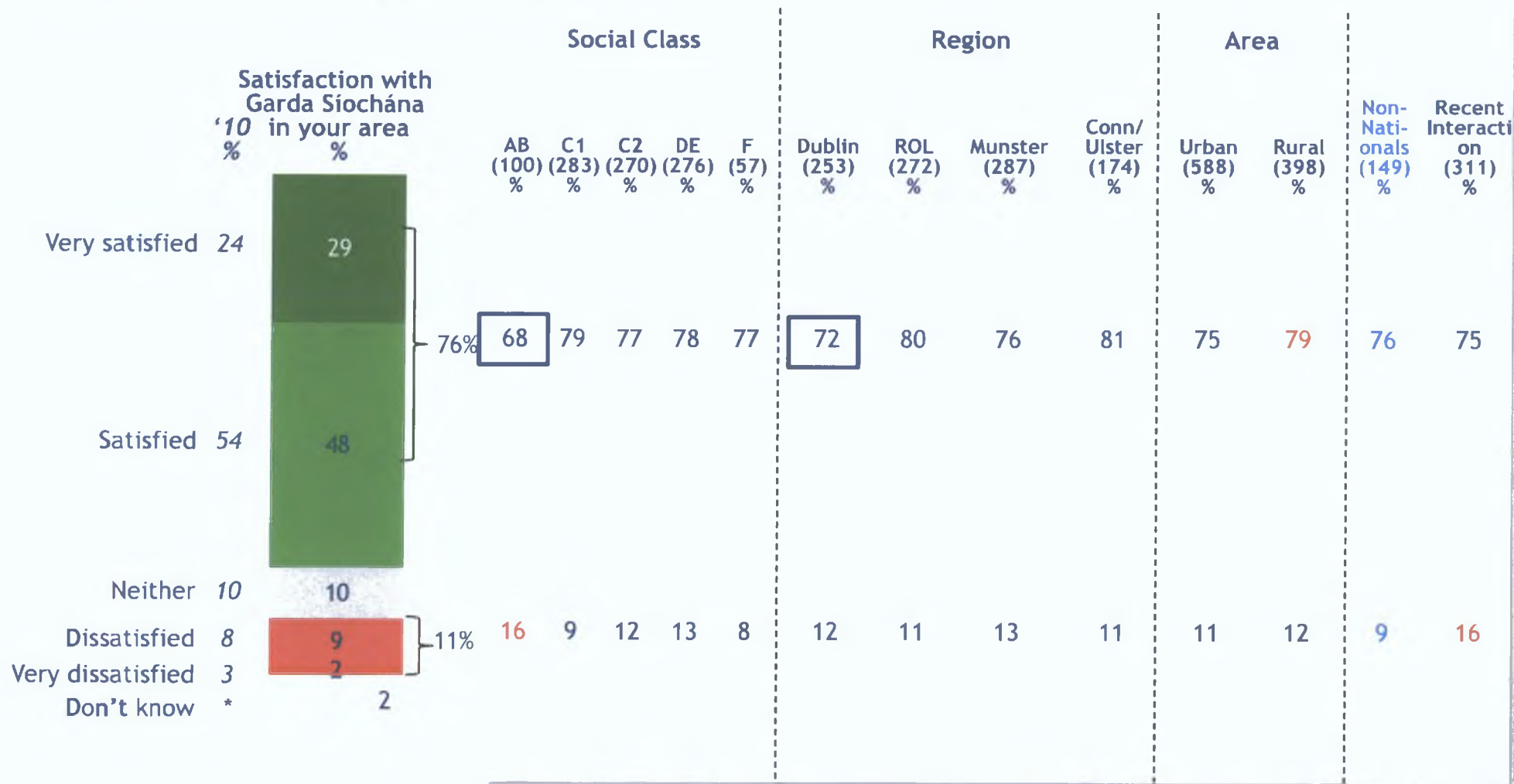
Q. How satisfied are you with the Garda Síochána generally?

# AB's and Dublin residents less satisfied than average. Rural communities more satisfied.

Page 259

Base: All adults 15+ (n=986)

Base: All non-nationals including booster (149)



*Italics denote '10*

Q. How satisfied are you with the Garda Síochána generally?



## Confidence in the Garda Síochána

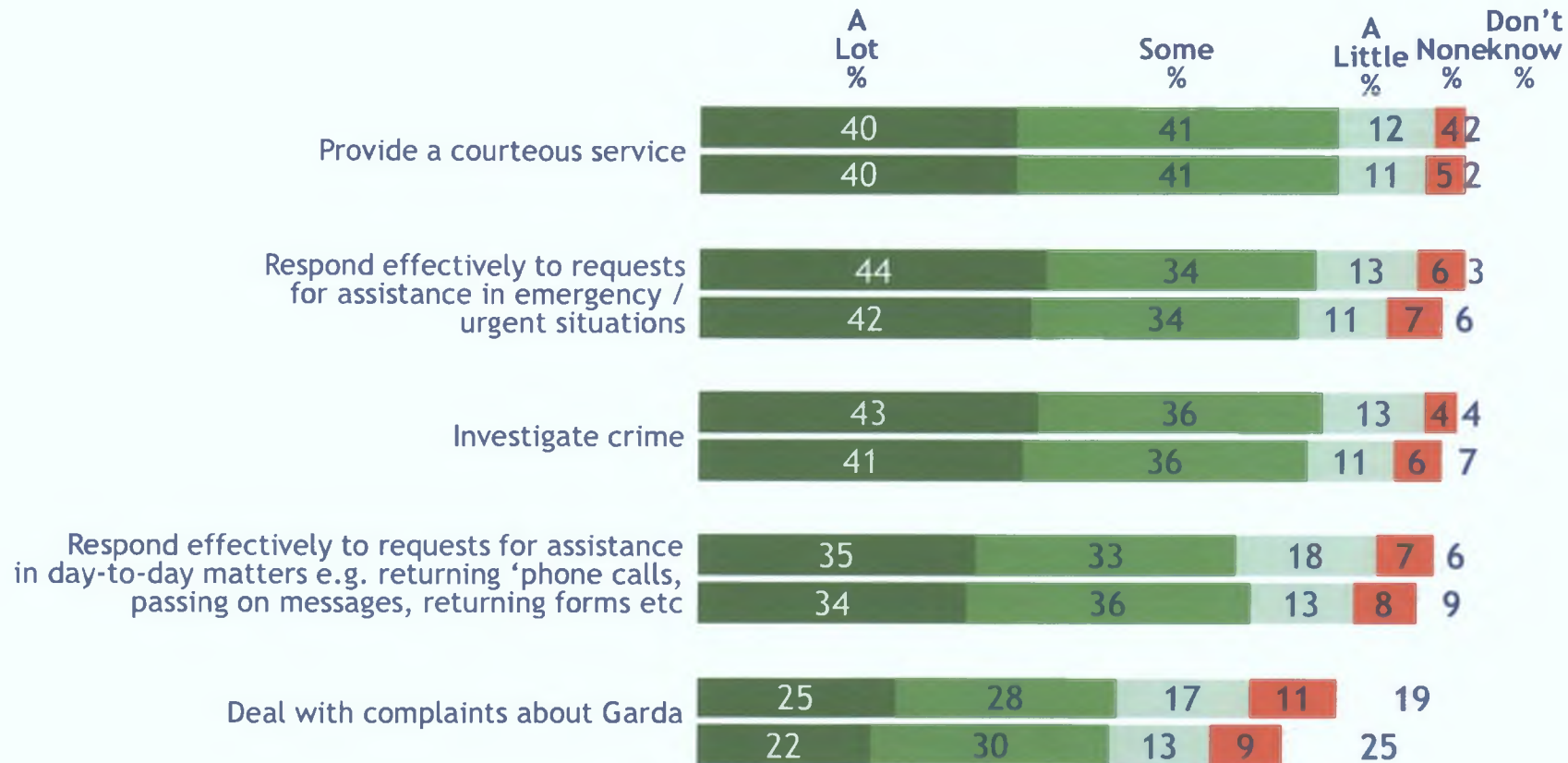


Garda  
**Ombudsman**  
INQUIRY INDEPENDENCE IMPARTIALITY

# At least 7 in 10 have confidence in Garda Siochana's abilities in most aspects of service provision, with marginal increases since '10 evident; lower levels of certainty regarding handling of complaints about Gardai.

Base: All adults 15+ (n=986)

2011   
2010



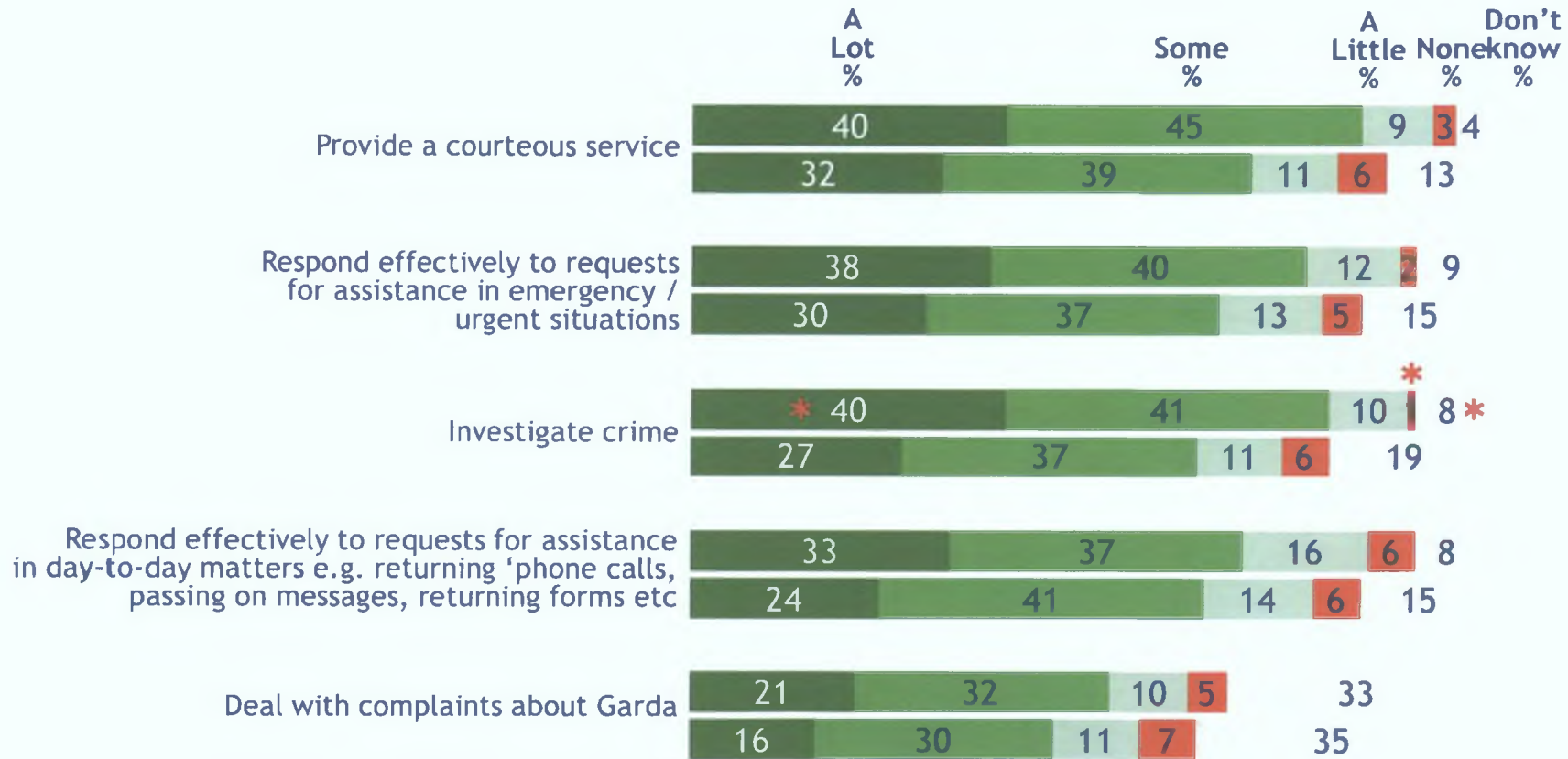
Q. How much confidence do you have in the Garda Siochana's ability to...

# Non-Irish nationals have similar confidence levels in the Gardai compared to the national population; however, greater conviction is noted in '11 (higher 'a lot' scores)

Page 262

Base: All non-nationals including booster (149)

2011   
2010



\*Statistically significant difference



## Interaction with the Garda Síochána

**Garda Ombudsman**  
INQUIRY INDEPENDENCE IMPARTIALITY

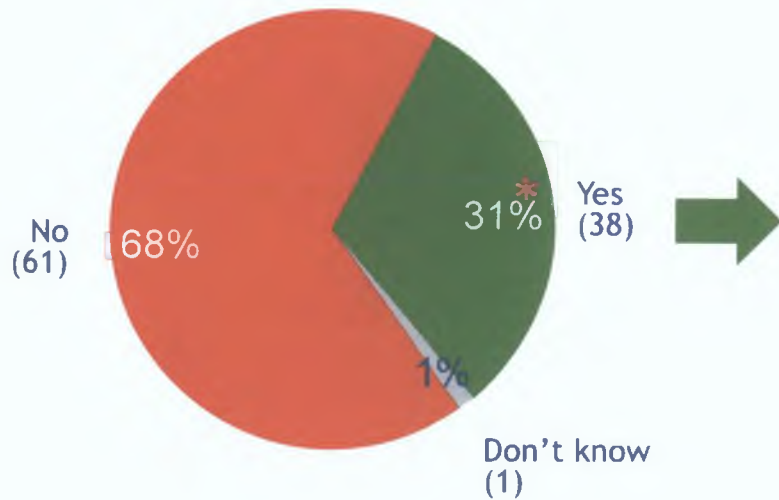


# Just over three in ten adults have had an interaction with the Gardaí in the last 12 months, lower than in 2010

Page 264

Base: All adults 15+ (n=986)

Base: All non-nationals including booster (n=149)



## Had interaction by Demographics %

Demographic	%
<b>Gender</b>	
Male	32
Female	31
<b>Age</b>	
15-24	31
25-34	37
35-49	38
50-64	25
65+	21
<b>Social Class</b>	
AB	39
C1	33
C2	28
DE	27
F	39
<b>Region</b>	
Dublin	24
Rest of Leinster	36
Munster	35
Conn/Ulster	29
<b>Area</b>	
Urban	28
Rural	36
<b>Non-Irish Nationals</b>	28

\*Statistically significant difference

() denote '10

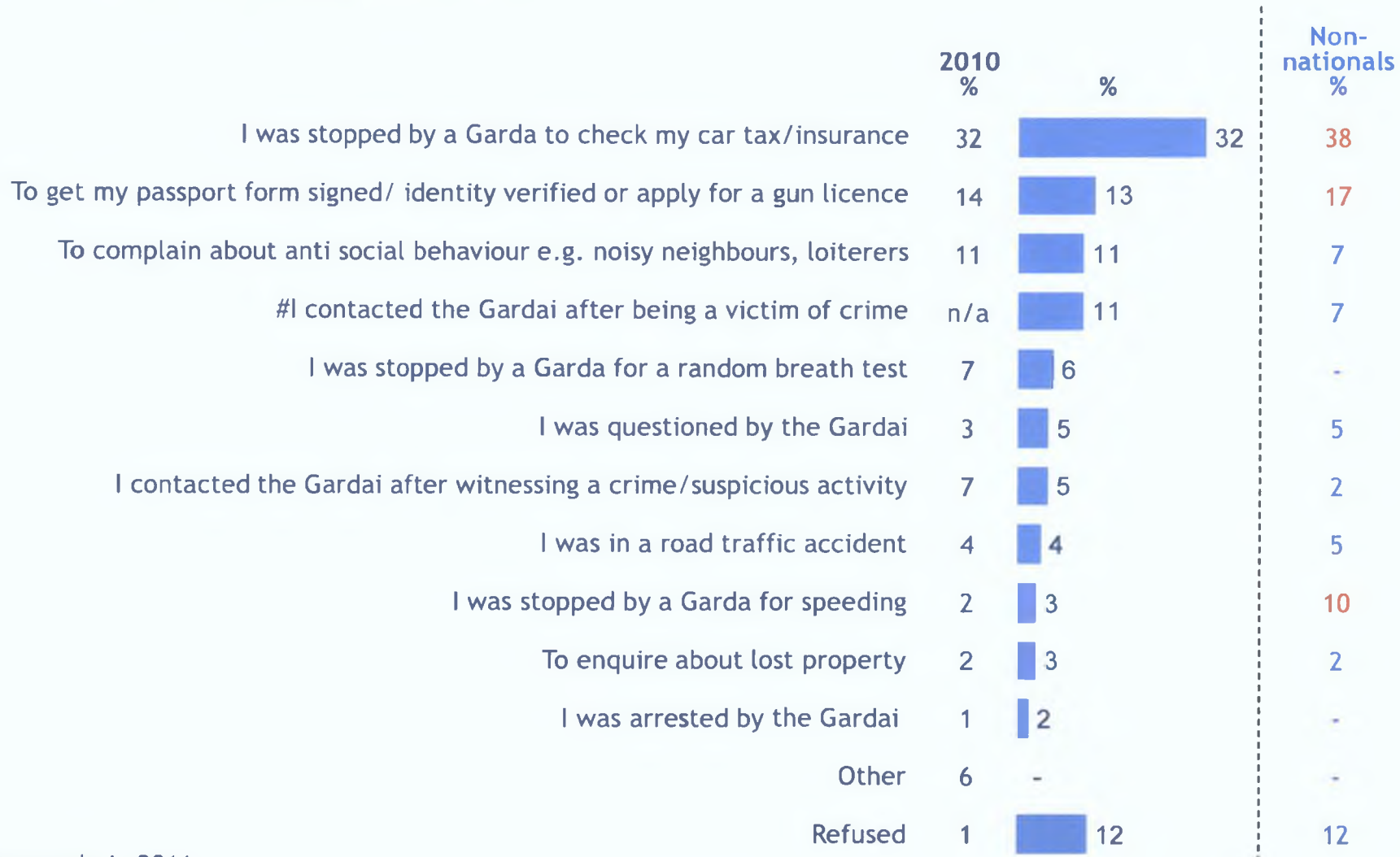
Q. Have you had any interaction with a Garda in the last 12 months?

# The main interaction relates to checking car tax/insurance, unchanged from 2010. Non-nationals more likely than average to report certain checks

Page 260

Base: All adults who had an interaction with Garda (n=311)

Base: All non-nationals including booster (n=42)



#New code in 2011

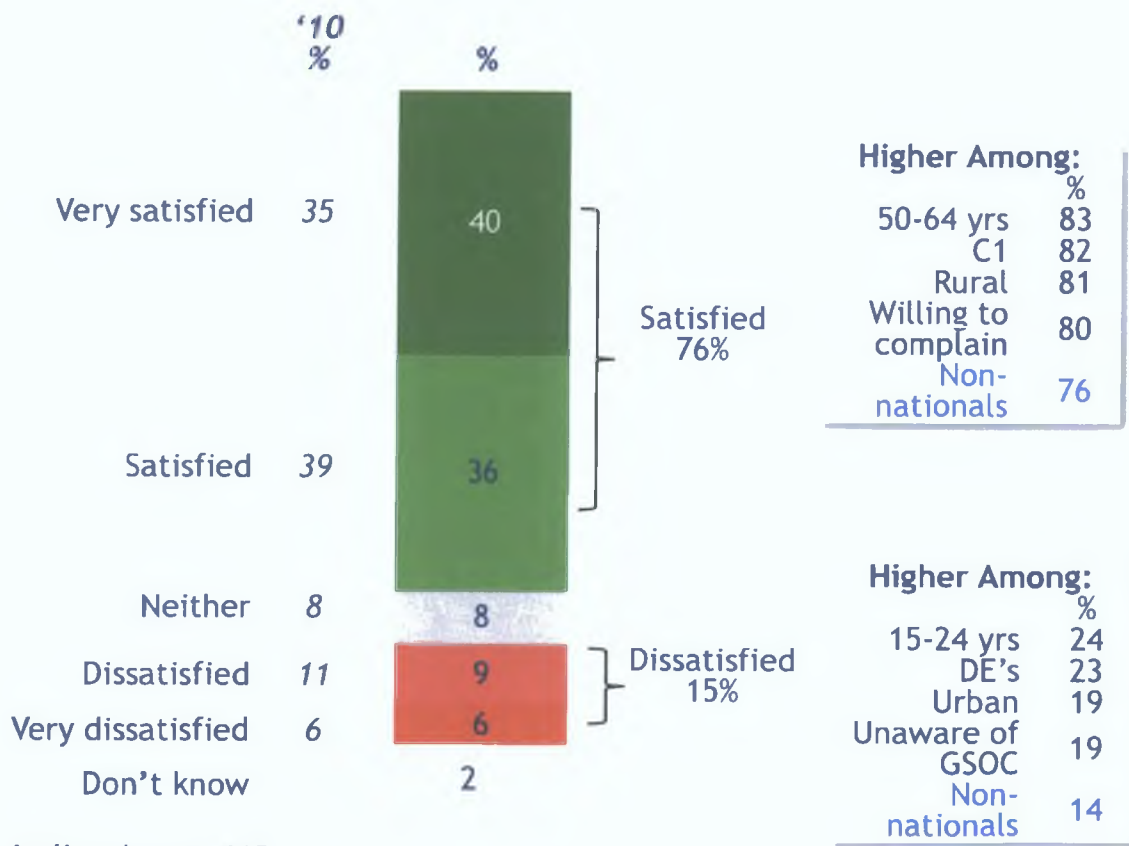
Q. What is the most recent form of interaction you have had with the Gardai?

# Higher proportion of 'very satisfied' following recent interaction compared to '10. Low level of actual complaints among those dissatisfied.

Page 266

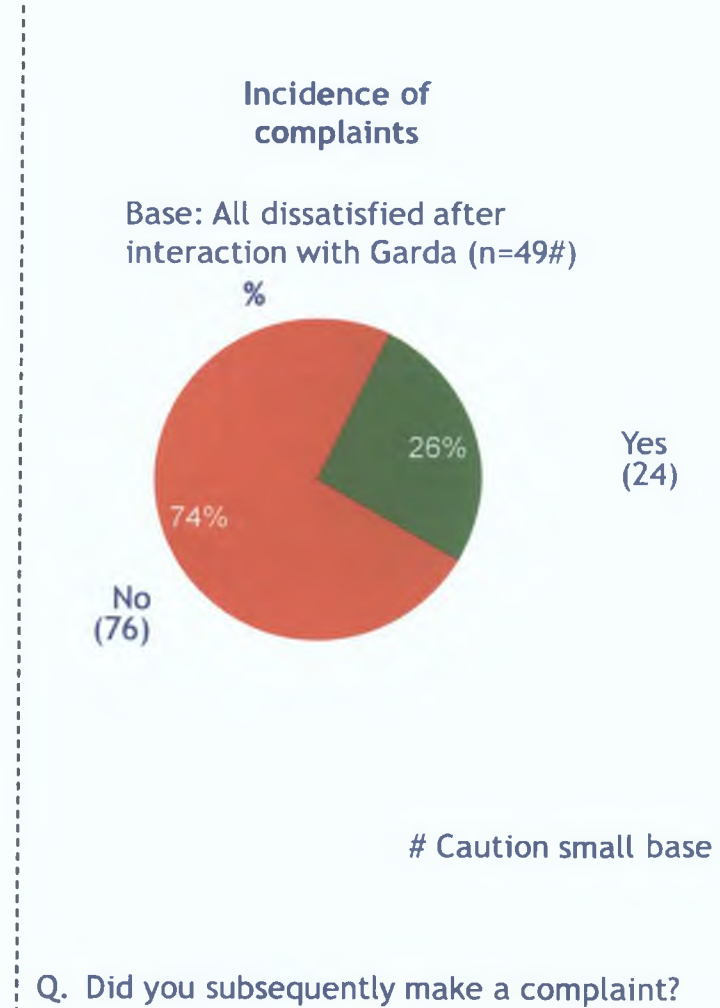
Base: All adults who had an interaction with Garda (n=311)

Base: All non-nationals including booster (n=149)



*Italics denote '10*

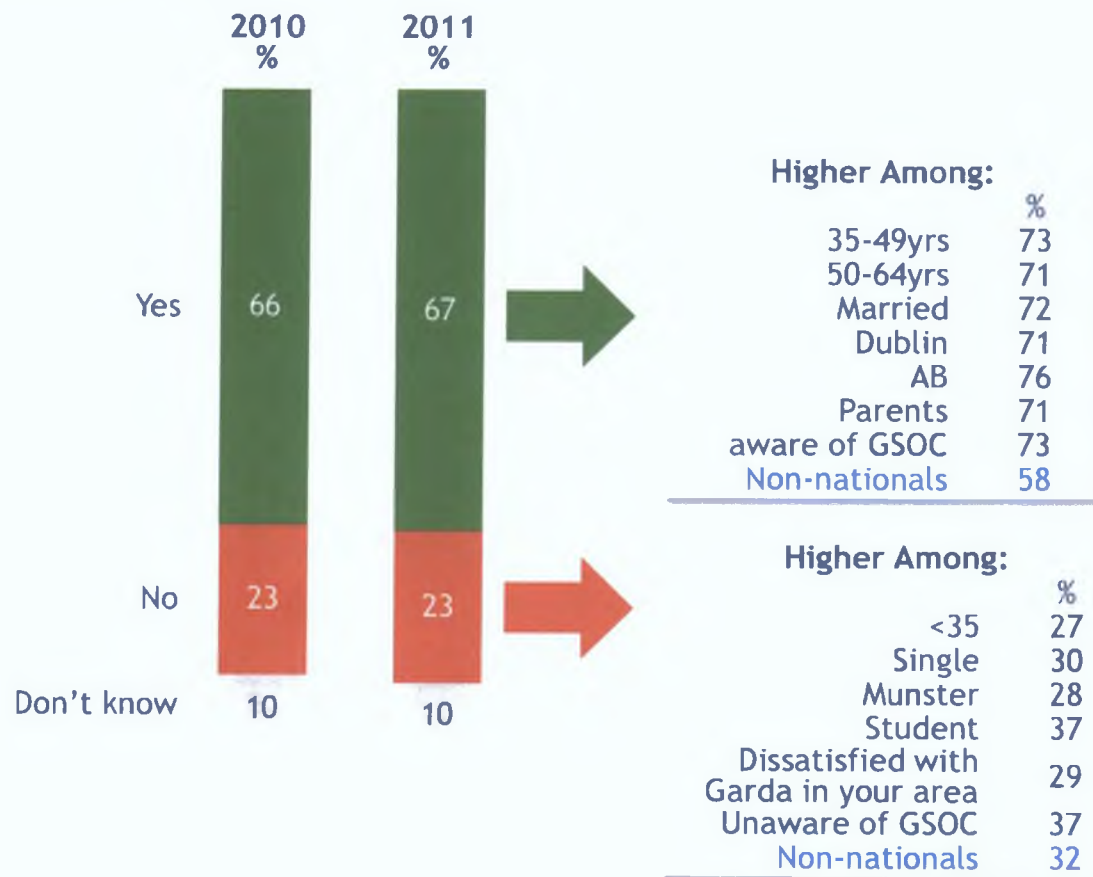
Q. Thinking about your most recent interaction with the Gardai would you say you came away...?



# 2 in every 3 claim they would make a complaint if dissatisfied

Base: All adults who had an interaction with Garda (n=311)

Base: All non-nationals including booster (n=149)

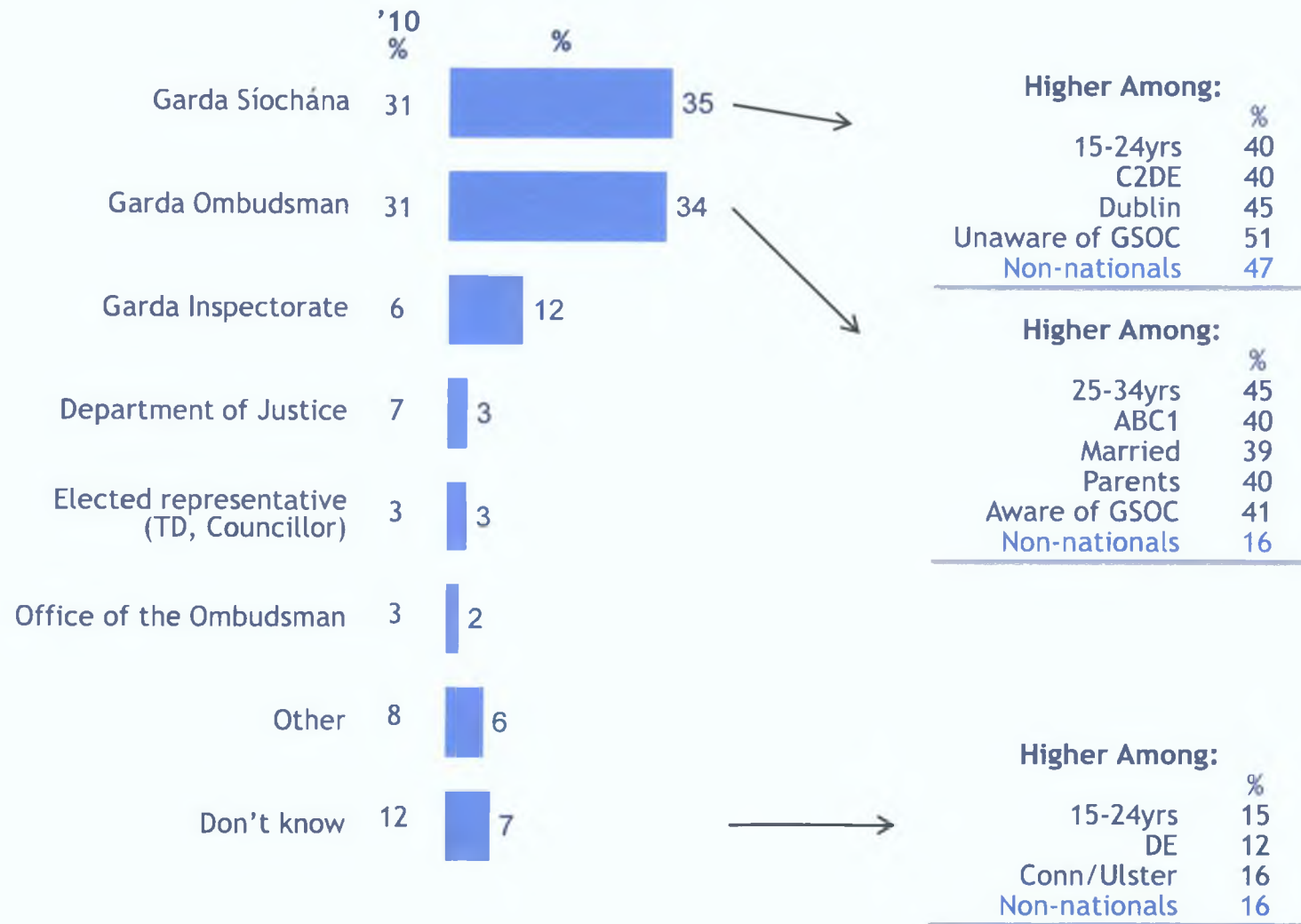


- Q. If you had a bad experience with a Garda would you be willing to make a complaint?
- Q. If not, why not? Any other reason?
- Q. If so, where would you make a complaint?

# Garda Síochána and Garda Ombudsman remain most obvious channels for complaints. Increasing awareness of GSOC is likely to drive complaints through most appropriate channels.

Page 268

Base: All willing to make a complaint(n=660)



Q. If so, where would you make a complaint?

# Apathy and a fear of 'making things worse' drive resistance to making complaints, but significant proportion also unaware of appropriate channels - higher among those unaware of GSOC and Non-nationals.

Base: All un-willing to make a complaint(n=326)



\*Statistically significant difference

Q. If you had a bad experience with a Garda would you be willing to make a complaint?  
 Q. If not, why not? Any other reason?



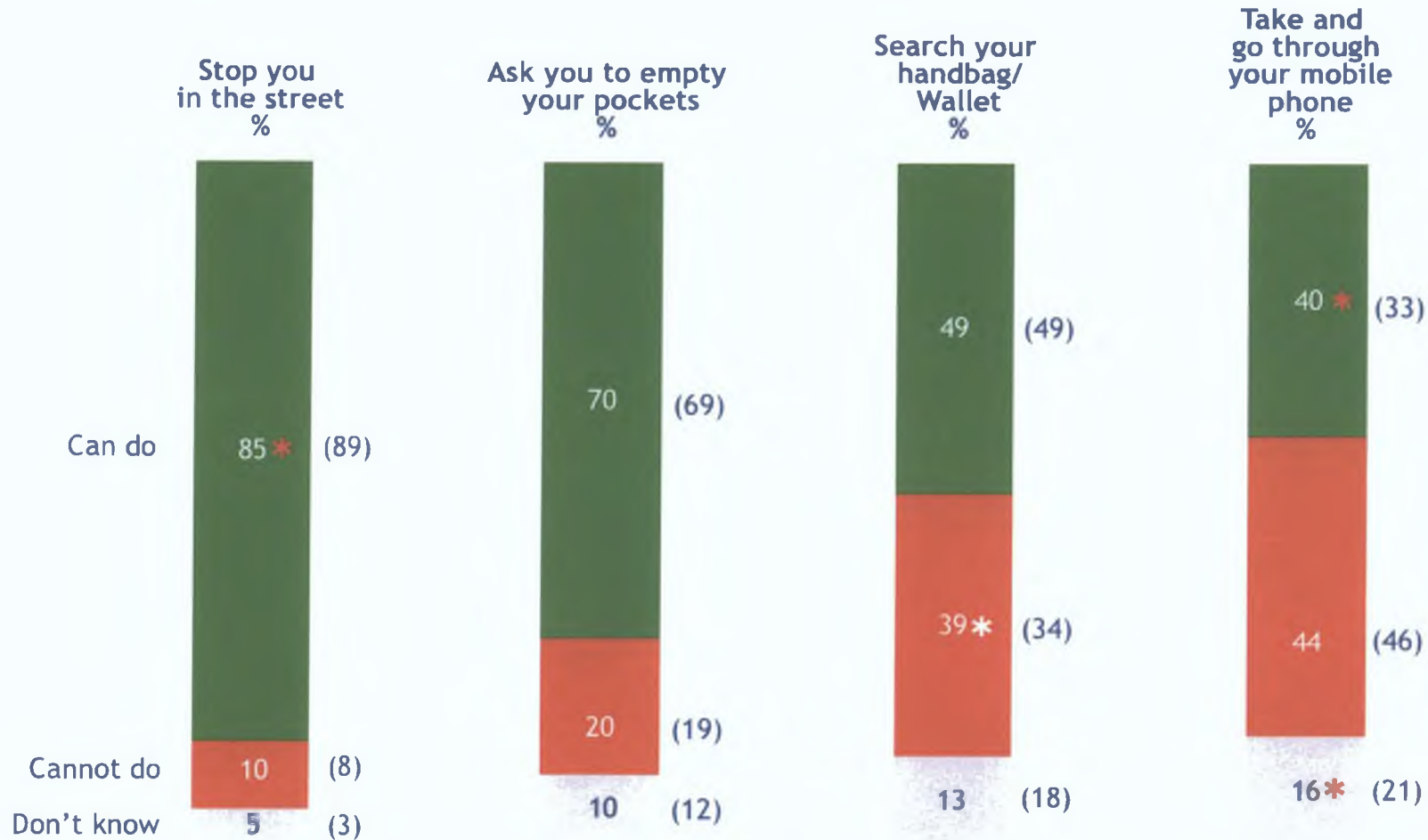
Awareness of Garda powers investigating a crime

GSOC  
Garda  
**Ombudsman**  
INQUIRY INDEPENDENCE IMPARTIALITY

# Some confusion over the Gardaí's rights to search handbags/wallets and to take and go through mobile phones.

Page 271

Base: All adults 15+ (n=986)



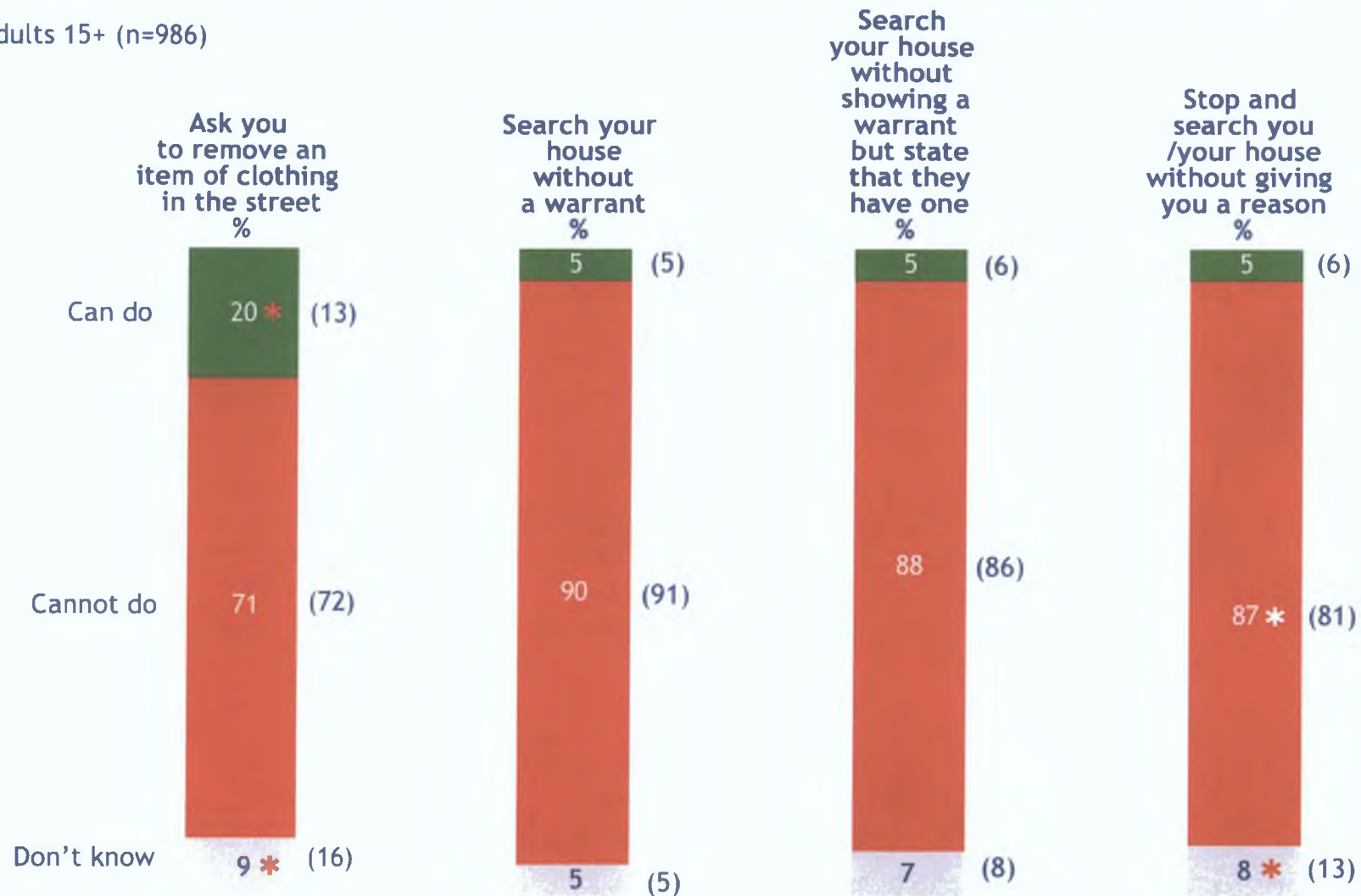
\*Statistically significant difference

Q. Please indicate what you think a Garda can and cannot do when investigating a possible crime.



# Increase in perception that Garda can ask you to remove an item of clothing on the street; low levels of authority re other activities.

Base: All adults 15+ (n=986)



( ) denote '10

\*Statistically significant difference

Q. Please indicate what you think a Garda can and cannot do when investigating a possible crime.

# Preserving peace/public order and crime prevention seen as main priorities of Garda Síochána

Page 273

New Question in 2011

Base: All adults 15+ (n=986)

Base: Non-nationals (n=149)

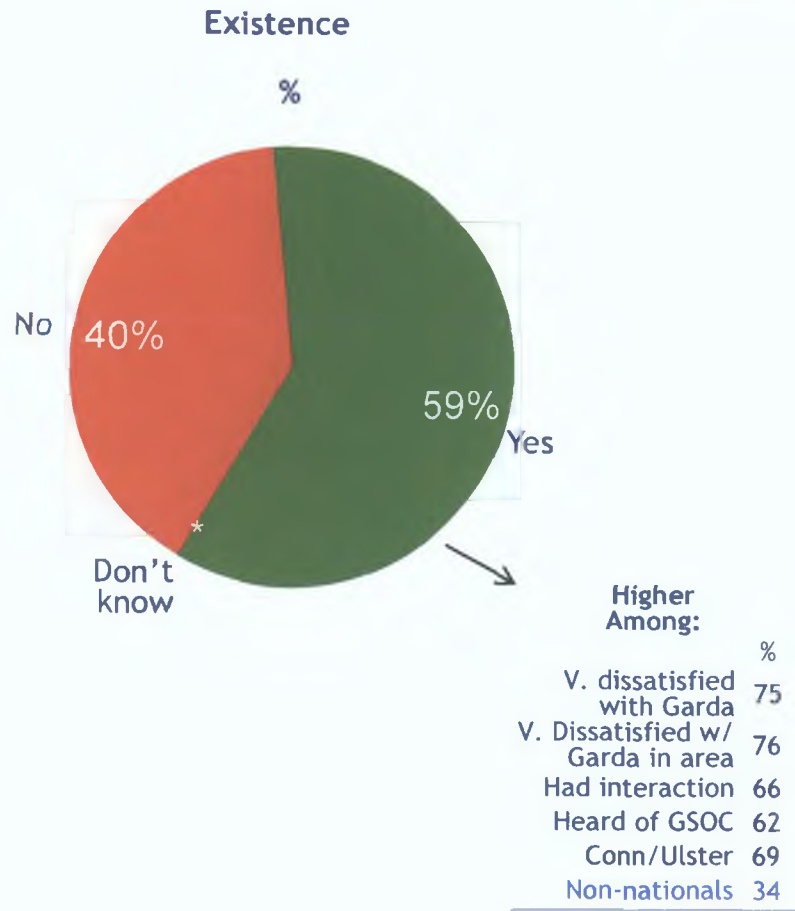


Q. Which of the activities shown on this card do you think should be the main priority of the Garda Síochána

# 6 in 10 believe misbehavior exists, but majority think it is not present throughout.

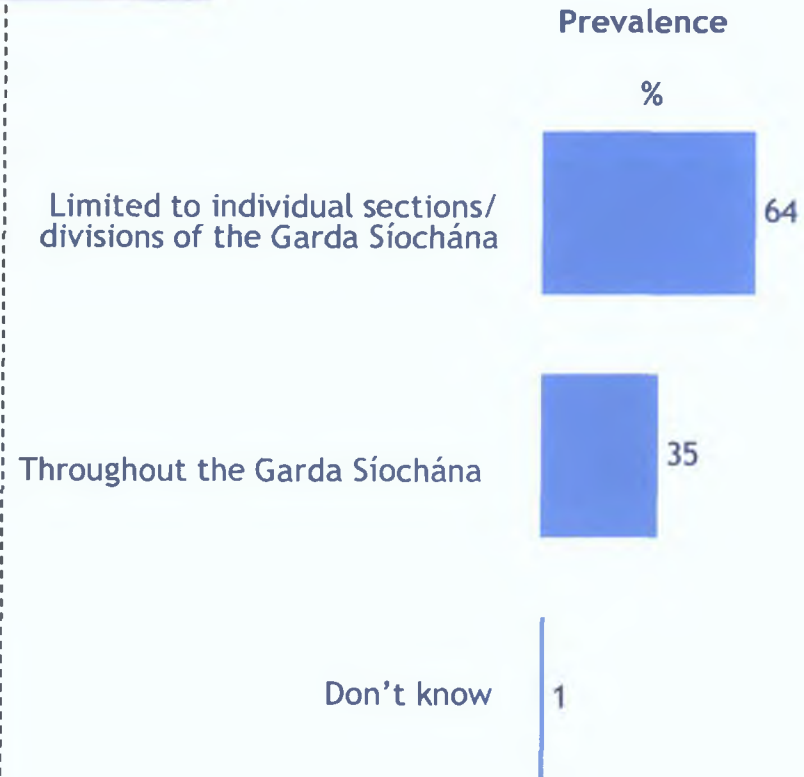
Page 274

Base: All adults 15+ (n=986)



New Question in 2011

Base: All answered "yes" (n=595)



Q. Do you think misbehaviour exists across the Garda Síochána? By misbehaviour I mean breaches the Garda code lack of courtesy in dealing with the public, or crimes such as assault against the public etc?  
 Q. To what extent do you believe that this misbehaviour exists?



## Awareness of the Garda Ombudsman and its functions



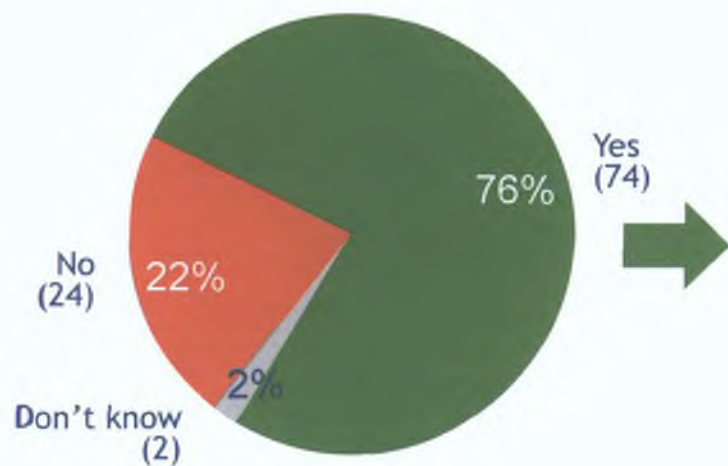
Garda  
**Ombudsman**  
INQUIRY INDEPENDENCE IMPARTIALITY

Over 7 in 10 adults are aware of the Garda Ombudsman - particularly high among older people, ABC1's and in Muster. Lowest awareness among Non-Nationals.

Page 276

Base: All adults 15+ (n=986)

Base: All non-nationals including booster (n=149)



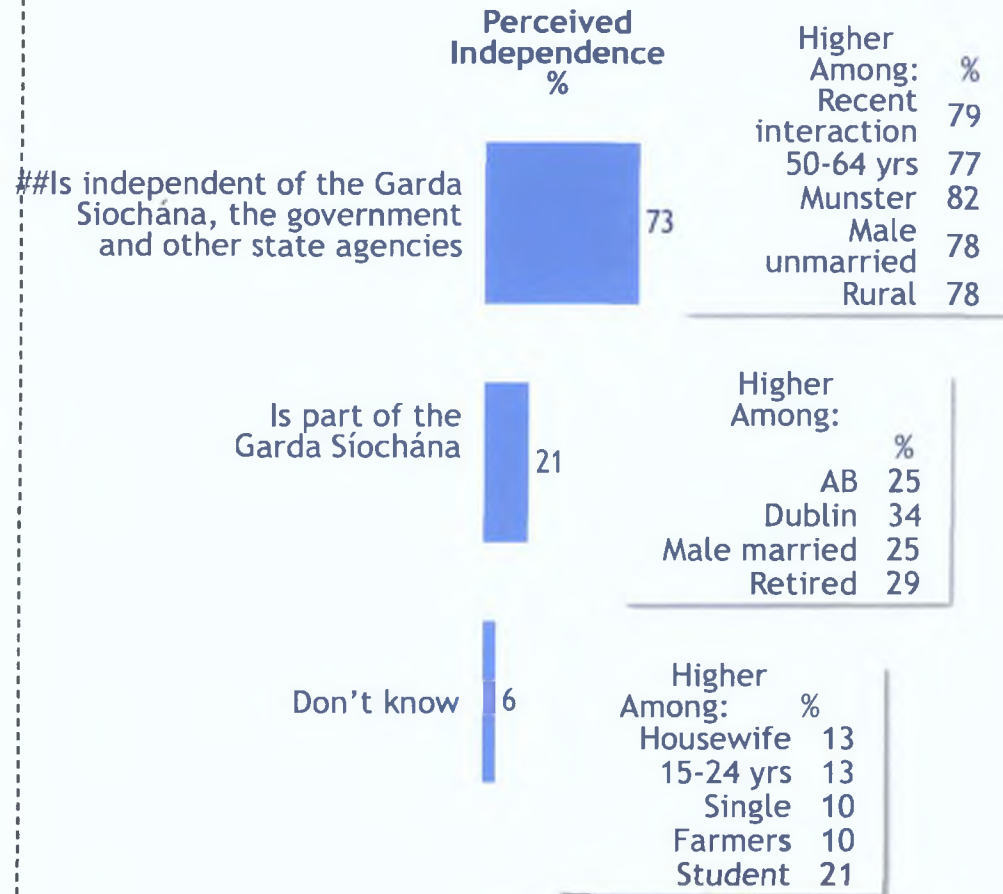
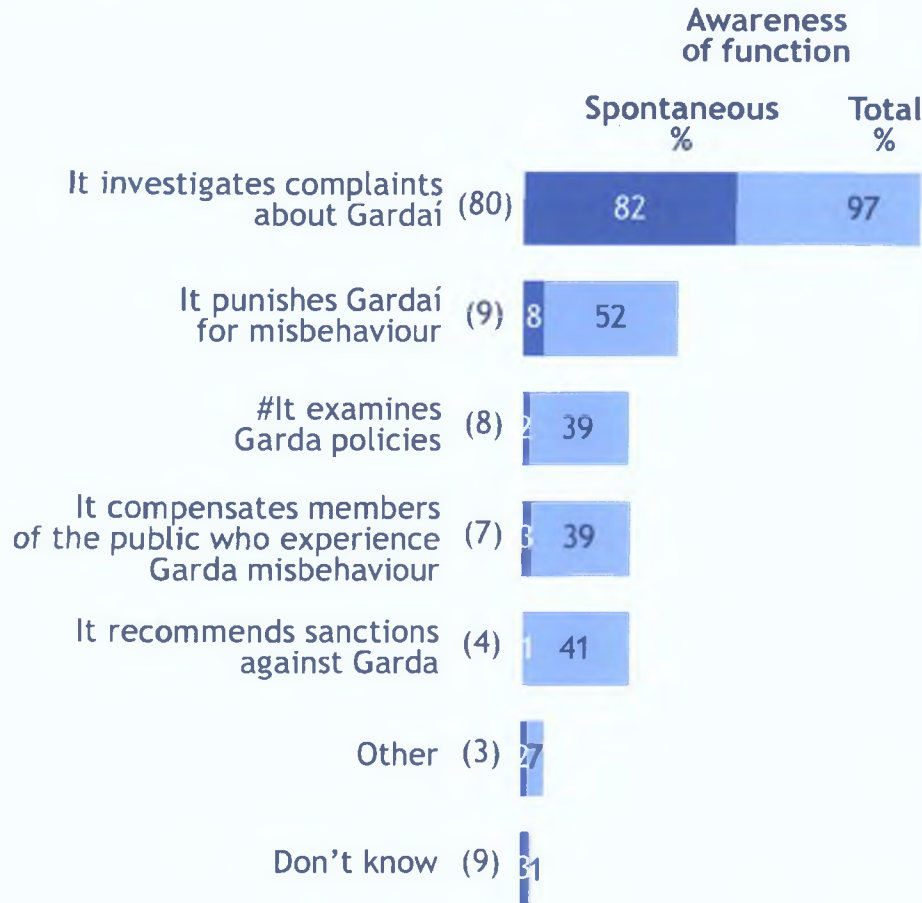
Demographics		%
<u>Gender</u>		
Male		77
Female		75
<u>Age</u>		
15-24		57
25-34		76
35-49		78
50-64		86
65+		79
<u>Social Class</u>		
AB		82
C1		81
C2		76
DE		69
F		76
<u>Region</u>		
Dublin		74
Rest of Leinster		73
Munster		81
Conn/Ulster		75
<u>Area</u>		
Urban		75
Rural		78
Non-Irish Nationals		33

( ) denote '10

Q. Have you ever heard of the Garda Ombudsman?

# High awareness of remit of 'investigating complaints about Gardaí' overall, but lower awareness of other functions; Majority correctly perceive the GSOC as an Independent Agency.

Base: All adults aware of the Garda Ombudsman (n=750)



# Wording change in 2010. Was "monitor", now "examines"

##Wording change in 2010

() denote '10

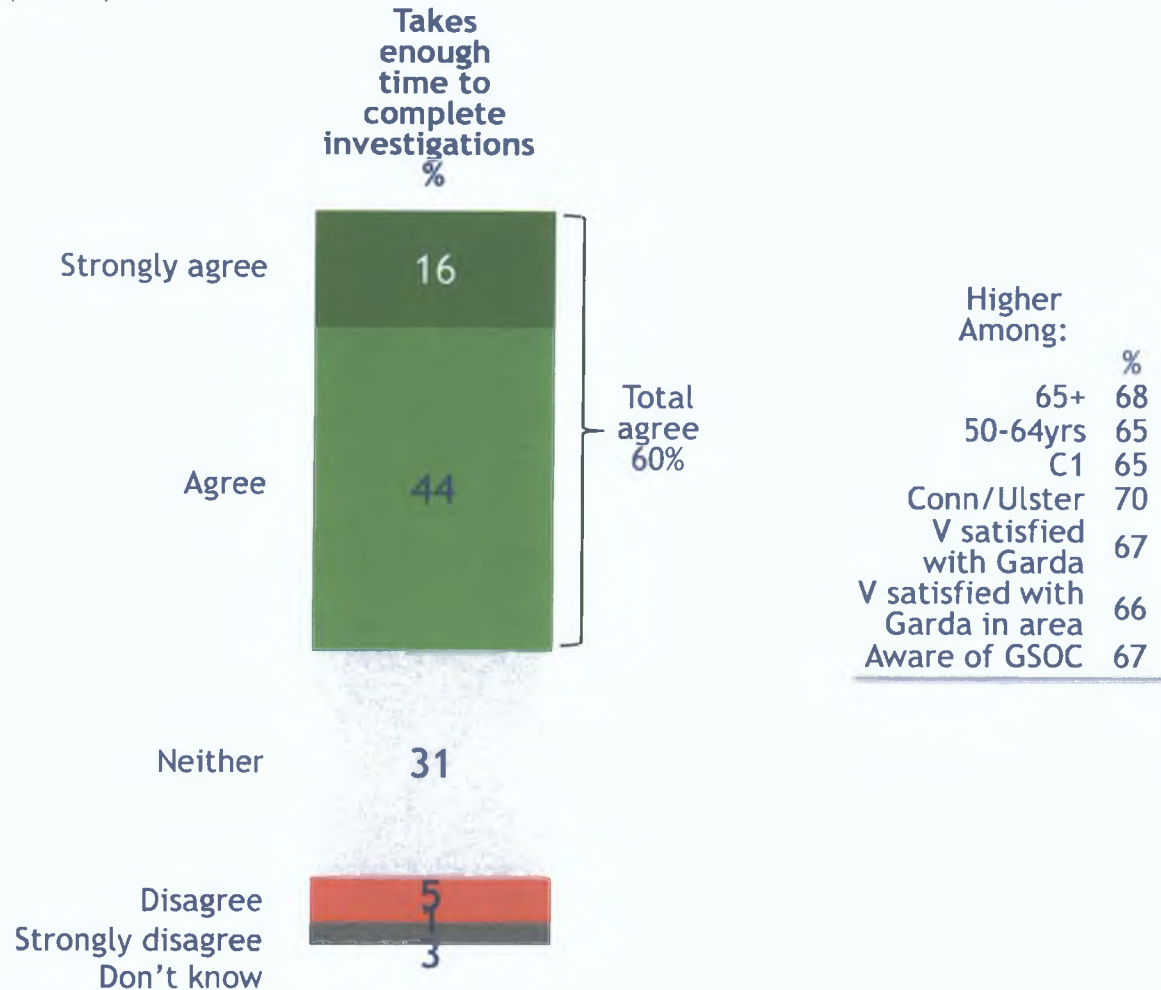
Q. What do you think the Garda Ombudsman does? Which of the following do you think the Garda Ombudsman does (PROMPT)  
 Q. Do you think Garda Ombudsman is part of the Garda Síochána or independent of it?

# 6 in 10 agree that enough time is taken, driven by those Aware of GSOC and those satisfied with Garda generally;

Page 278

Base: All adults 15+ (n=986)

New Statement in 2011

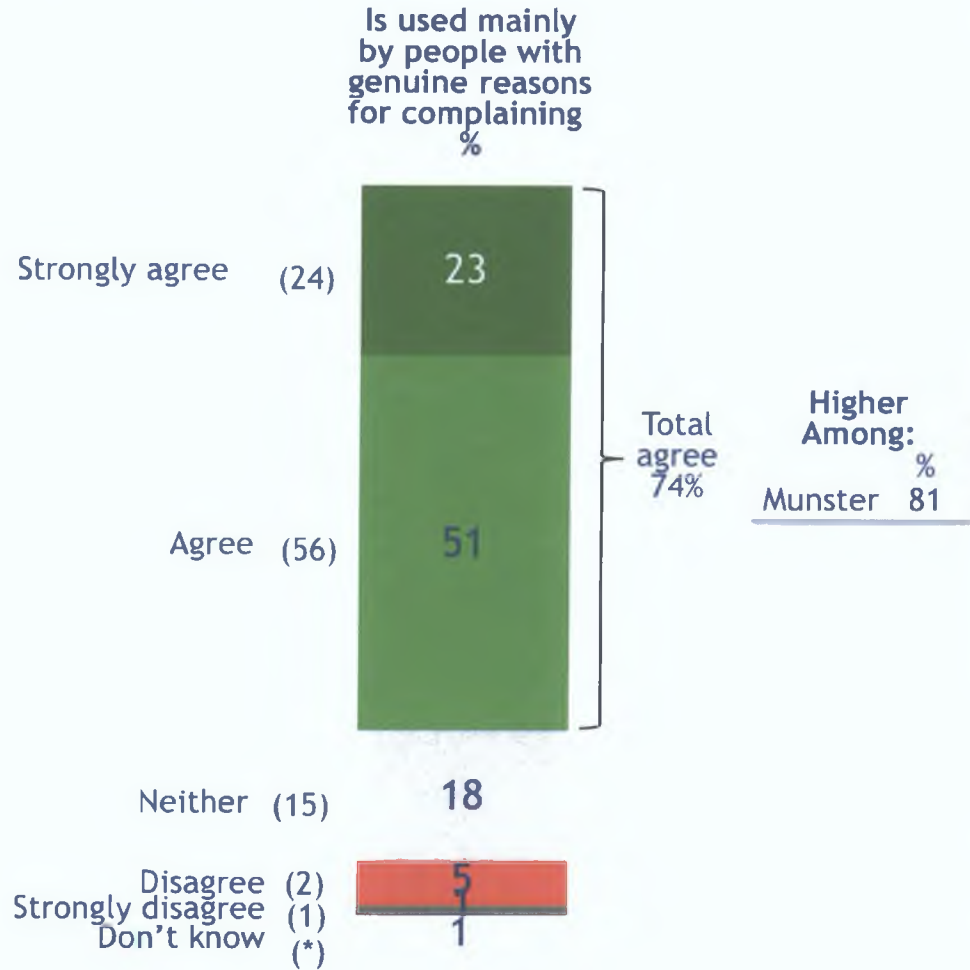


Q. To what extent do you agree or disagree that GSOC...?

# 3 in 4 agree that complainants are genuine; and high feel that treatment is impartial

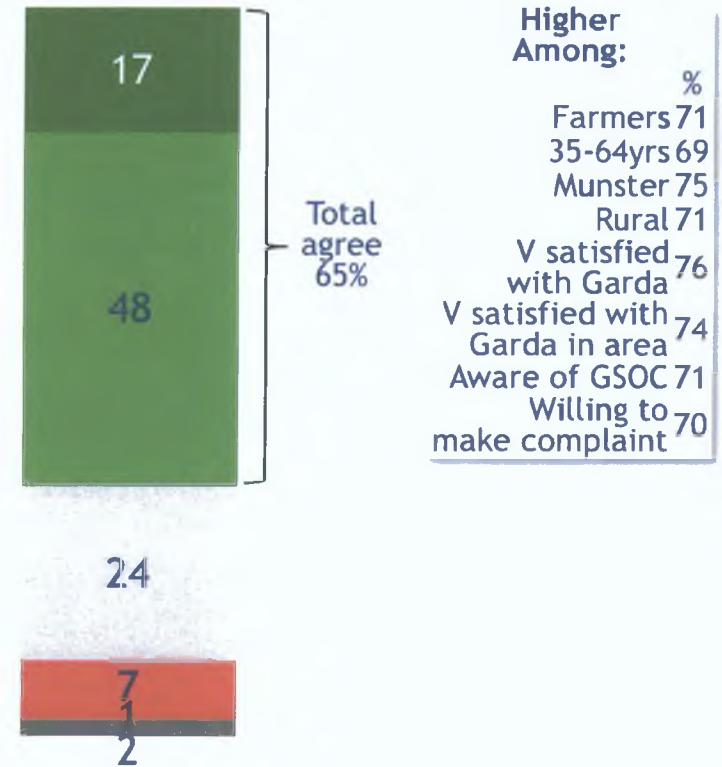
Page 279

Base: All adults 15+ (n=986)



**Deals with complainants in an impartial manner**

New Statement in 2011



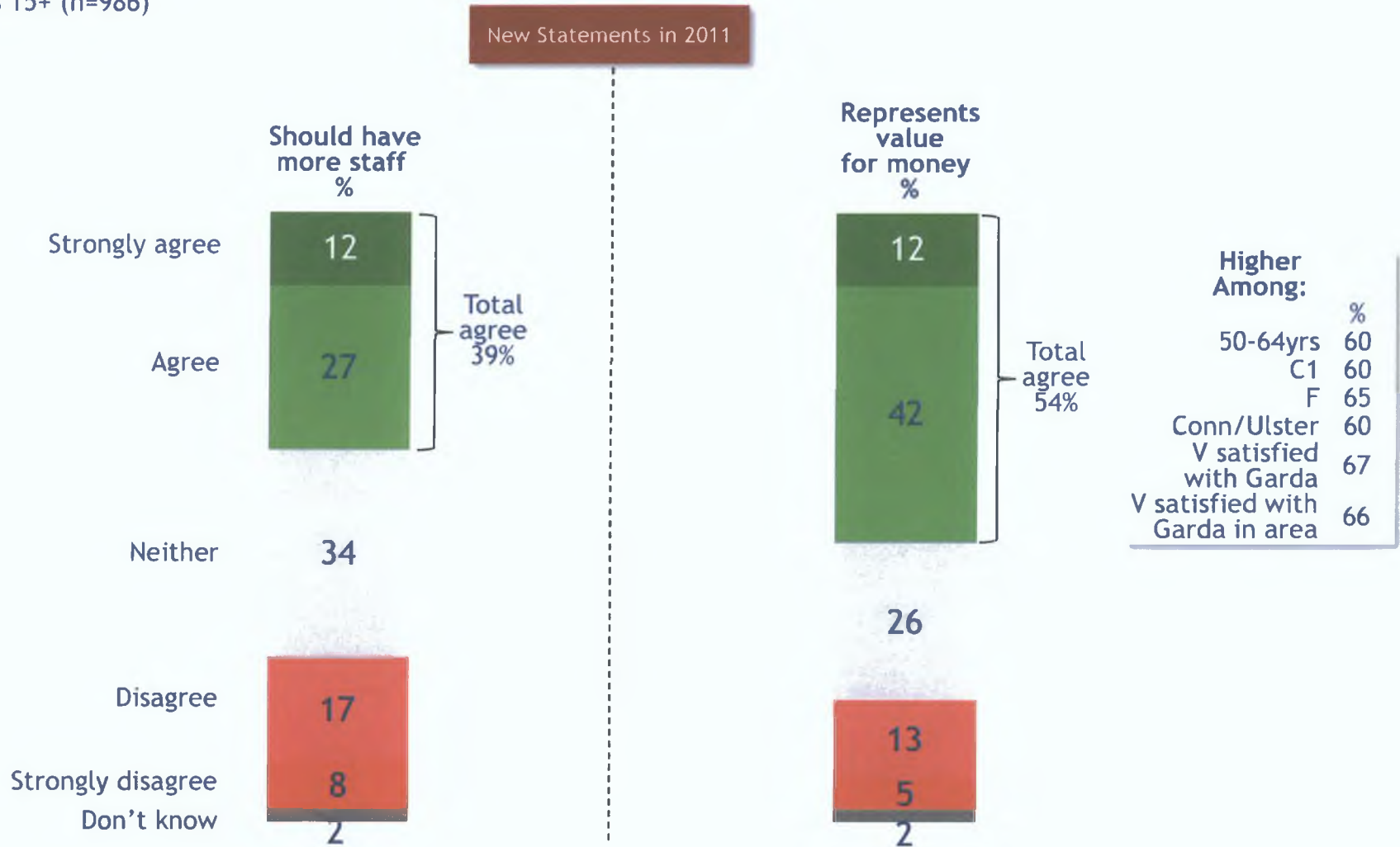
Q. To what extent do you agree or disagree that GSOC...?



# More staff endorsed by 4 in 10, and value for money most likely to be proposed by those who are satisfied with Garda overall

Page 280

Base: All adults 15+ (n=986)

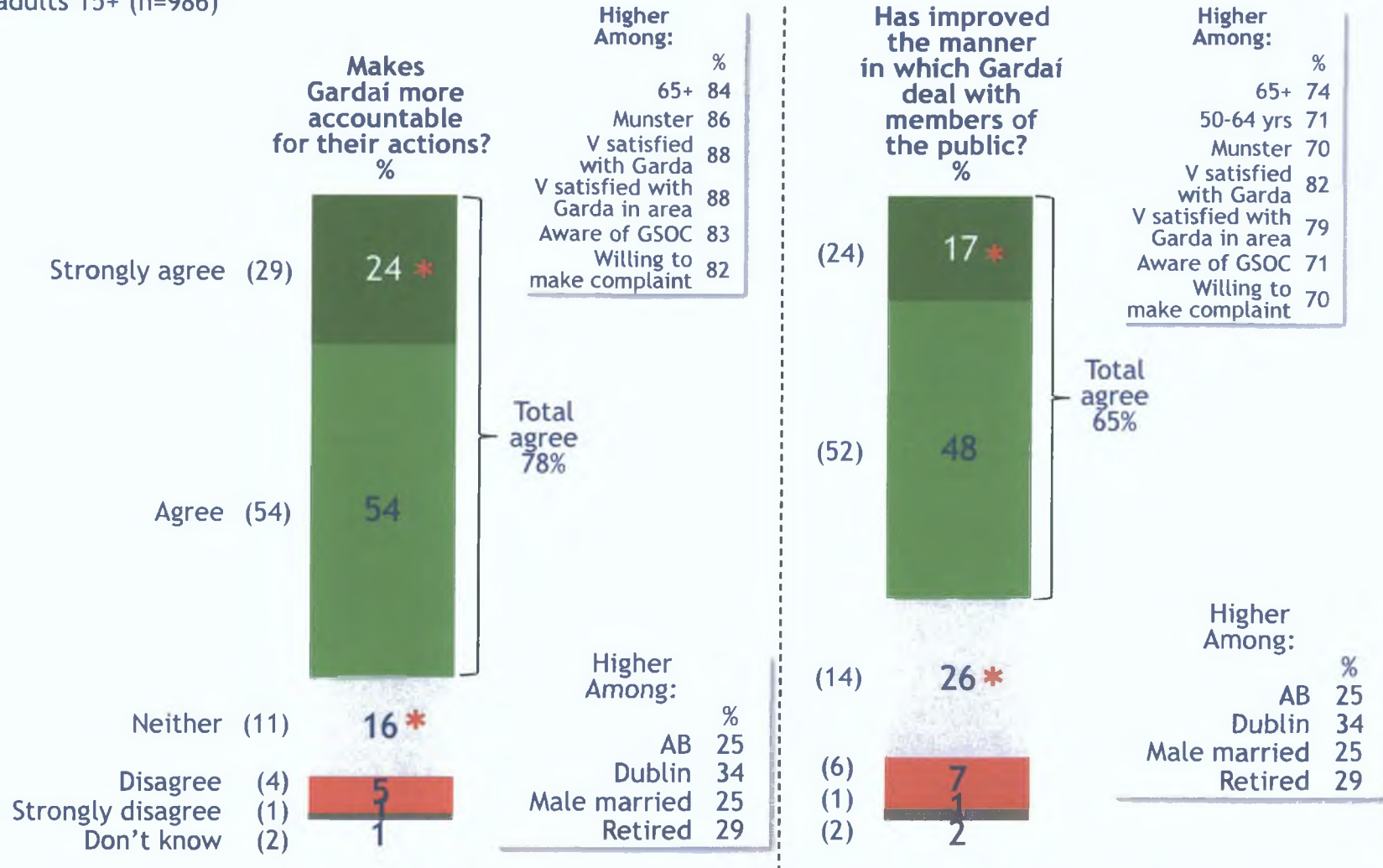


Q. To what extent do you agree or disagree that GSOC...?

# Majority feel GSOC plays role in ensuring accountability, but perception has weakened; but lower rating of positive impact on public interaction compared to '10.

Page 281

Base: All adults 15+ (n=986)



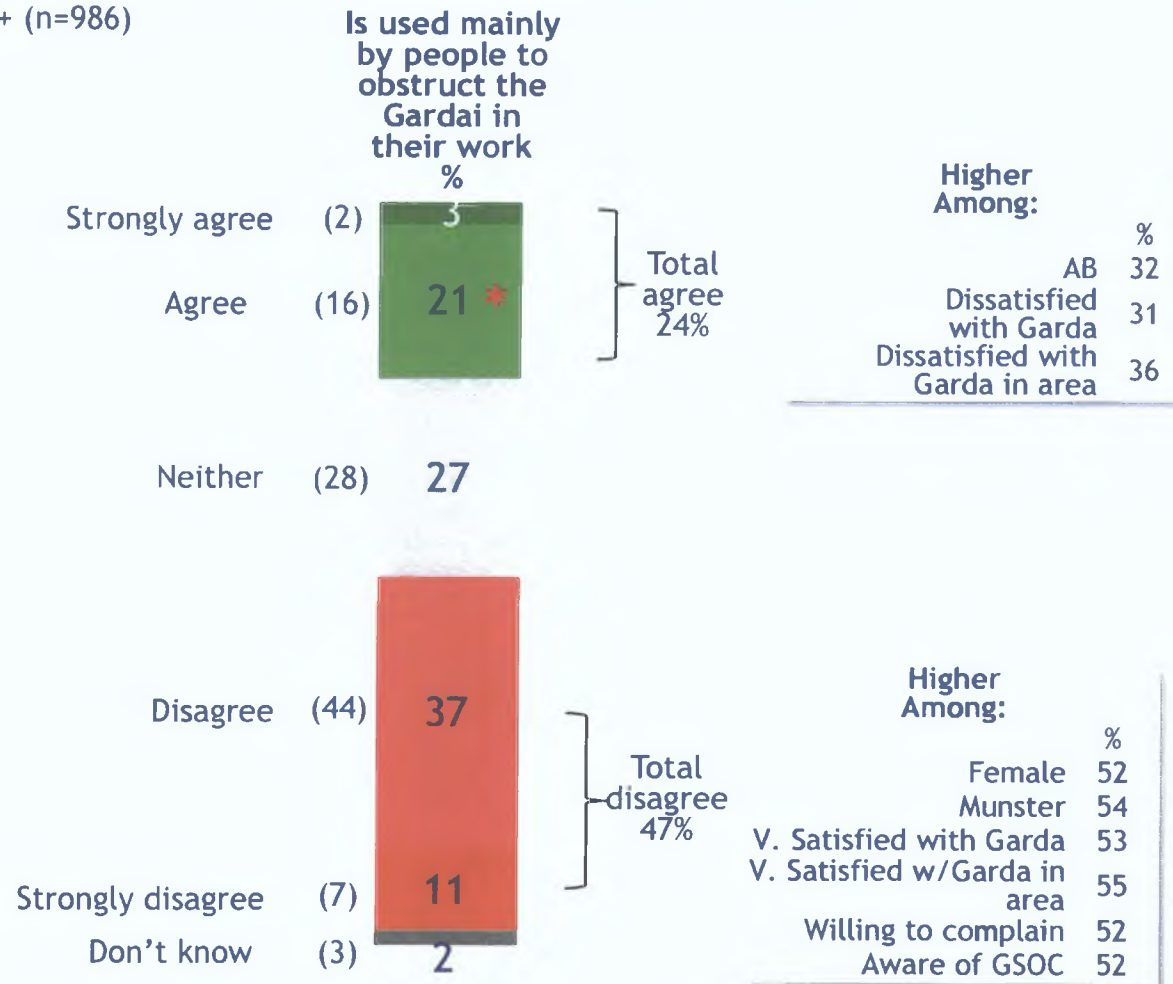
( ) denote '10

\*Statistically significant difference

Q. To what extent do you agree or disagree that GSOC...?

# One in four feel GSOC is used in unproductive way, driven by AB's and those dissatisfied with Garda; those aware of GSOC and those generally satisfied more likely to take a positive view.

Base: All adults 15+ (n=986)



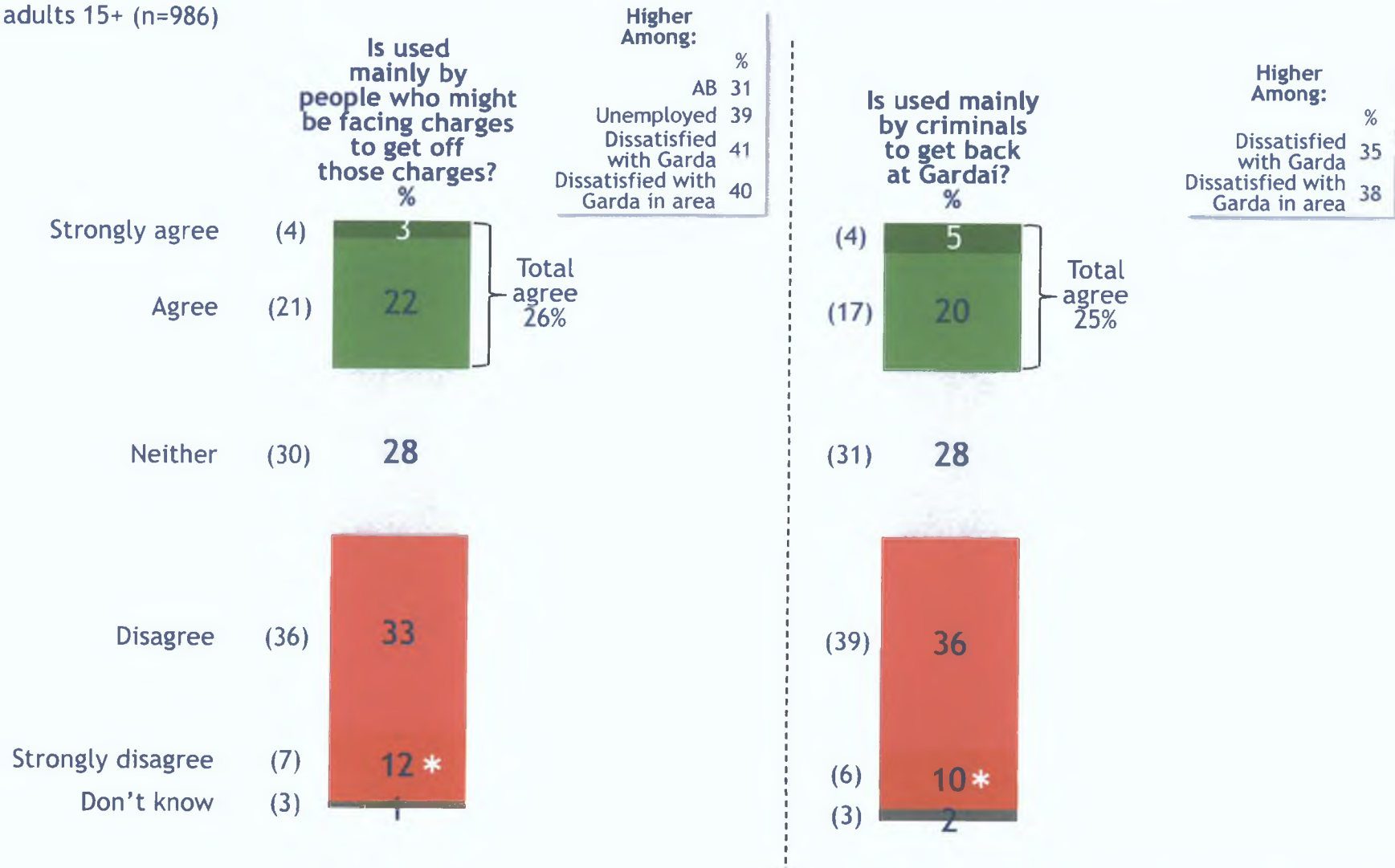
\*Statistically significant difference

Q. To what extent do you agree or disagree that GSOC...?

# One in four have negative perceptions of motivations of those using the GSOC - driven by those dissatisfied with the Gardai.

Page 283

Base: All adults 15+ (n=986)



\*Statistically significant difference

Q. To what extent do you agree or disagree that GSOC...?

Page 284

# GSOC is rated as being more effective than efficient according to the assigned definitions; Significant proportion hold neutral, rather than negative views, likely due to lack of awareness.

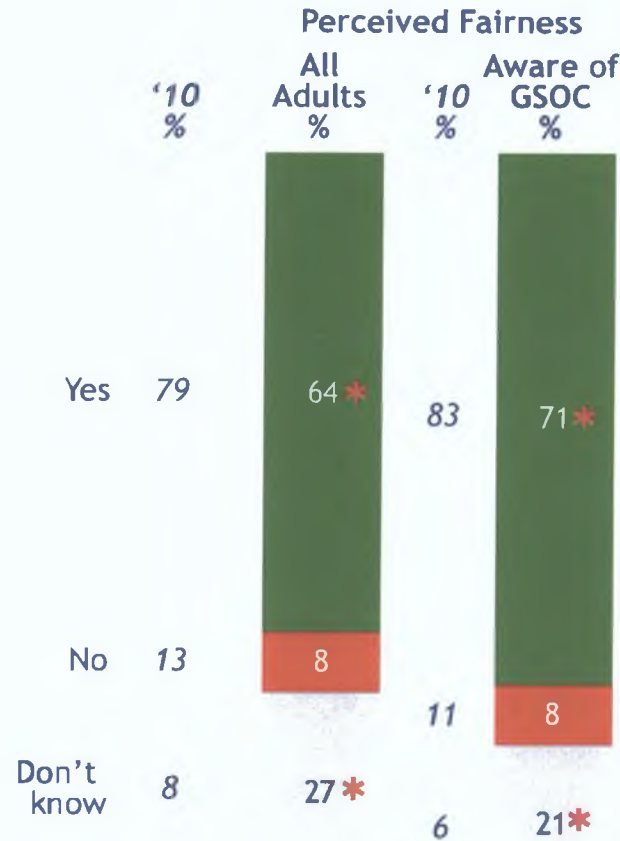
Base: All adults 15+ (n=2,958)



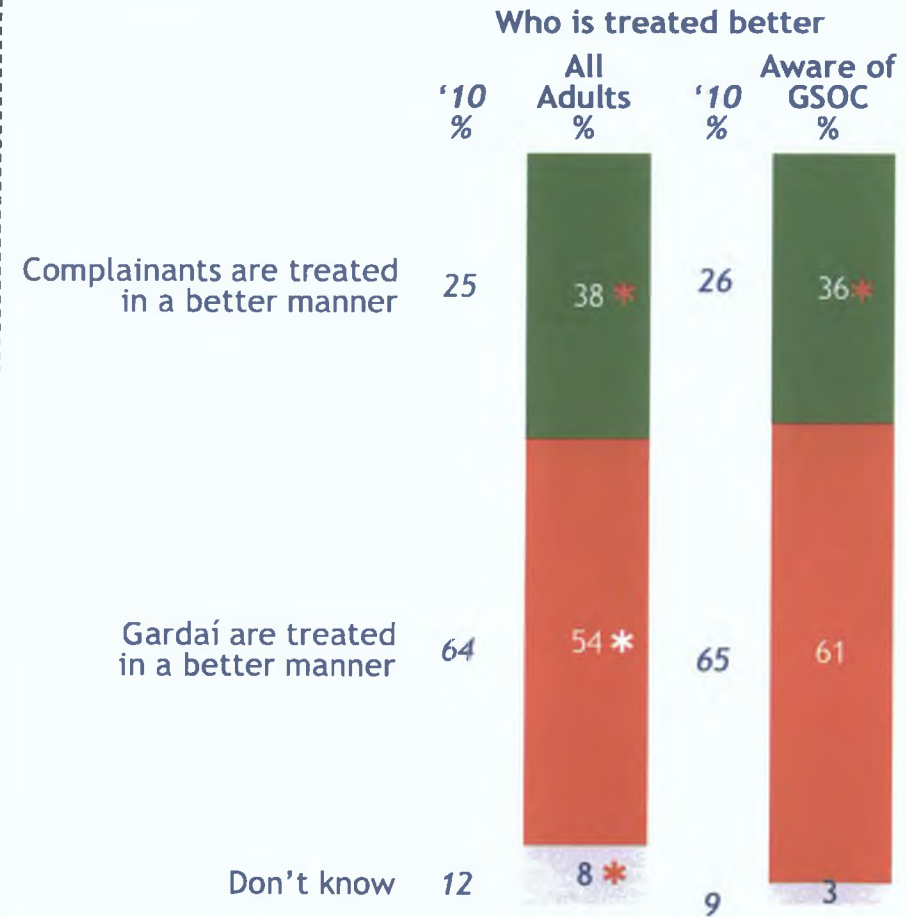
# Perceived fairness, though still strong, has declined since '10. Those aware of GSOC more likely to believe in fair treatment. Some bias towards Gardaí among the sceptics.

Page 285

Base: All adults 15+ (n=986)



Base: All who think Garda Ombudsman doesn't treat complainants and Gardaí fairly (All adults=81) (Aware of GSOC=59)



*Italics denote '10*

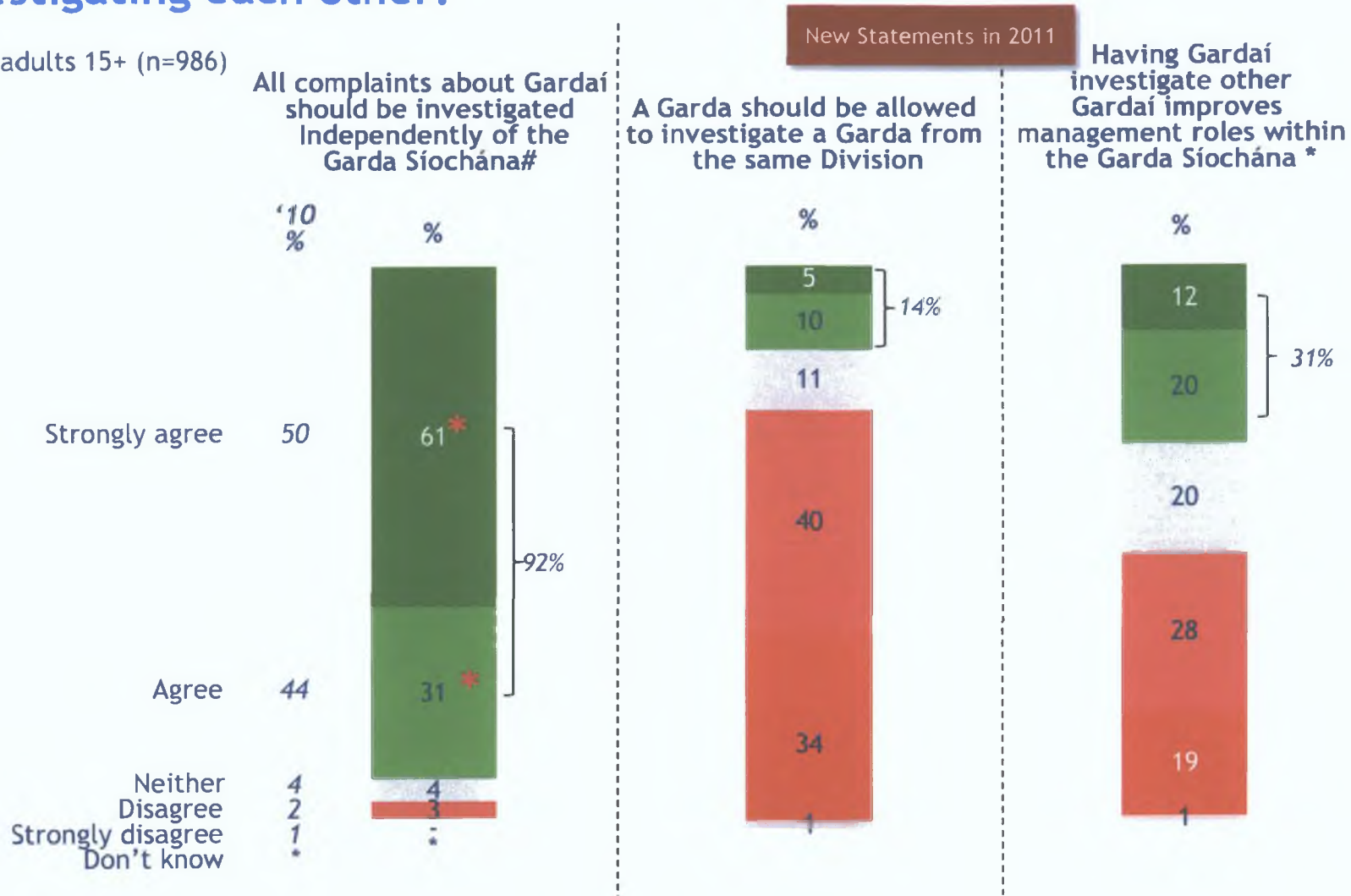
**\*Statistically significant difference**

- Q. Do you think the Garda Ombudsman treats complainants and Gardaí fairly?
- Q. Which do you think are treated in a better manner - complainants or the Gardaí?

# The majority support the continued independent investigation of complaints about the Gardaí; Strong resistance towards Gardaí investigating each other.

Page 286

Base: All adults 15+ (n=986)



New Statements in 2011

#Slight statement wording change

\*Statistically significant difference

Current legislation allows GSOC to have certain less serious complaint investigated by the Garda Síochána  
 Q. With that in mind, please select one of the following response to each of the statements.



## Summary and Conclusions

GSOC  
Garda  
**Ombudsman**  
INQUIRY INDEPENDENCE IMPARTIALITY



## Conclusions - I

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- Almost 8 in 10 adults are satisfied with the Garda Síochána generally/in own area with just one in ten reporting some level of dissatisfaction. Overall this is an excellent evaluation. As a general trend, older people and those in rural locations are more satisfied, but AB's, <25's and those living in Dublin are less satisfied. Non-Irish Nationals do not differ from the national population in terms of satisfaction levels.
- Of concern is the fact that those who had a recent interaction with the Garda Síochána are less satisfied than the average both in general terms and specifically in their own area. Is satisfaction driven by a perception which has not necessarily been challenged by experience?
- Dealing with complaints about Garda is an area where the public appears to have less confidence in the Garda Síochána's abilities compared to other perceived 'core' activities such as investigating crime. Whereas Non-Irish Nationals show similar levels of confidence across all activities, worth highlighting a significant one in three 'don't know' response among this segment on 'deals with complaints about Garda' - this aspect appears not to be on their radar.
- Lower levels of recent interaction with the Garda Síochána are evident in 2011, and this, coupled with a higher refusal rate for the reason for the interaction, may suggest increased sensitivity about disclosure. Non-Irish Nationals show an increased likelihood of checks for car tax/insurance, passport/identity checks and speeding than the national population. Does this indicate that Non-Irish Nationals are treated differently by the Garda Síochána?
- Three quarters of those who had a recent interaction with the Gardai were satisfied with this experience. Again, older people and those in rural locations are more likely to be satisfied. Encouragingly, those who state they would, in principle, complain if they had a negative experience, are more likely than the average to say they are satisfied adding credibility to their response.
- Of significance that 19% of those who had not previously heard of the GSOC were dissatisfied with their recent interaction with the Garda Síochána, highlighting that those who most needed recourse to the GSOC were not aware of the service available to them. Building awareness is key here.

## Conclusions - II

Page 289

- Just one in four of those dissatisfied with their interaction actually went on to register a complaint, and this is in stark contrast with the two thirds of Irish adults who claim they would make a complaint if unhappy with a theoretical interaction. This points to a degree of over-claim, but may also be linked to a lack of understanding of the appropriate resources/support and a negative perception of the ultimate outcome.
- Positive for the GSOC that those aware of the organisation feel more inclined to lodge a complaint, suggesting an understanding and/or confidence in the Agency. Less than ideal, however, to note that those dissatisfied with the Garda in their area are less likely than the average to profess any willingness to complain.
- One third of adults would direct a complaint to the GSOC, on a par with mentions of the Garda Siochana itself, both of which are valid routes for complaints depending on the context. Younger people and Non-Irish Nationals are most likely to say they would not know where to complain; these segments may have specific needs in terms of communications.
- The fact that six in ten adults believe that misbehaviour exists among the Garda Siochana, also the fact that there is near universal agreement that complaints against the Garda Siochana should be investigated independently, rather than by their peers legitimises the work of the GSOC.
- When prompted, three quarters of Irish adults say they have heard of the GSOC - good for a relatively new Agency. Again younger people and Non-Nationals (just one in three) show lowest levels of awareness confirming a trend. The Agency's role in investigating complaints about Gardai remains most 'top of mind', and the majority correctly acknowledge its independent status.
- While awareness of/interaction with the GSOC will inevitably colour perceptions of the Agency, and the national sample will have had varying levels of these, there is strong agreement that the GSOC is impartial, that it encourages accountability and that it improves interaction with the general public - all positive endorsements. Those satisfied with the Garda Siochana and those aware of the GSOC appear to hold the most positive image of the Agency

## Conclusions - III

- Opinion tends to be slightly more polarised on value for money, staff, and context of complaints made - all of which require more knowledge to make an informed decision, which is understandable.

\* \* \* \* \*

- Overall, this research shows that the GSOC has built a solid profile among the general public in terms of awareness of its role in society and its reputation as an impartial body in a relatively short period of time. Ensuring that awareness of the organisation reaches all members of society - especially younger people and Non-Irish Nationals - presents some challenges.
- On the whole, it appears that there is a clear indication from the public that misbehaviour is a reality, and that impartial investigation is the most appropriate course of action. Communication continues to be essential to ensure the public knows how to register a complaint if needed, and to build trust in a positive outcome.



Thank You!  
For further information contact:

Velma Burns, Associate Director  
Ph: 2074500  
[velma.Burns@millwardbrownlansdowne.ie](mailto:velma.Burns@millwardbrownlansdowne.ie)



Garda  
**Ombudsman**  
INQUIRY INDEPENDENCE IMPARTIALITY



# Public Attitude Survey 2012



**Garda Ombudsman**  
INQUIRY INDEPENDENCE IMPARTIALITY

## Report Content

- Background & Objectives
- Research Methodology
- Summary

### The Findings:

- Satisfaction with the Garda Síochána
- Confidence in the Garda Síochána
- Interaction with the Garda Síochána
- Awareness of Garda powers investigating a crime
- Awareness of the Garda Ombudsman and its functions

- Contact Points

Suzanne Behan: [suzanne.behan@millwardbrownlansdowne.ie](mailto:suzanne.behan@millwardbrownlansdowne.ie)

Guy Perrem: [guy.perrem@millwardbrownlansdowne.ie](mailto:guy.perrem@millwardbrownlansdowne.ie)

## Background & Objectives

- The Garda Síochána Ombudsman Commission (GSOC) is an independent statutory body, established under the Garda Síochána Act 2005 which involved significant legislative changes for policing in Ireland.
- Under this Act, the Ombudsman is required and empowered to:
  - Independently investigate complaints against members of the Garda Síochána ,
  - Investigate any matters where it appears a Garda may have committed an offence,
  - Investigate any practices, policies or procedures of the Garda Síochána with a view to reducing the incidence of related complaints.
- GSOC is required to examine complaints in an efficient, effective and fair manner and promote public confidence in the complaints system.
- One of the ways in which the performance of the GSOC is measured is by surveying public attitudes. Because it ultimately serves the general public, the public's views are important in determining if GSOC is delivering on its requirements.
- Previous surveys of the general public were carried out in 2007, 2008, 2010 and 2011. Comparisons with 2010 and 2011 data have been shown, where applicable.

- **Approach:** Questions were included on one of the Millward Brown Lansdowne face-to-face Omnibus survey, with interviews conducted in respondents' own home.
- **Sample Description:** Nationally representative sample of all adults aged 15+ in the Republic of Ireland. Quotas are set on age, gender, social class, region and area.
- **Sample size:** n = 1,021
- **Sampling Area:** 64 sampling points nationwide, representative of the actual size and spread of urban and rural localities nationwide.
- **Fieldwork dates:** 17<sup>th</sup> - 28<sup>th</sup> February 2012





## Summary



**Garda Ombudsman**  
INQUIRY INDEPENDENCE IMPARTIALITY

- The level of awareness of the GSOC has increased in 2012, albeit marginally. Almost 8 in 10 adults are aware of the Commission and at such a high level, it will be slow to push the penetration even higher.
- Whilst awareness is high, recall of specific incidents involving the Commission is low; just 1 in 5 of those aware of the Commission can specify an incident. On prompting, the majority are aware of a key remit of the GSOC, that of investigating complaints about Garda. This could, however, be a function of the term “Ombudsman” rather than specific knowledge of the Commission’s role. The attitudes to the GSOC are mainly positive which, given the dearth of recall specific incidents which would help to form attitudes, maybe due to a halo effect from Garda Síochána, for which satisfaction is high.
- The presence of the body is deemed necessary, with 8 in 10 adults believing that it makes the Garda more accountable for their actions. It is paramount that the Commission maintains and promotes its independence as public opinion is completely behind the view that complaints about Garda be investigated independently of the Garda Síochána. Further evidence of the need for independence is revealed by a relative lack of confidence in the force’s ability to deal with complaints about itself.
- Satisfaction with the Garda Síochána remains high. Among those who have had a recent interaction with a Garda, the satisfaction is, however, significantly lower (70% versus the total average of 79%). The interaction could have course been due to activity where a law was broken, and so negative feedback is to be expected.
- There is a significant increase in the proportion of the adult public who have interacted with a Garda in the past 12 months. The dominant interaction is routine Garda traffic operations (check points). While interactions have become more widespread, satisfaction with the interactions has more or less been maintained, down just three percentage points versus 2011 (and so within the margin of error).

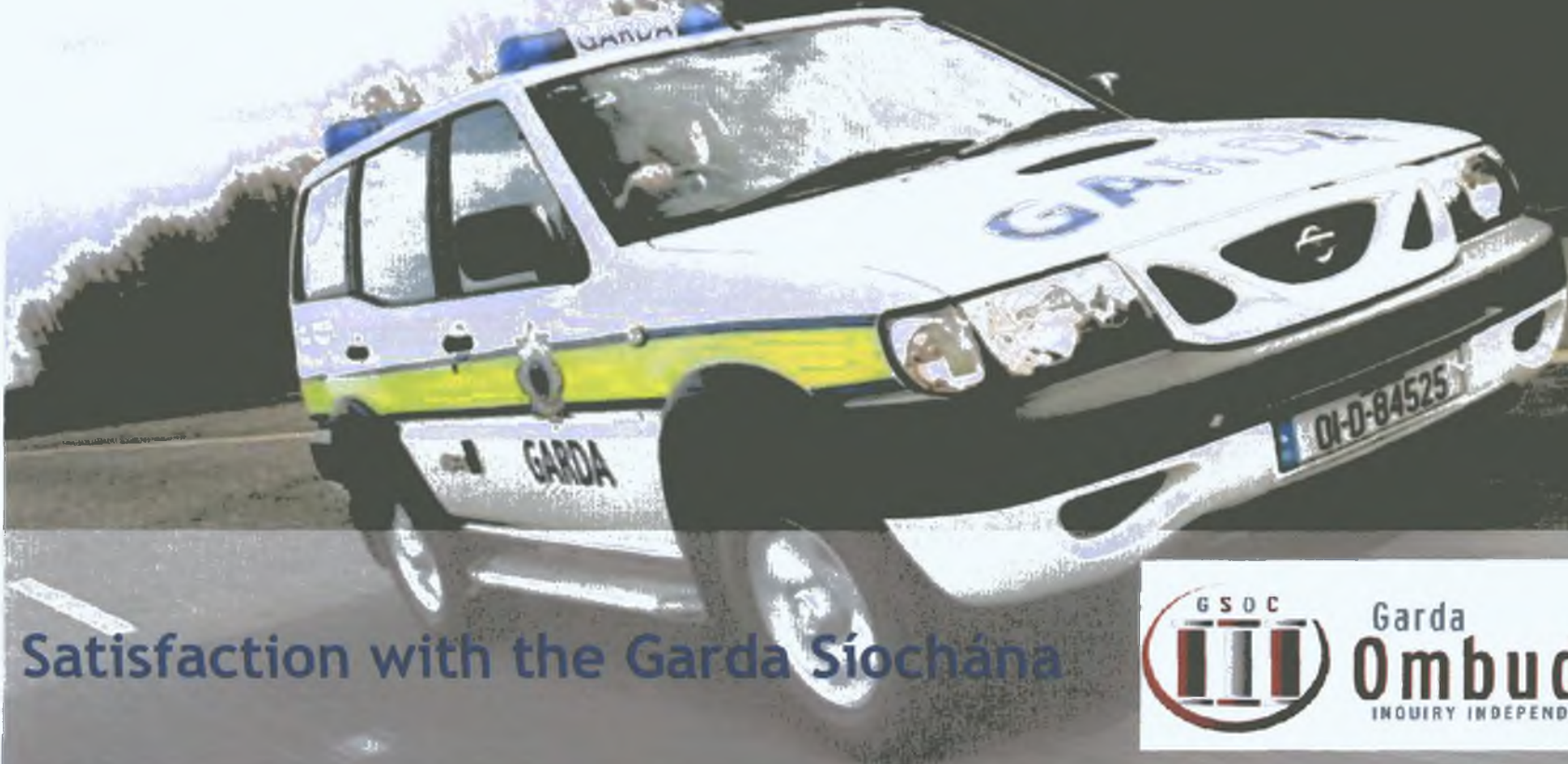
- Confidence in the key service aspects remains high, with over 7 in 10 of the public having faith in the force's ability to perform on courtesy, effective response to emergencies, effective response to day-to-day activities and crime investigation. This last service aspects does, however, receive significantly less endorsement from the public versus 2011. Performance on the aspect is of course open to influence of media reporting on specific crimes, rather than factual knowledge of crime resolution. The negative result of such a decline in this opinion is that the public may be reluctant to report crime if they are not confident in the investigation of the crime.
- Among those who have not made a complaint to the Gardaí (c.98% of the population), a majority two thirds (66%) claim to be willing to make a complaint on foot of a bad experience with a Garda. Whilst awareness of the GSOC is high, and there is widespread opinion that it is needed, more people who are willing to make a complaint will take it to the Garda Síochána (38%) than will take it to the Ombudsman (30%). For those unwilling to make a complaint following a bad experience with a Garda, the main deterrent is apathy - not wanting to "make matters worse" and it being "too much trouble". A lack of faith how a complaint might be dealt with also deters reporting. Clearly, there is an opportunity to develop the public's understanding of the GSOC in the role it can play in dealing with complaints about the Garda Síochána.
- There remains a clear indication from the public that misbehaviour exists with the Garda Síochána. Among the 6 in 10 who believe there to be misbehaviour, opinion is divided on where it is most prevalent - in the force as a whole (41%), in certain section of the force (33%) or in relation to certain sections of society (29%). Where misbehaviour is felt to prevail in certain sections of society, it is the obvious groups that emerge as victims of the misbehaviour - deprived areas and young people. When asked which areas of the Gardai misbehaviour exists in however, over a third were not willing or were unable to say where they believe the misbehaviour exists.



## Findings of the Research



Garda  
**Ombudsman**  
INQUIRY INDEPENDENCE IMPARTIALITY



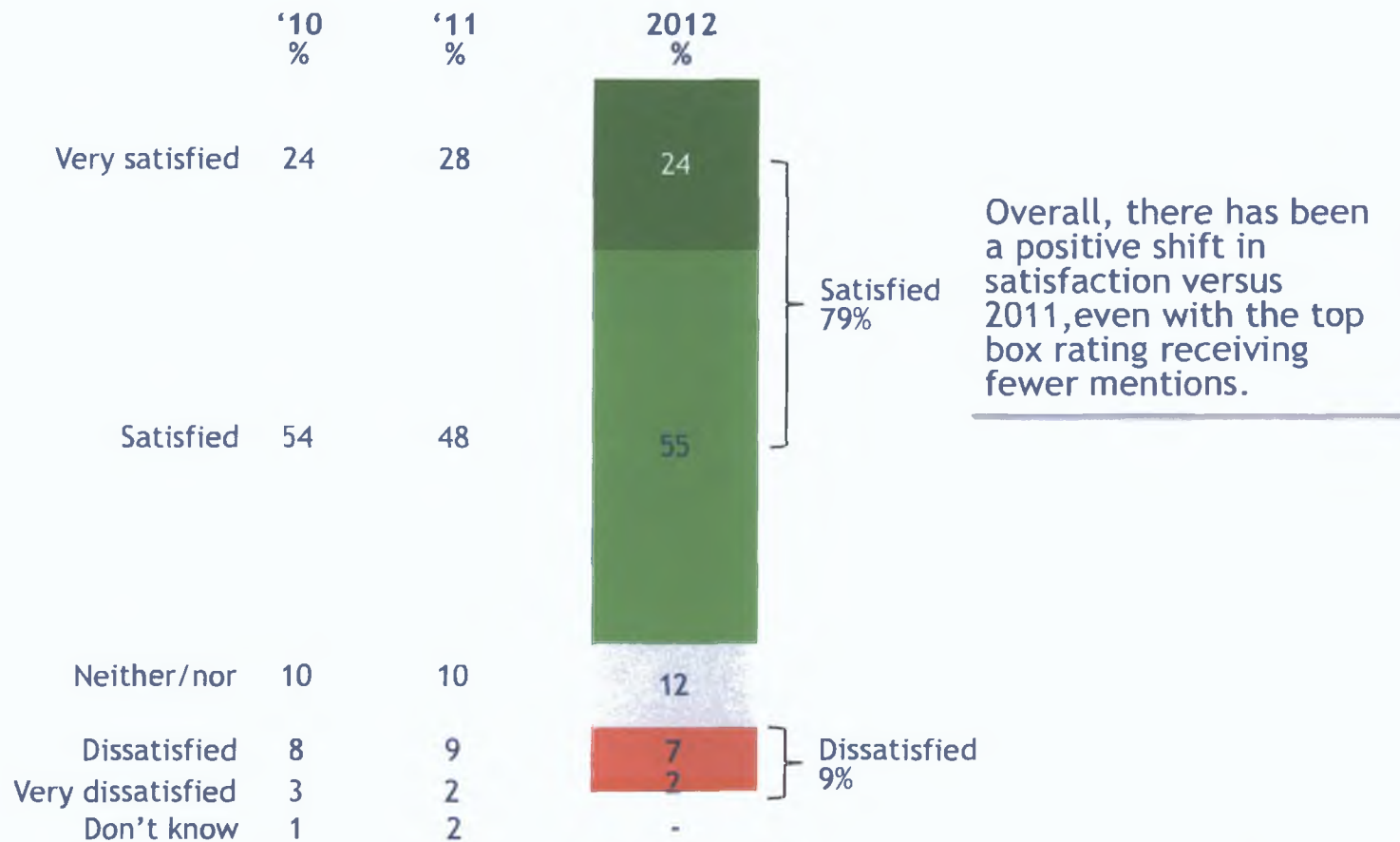
## Satisfaction with the Garda Síochána



Garda  
**Ombudsman**  
INQUIRY INDEPENDENCE IMPARTIALITY

# There are very high levels of satisfaction with the Garda Síochána “in your area” - 8 in 10 describe themselves as being satisfied.

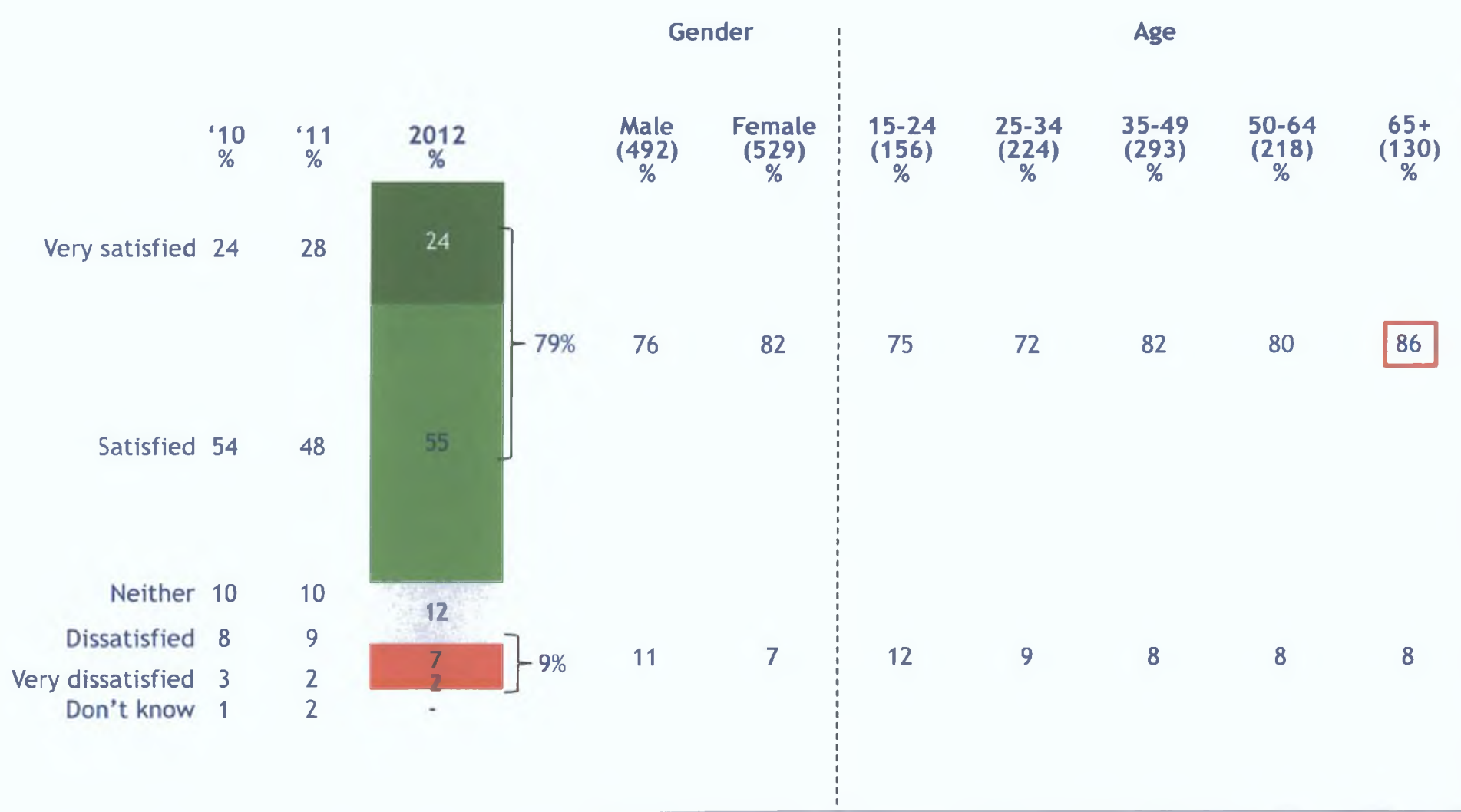
Base: All Adults 15+ (n=1021)



Q. How satisfied are you with the Garda Síochána in your area?

# Age is a discriminator of satisfaction, with older members of the public expressing higher satisfaction.

Base: All Adults 15+ (n=1021)

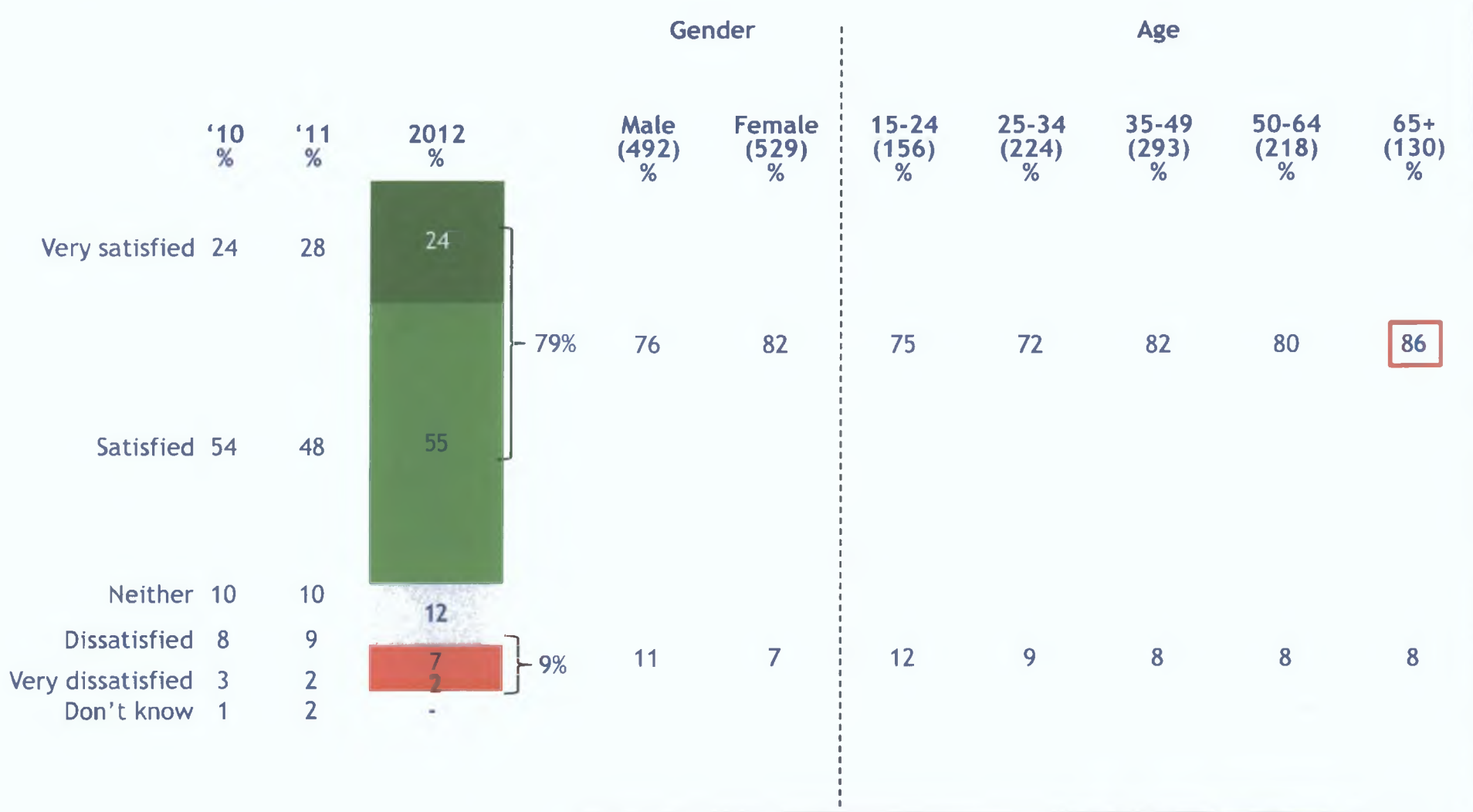


Q. How satisfied are you with the Garda Síochána in your area?

# Age is a discriminator of satisfaction, with older members of the public expressing higher satisfaction.

Page 302

Base: All Adults 15+ (n=1021)



Q. How satisfied are you with the Garda Síochána in your area?



Page 303  
**Experience of the Garda Síochána is also a discriminator, where those who had had a recent interaction are significantly less satisfied.**

Base: All Adults 15+ (n=1021)



Q. How satisfied are you with the Garda Síochána in your area?



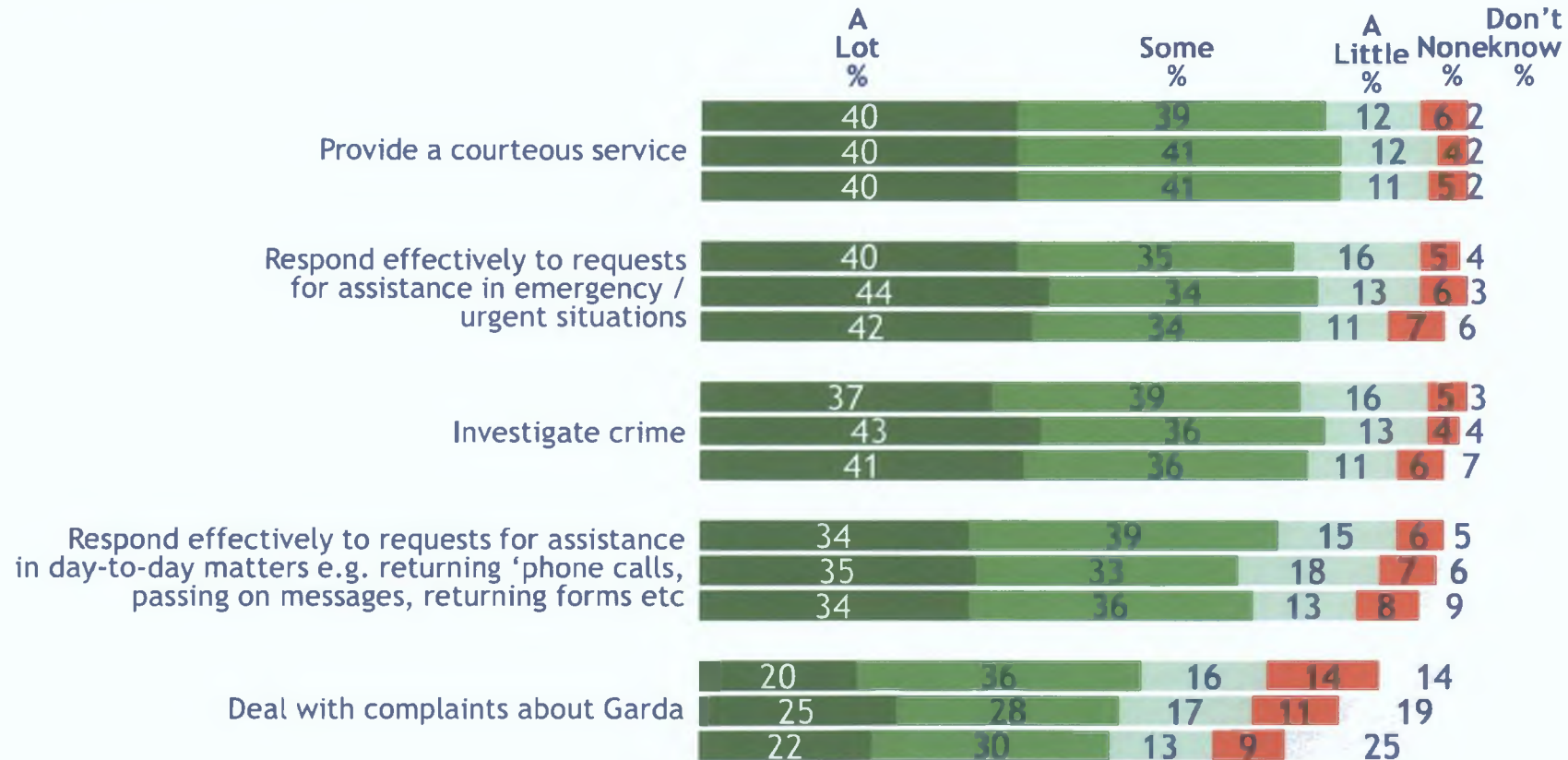
## Confidence in the Garda Síochána



The majority has confidence in Garda Siochana's abilities in most aspects of service provision. Top box satisfaction with "investigating crime" has reduced significantly. Relative to other service aspects, there is an issue with the Garda dealing with complaints about themselves.

Base: All Adults 15+ (n=1021)

2012	
2011	
2010	



Q. How much confidence do you have in the Garda Siochana's ability to...



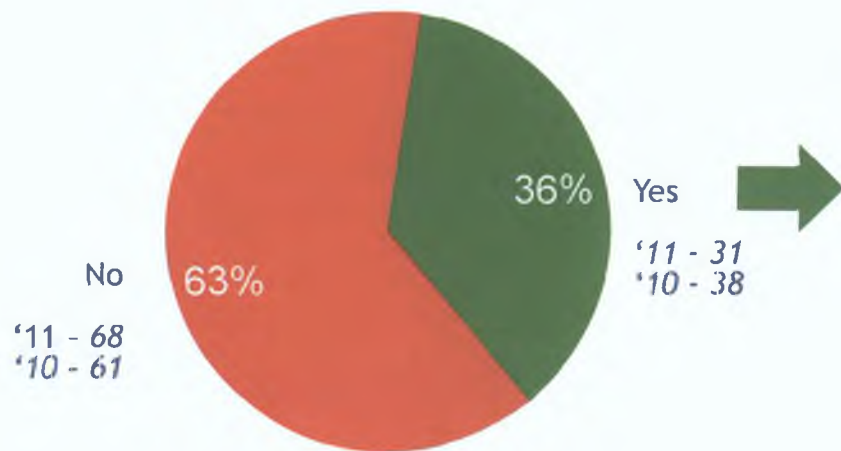
## Interaction with the Garda Síochána



Garda  
**Ombudsman**  
INQUIRY INDEPENDENCE IMPARTIALITY

Over one third of adults have had an interaction with the Garda in the last 12 months, a significant increase on 2011.

Base: All Adults 15+ (n=1021)



**Had interaction by Demographics %**

Demographic	%
<b>Gender</b>	
Male	36
Female	35
<b>Age</b>	
15-24	34
25-34	38
35-49	42
50-64	31
65+	30
<b>Social Class</b>	
AB	45
C1	38
C2	33
DE	34
F	23
<b>Region</b>	
Dublin	31
Rest of Leinster	36
Munster	38
Conn/Ulster	39
<b>Area</b>	
Urban	37
Rural	33

Q. Have you had any interaction with a Garda in the last 12 months?

## The main interaction with Gardaí relates to checking car tax/insurance.

Base: All adults who had an interaction with Garda (n=366)



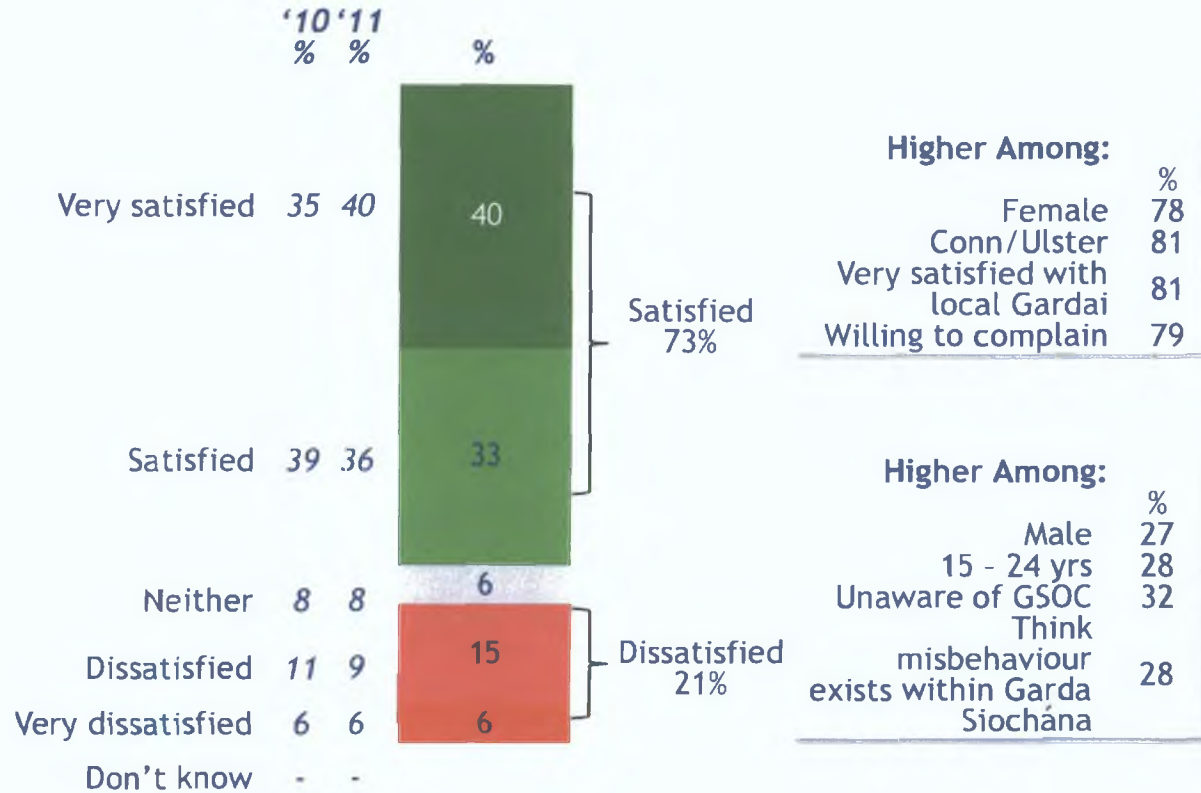
Other includes low levels of answers including: home alarm went off, mobile phone was stolen, met gardaí socially, information requests, work related, neighbourhood watch, paying a fine, presenting a driving licence

Not comparable as now single code answer, previously multicode answer

Q. What is the most recent form of interaction you have had with the Gardaí?

Page 309  
**Levels of satisfaction with the most recent interaction with Garda remain quite stable. There is, however, a reduced incidence of making a complaint among those dissatisfied with the interaction.**

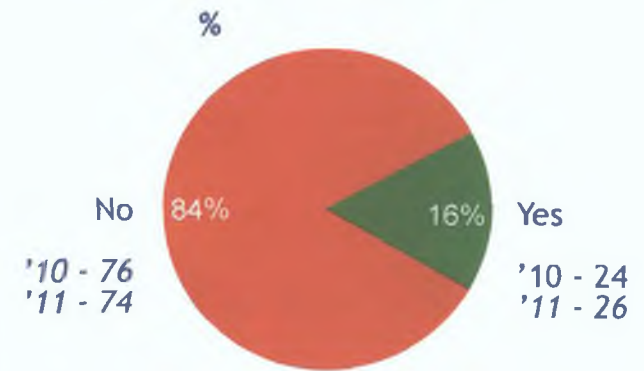
Base: All adults who had an interaction with Garda (n=366)



Q. Thinking about your most recent interaction with the Garda would you say you came away...?

**Incidence of complaints**

Base: All dissatisfied after interaction with Garda (n=78)



Q. Did you subsequently make a complaint?

Had they reason to do so, 2 in 3 claim they would make a complaint if they had a bad experience with the Gardaí, contradicting actual behaviour. Dissatisfied with the Gardaí and lack of awareness of GSOC reduces likelihood of making a complaint.

Base: All adults who have not made a complaint to Garda(n=1,007)

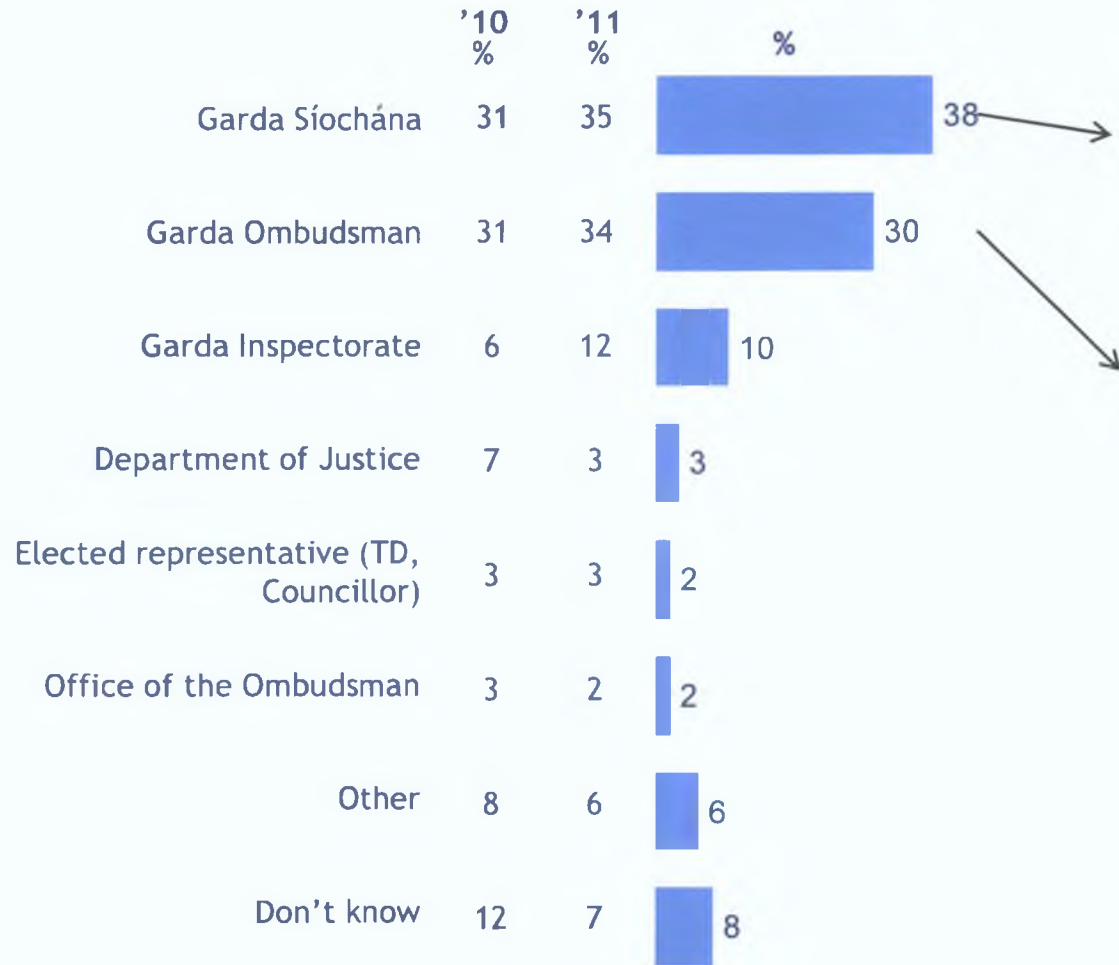


Q. If you had a bad experience with a Garda would you be willing to make a complaint?



# The Garda Síochána and Garda Ombudsman remain most cited channels for making complaints.

Base: All willing to make a complaint(n=664)



**Higher Among:**

	%
<35	41
DE	44
Rest of Leinster	43
Satisfied with Gardai in your area	43

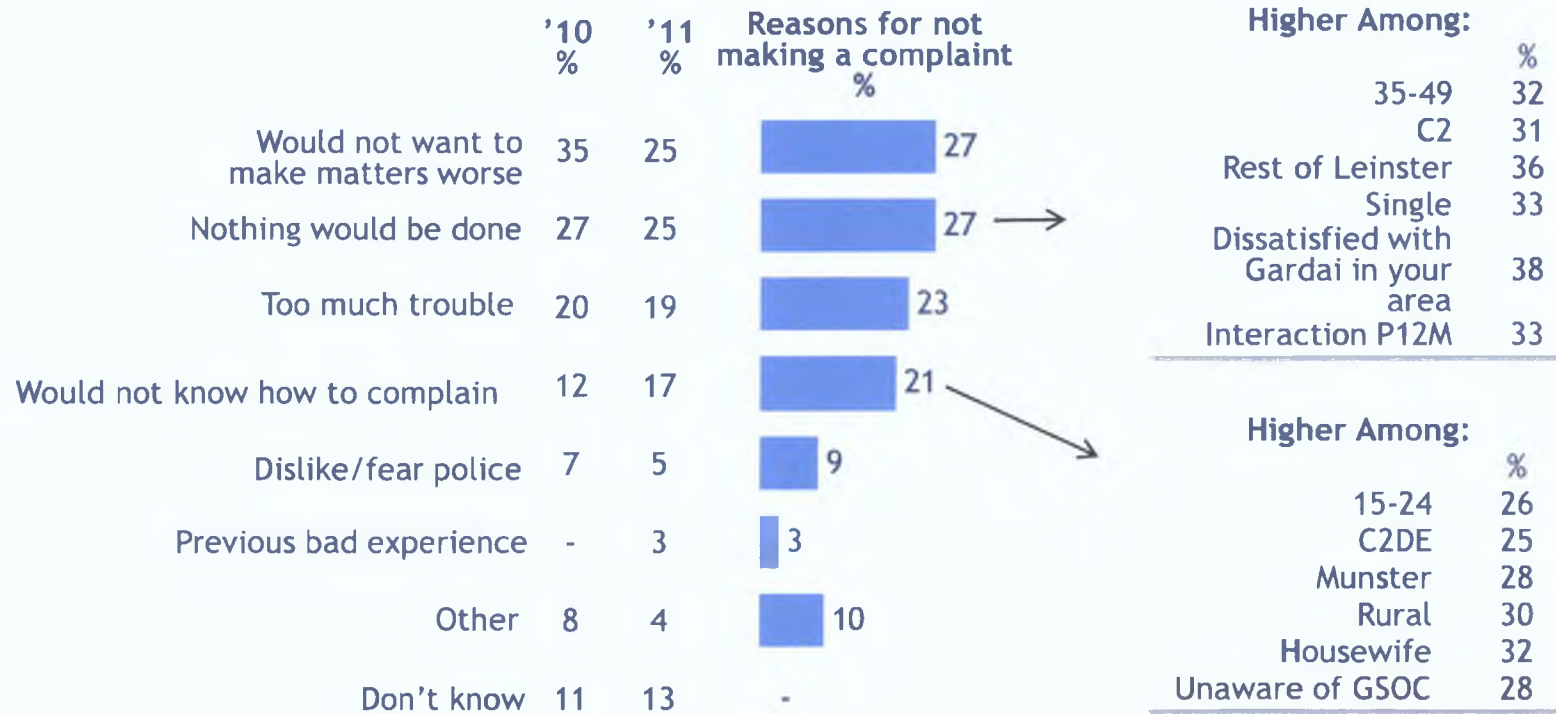
**Higher Among:**

	%
Male	34
ABC1	38
Dublin	36
Interaction P12M	35

Q. If so, where would you make a complaint?

The main deterrents to making a complaint stem from a lack of faith in the system - fear of 'making things worse' and belief in inaction ('nothing would be done').


Base: All un-willing to make a complaint(n=343)



Q. If not, why not? Any other reason?



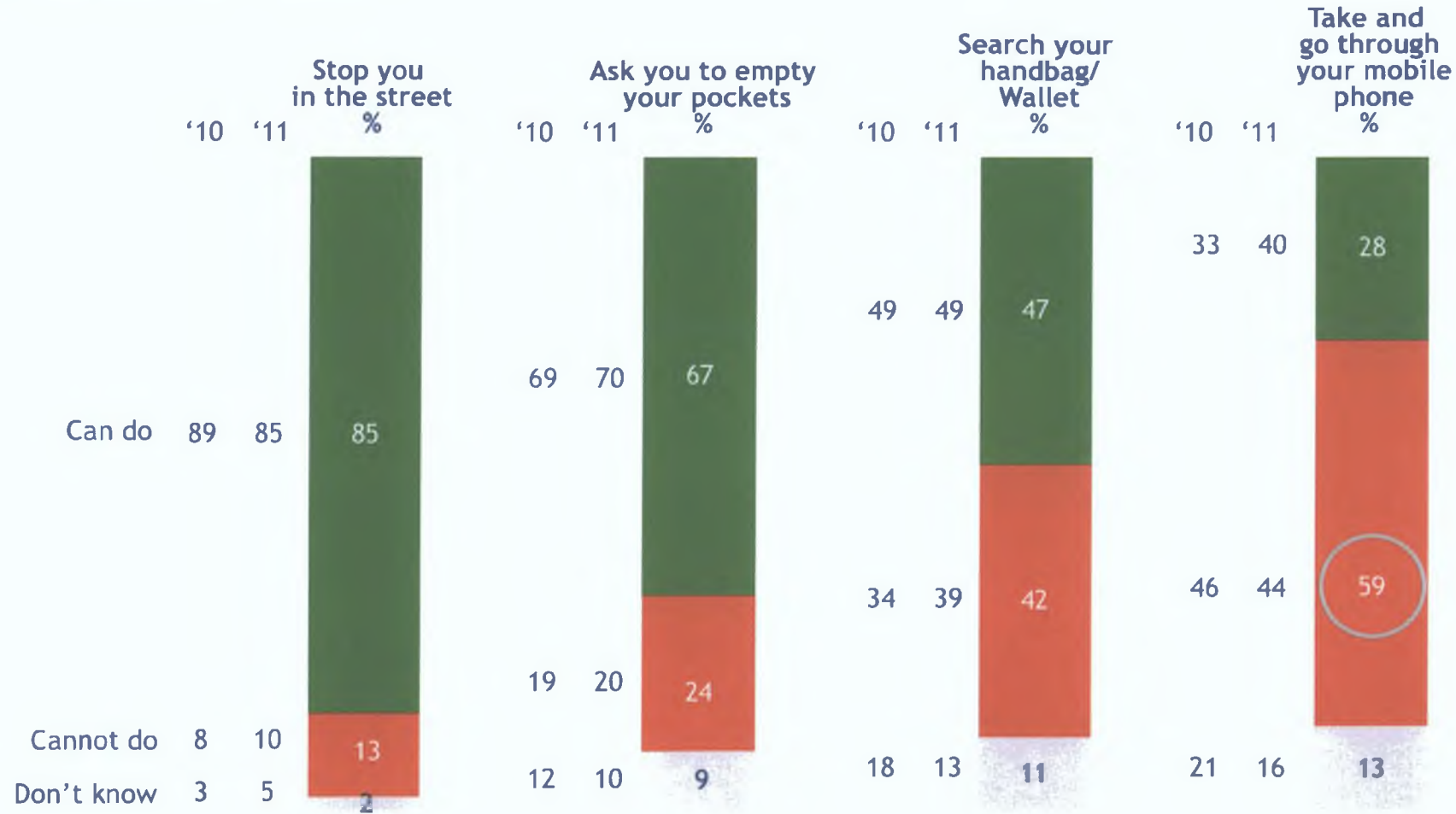
Awareness of Garda powers  
investigating a crime



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# There is improved level of certainty over what the Gardaí can and cannot do when investigating a crime.

Base: All Adults 15+ (n=1,021)

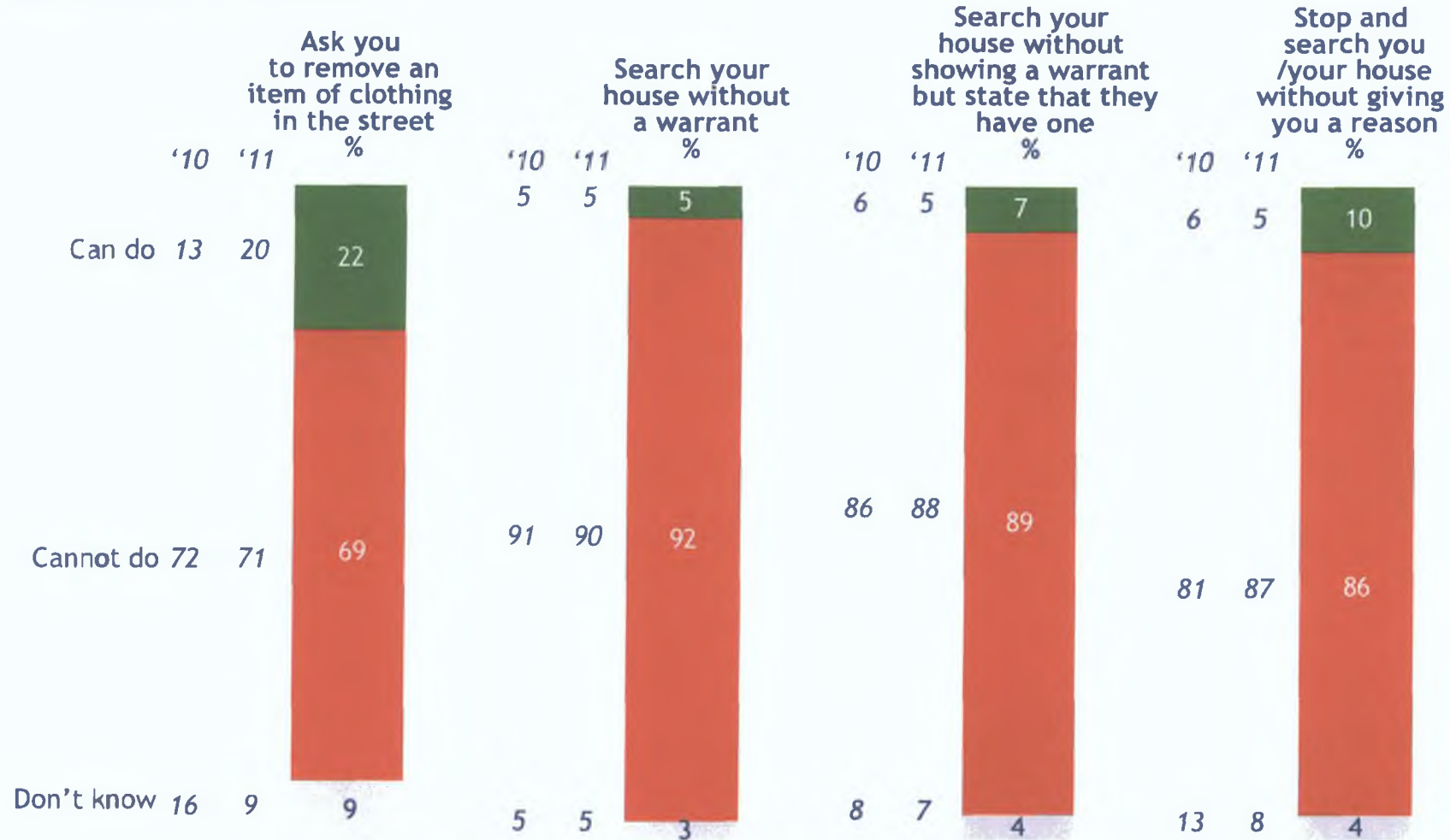


Q. Please indicate what you think a Garda can and cannot do when investigating a possible crime.

# Increase in belief that Gardaí can ask you to remove an item of clothing on the street since 2010; low levels agree that Gardaí can search your house without a warrant or with no reason

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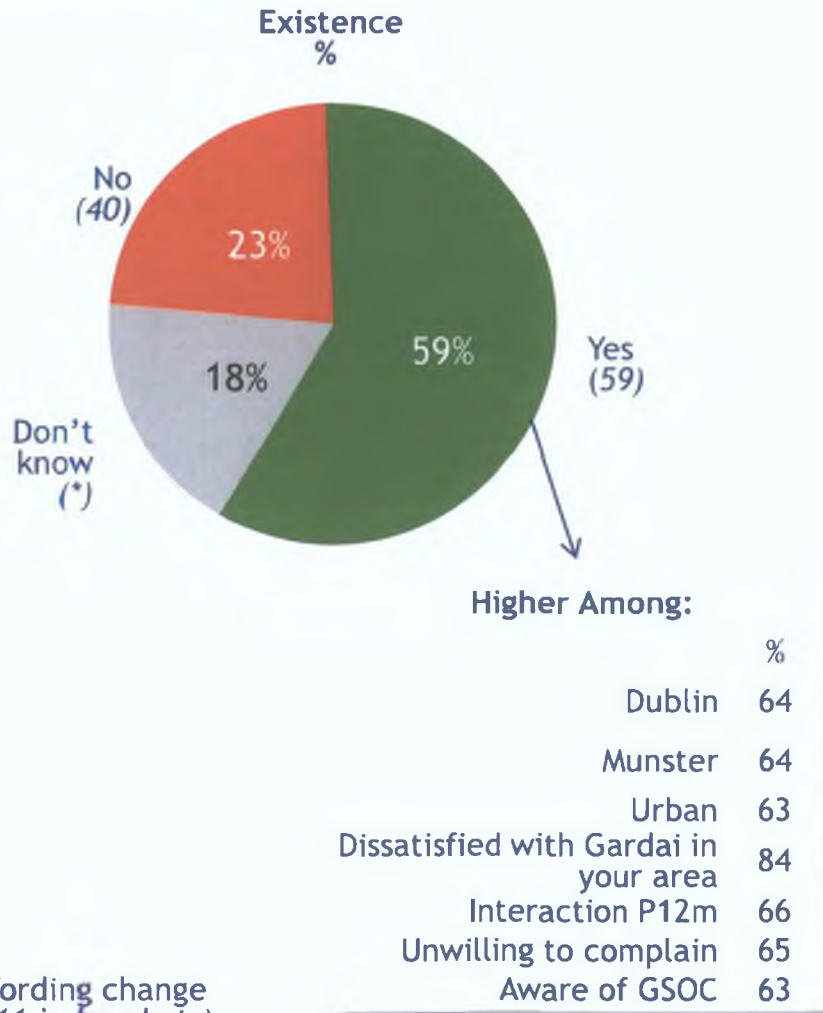
Base: All Adults 15+ (n=1,021)



Q. Please indicate what you think a Garda can and cannot do when investigating a possible crime.

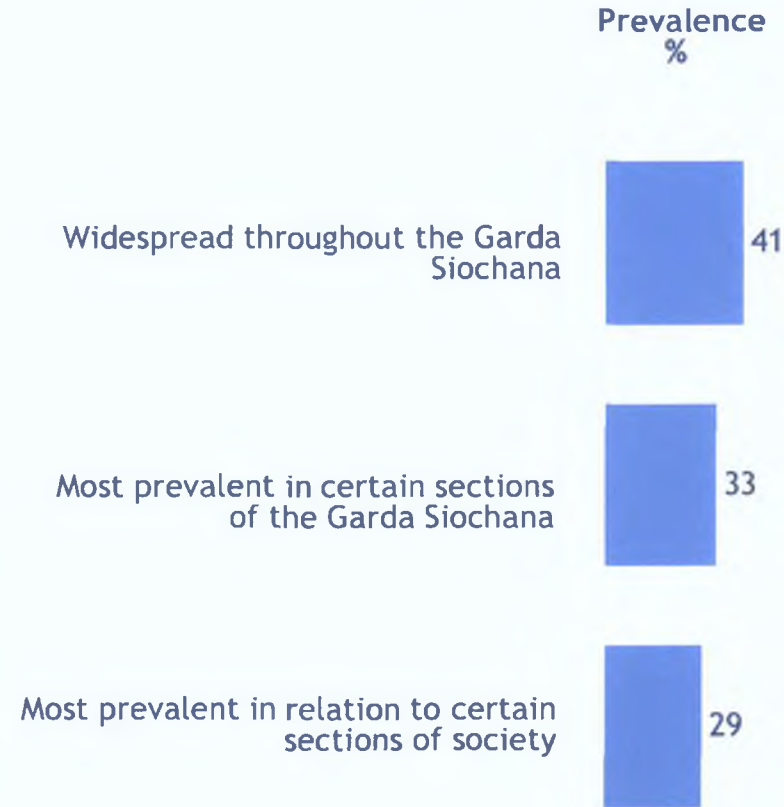
**6 in 10 believe misbehavior exists within the Gardaí, most notable among those dissatisfied with the Gardaí overall. Most believe that the misbehaviour runs throughout the organisation as opposed to certain sections of it.**

Base: All Adults 15+ (n=1,021)



# Wording change (2011 in brackets)

Base: All answered "yes" (n=612)



- Q. Do you think misbehaviour exists across the Garda Síochána? By misbehaviour I mean breaches the Garda code lack of courtesy in dealing with the public, or crimes such as assault against the public etc?
- Q. To what extent do you believe that this misbehaviour exists? #

## Misbehaviour in respect of society is believed to be most prevalent in deprived areas. Among those who say misbehaviour exists within certain sections of the Gardaí, many are unable to say where they think it prevails.

New in 2012

Base: All saying Garda misbehaviour exists in certain parts of society (n=177)



Base: All saying misbehaviour exists in certain section of Garda Síochána (n=207)



- Q. In which sections of society does this misbehaviour exist?
- Q. In which sections of the Garda Síochána does this misbehaviour exist?



## Awareness of the Garda Ombudsman and its functions

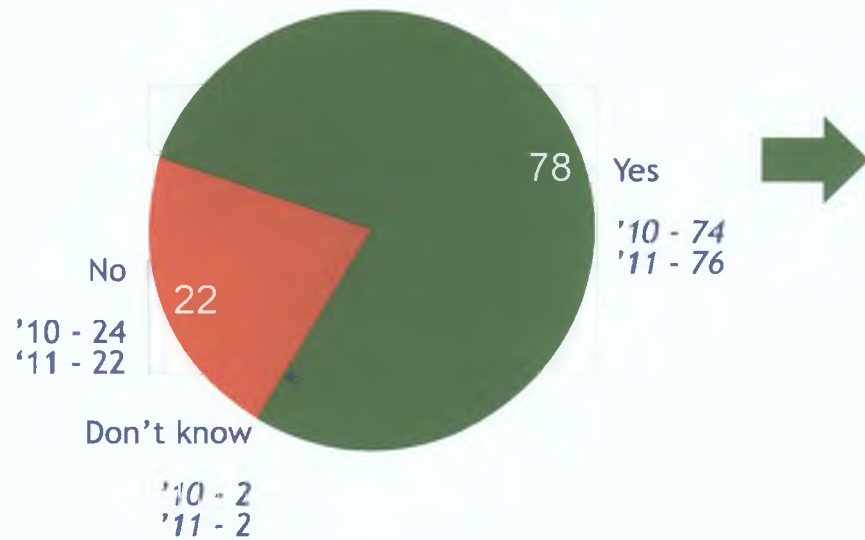


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# Nearly 8 in 10 adults are aware of the Garda Ombudsman - particularly high among ABs and people aged over 35

Base: All Adults 15+ (n=1,021)



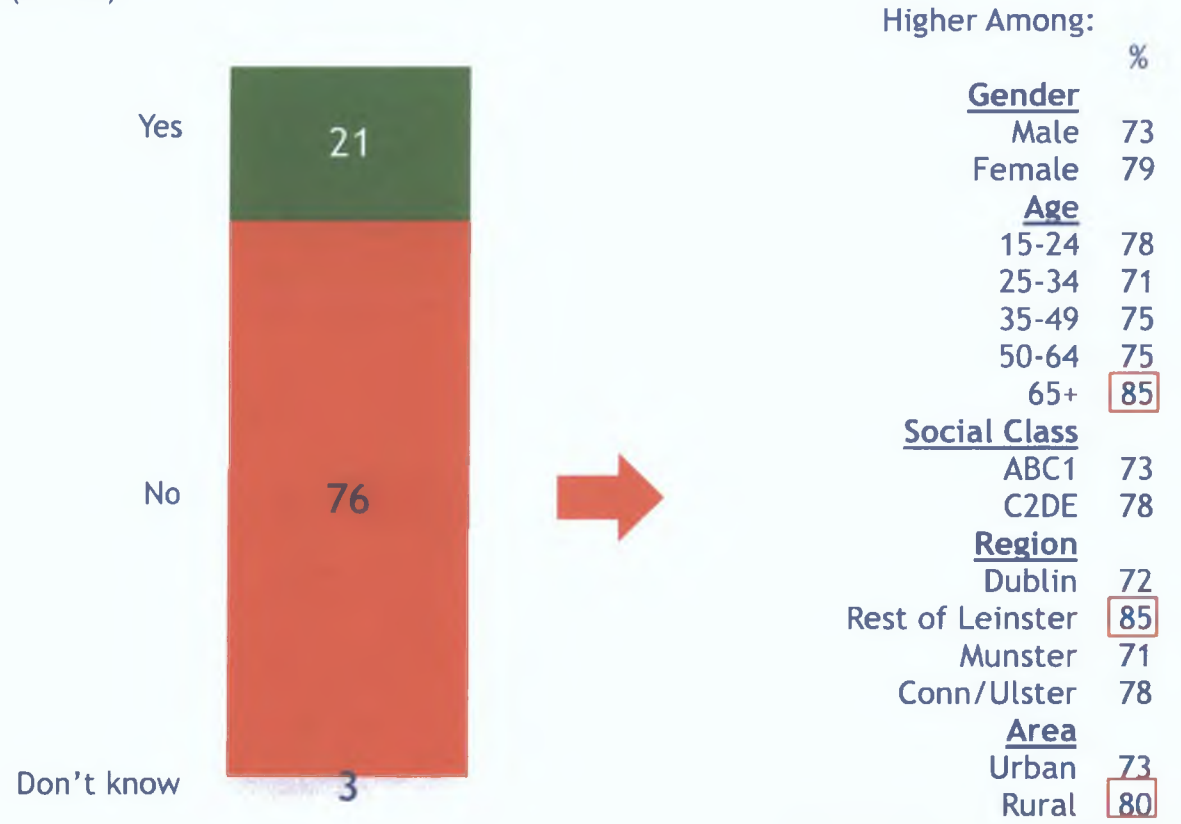
Demographics		%
<u>Gender</u>		
Male		80
Female		75
<u>Age</u>		
15-24		59
25-34		73
35-49		83
50-64		86
65+		80
<u>Social Class</u>		
AB		87
C1		83
C2		74
DE		72
F		73
<u>Region</u>		
Dublin		81
Rest of Leinster		76
Munster		75
Conn/Ulster		79
<u>Area</u>		
Urban		79
Rural		76

Q. Have you ever heard of the Garda Ombudsman?

Only 1 in 5 of those aware of GSOC can recall a specific incidence involving the Ombudsman. This is highest among those aged 65+, people living in the Rest of Leinster and those in rural areas.

New in 2012

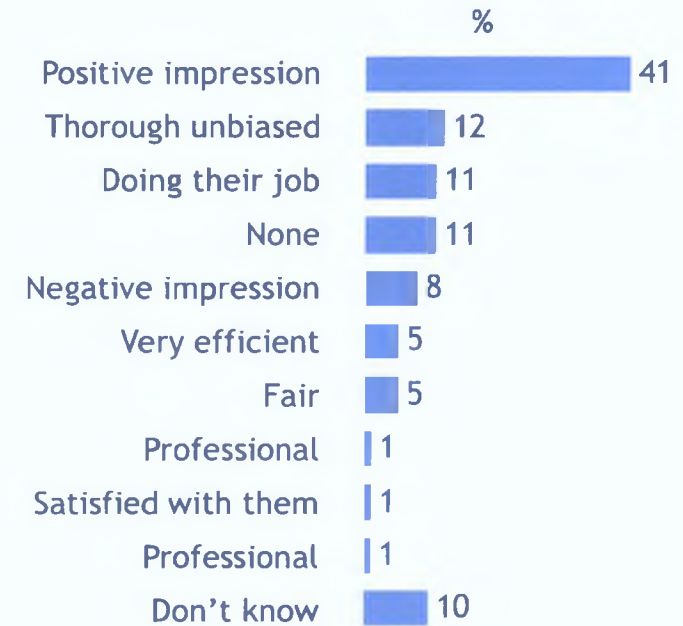
Base: All Aware of GSOC (n=793)



Q. Can you recall any incidence involving the Garda Ombudsman?

# The range of incidents is varied; most say that what they recall left a positive impression of the GSOC.

Base: All who recall any incidence involving the Garda Ombudsman (n= 166)

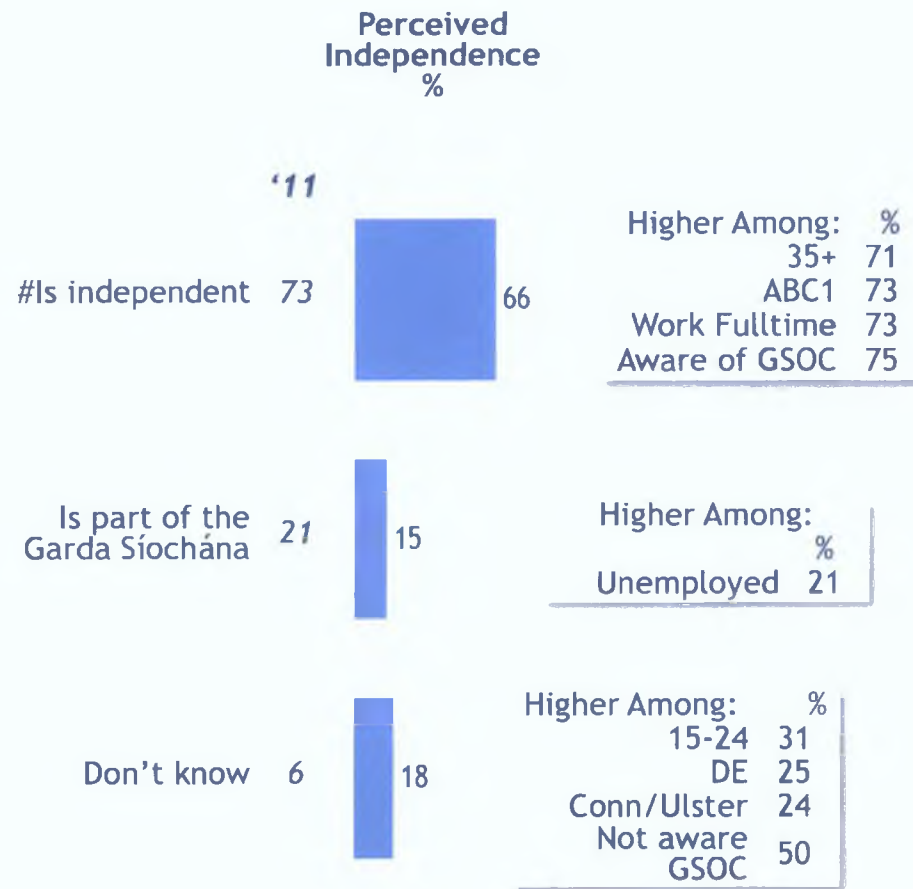
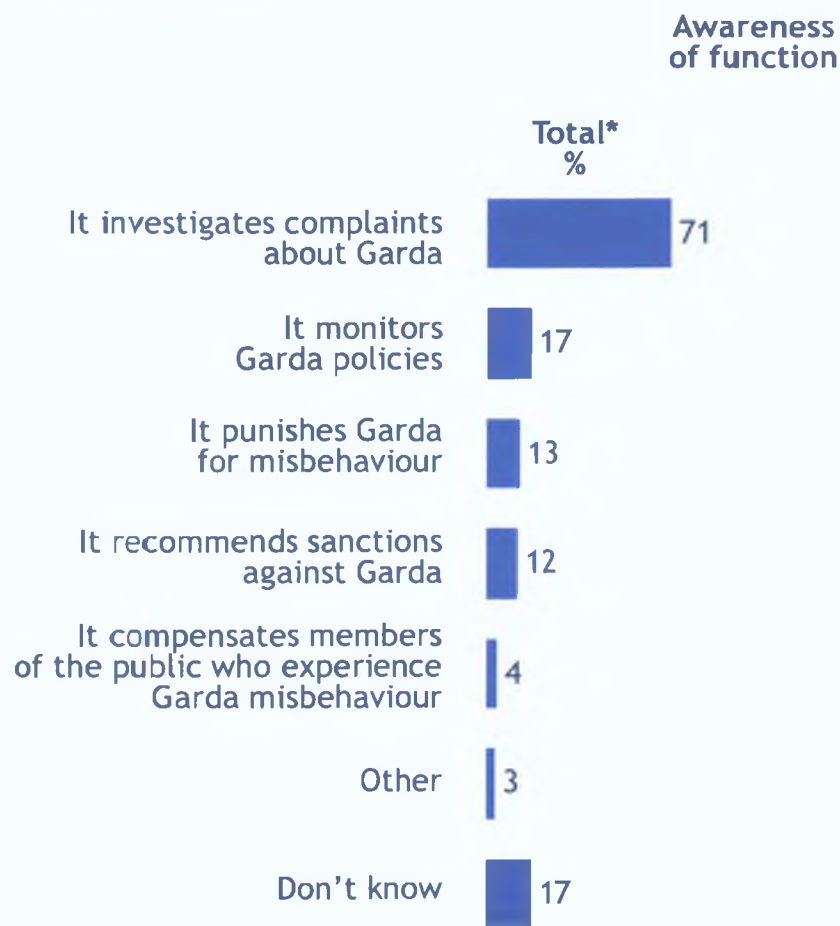


- Q. Please describe the incidence you recall?
- Q. What impression of the Garda Ombudsman did you get from this incident?

# High awareness of 'investigating complaints about Gardaí' overall, but lower awareness of other functions. The majority correctly perceive the GSOC to be an Independent Agency.

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Base: All adults (n=1,021)



\* New way of questioning in 2012 previously spontaneous awareness, then show card used for prompted awareness

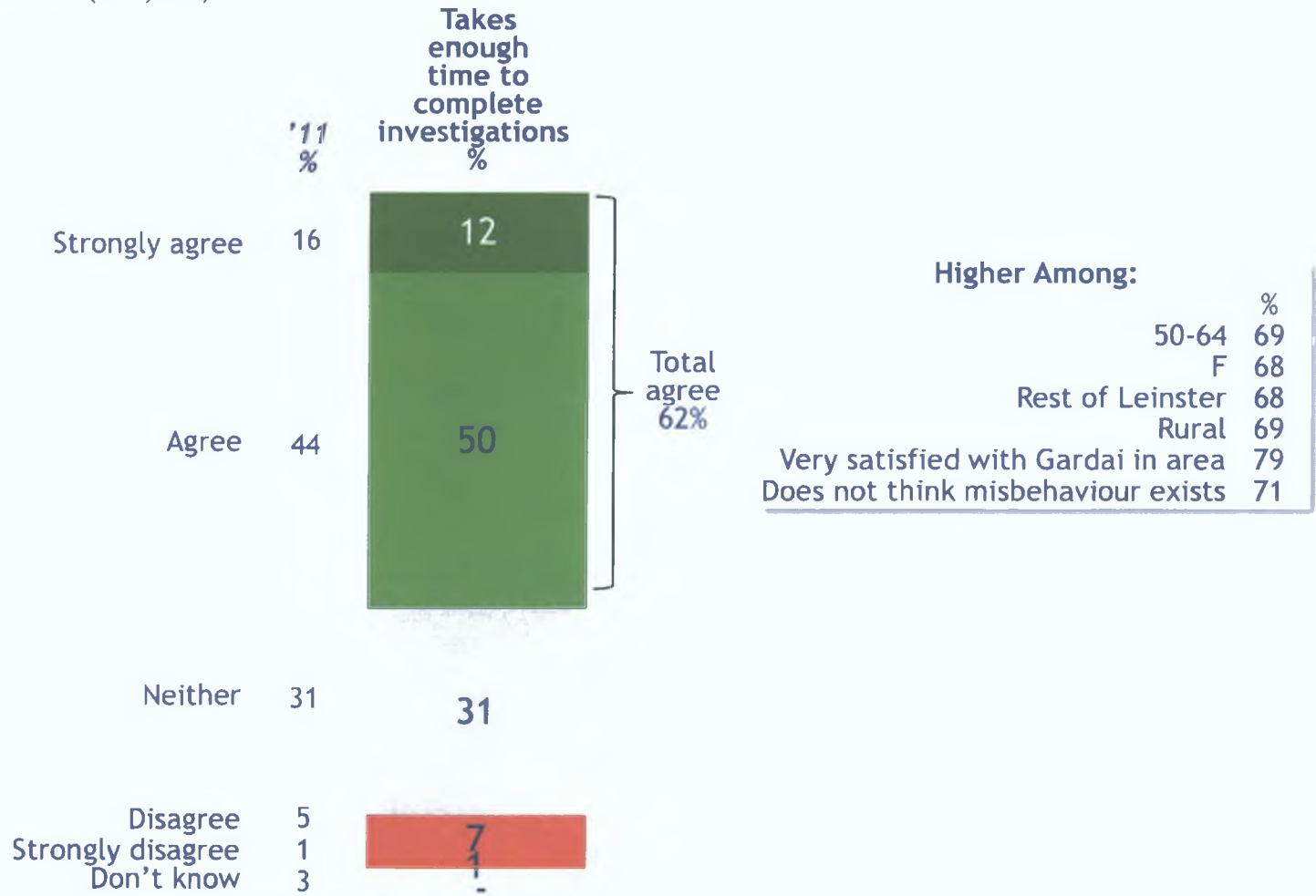
#Wording change in 2012

- Q. What do you think the Garda Ombudsman does? (probe to precodes)
- Q. Do you think Garda Ombudsman is part of the Garda Síochána or independent of it?

# 6 in 10 agree that enough time is taken to complete investigations, driven by those satisfied with Gardaí in their area

Page 323

Base: All Adults 15+ (n=1,021)



Q. To what extent do you agree or disagree that GSOC...?

# 3 in 4 agree that complainants are genuine; and a similar number agree that complainants are dealt with in an impartial manner

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Base: All Adults 15+ (n=1,021)

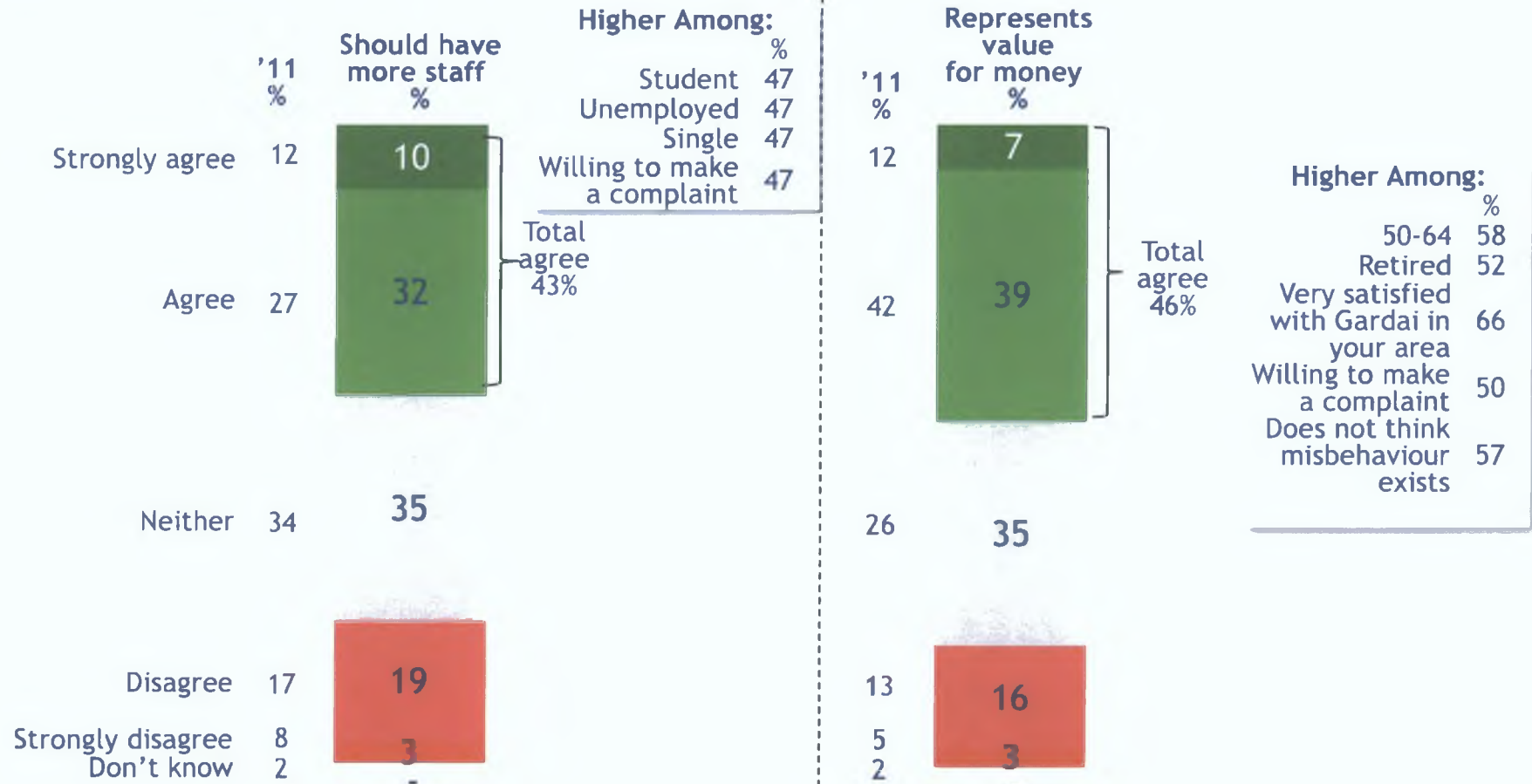


Q. To what extent do you agree or disagree that GSOC...?

# 4 in 10 believe that GSOC should have more staff with a similar percentage saying that GSOC represents value for money

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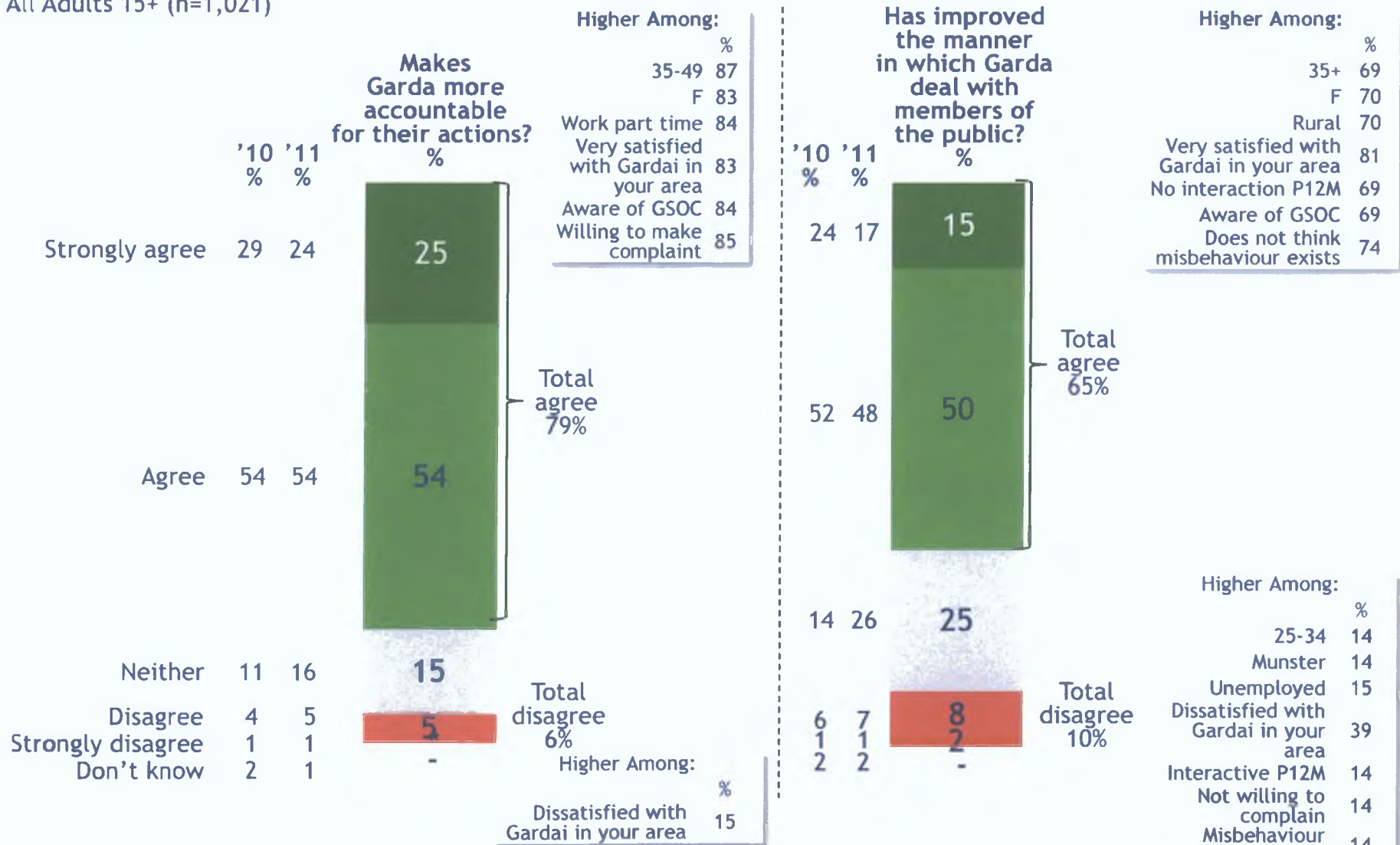
Base: All Adults 15+ (n=1,021)



Q. To what extent do you agree or disagree that GSOC...?

# Majority feel GSOC plays role in ensuring accountability; the manner in which Garda deal with the public is unchanged.

Base: All Adults 15+ (n=1,021)

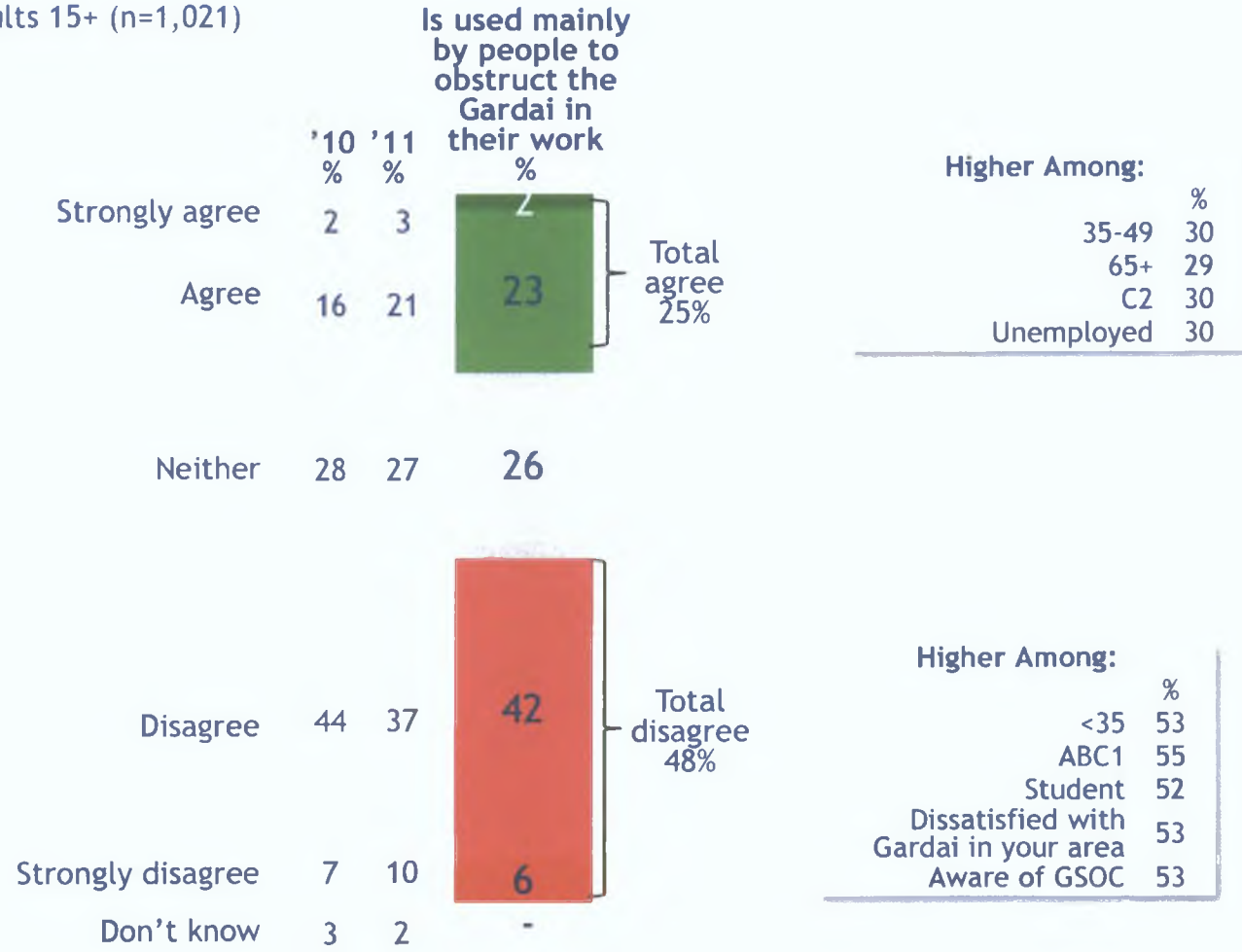


Q. To what extent do you agree or disagree that GSOC...?



# A quarter feel GSOC is used in an obstructive manner, especially C2s, those aged 35-49 and 65+, and those who are unemployed

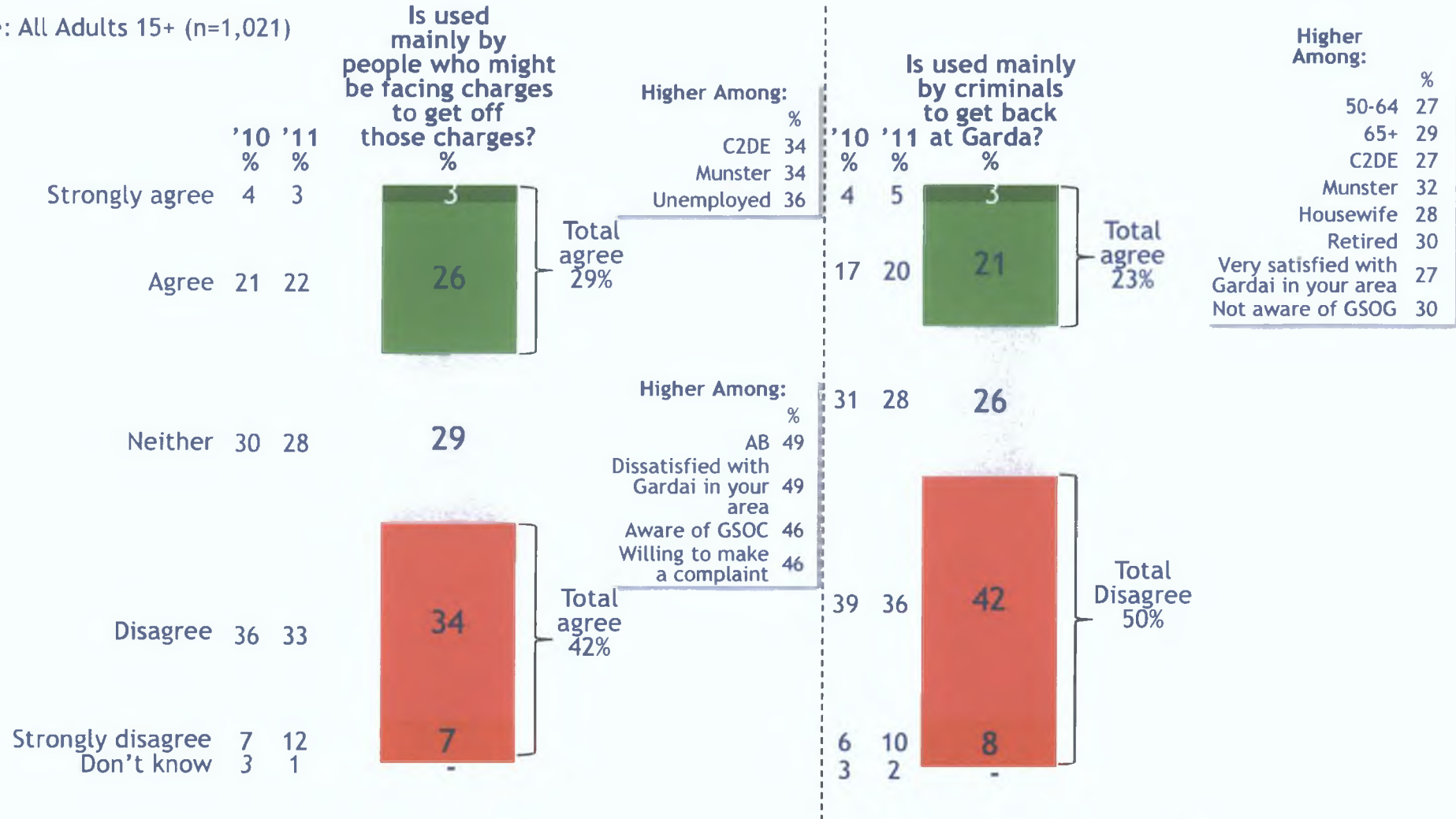
Base: All Adults 15+ (n=1,021)



Q. To what extent do you agree or disagree that GSOC...?

# There is more polarisation of opinion on how the public and criminals may use the GSOC.

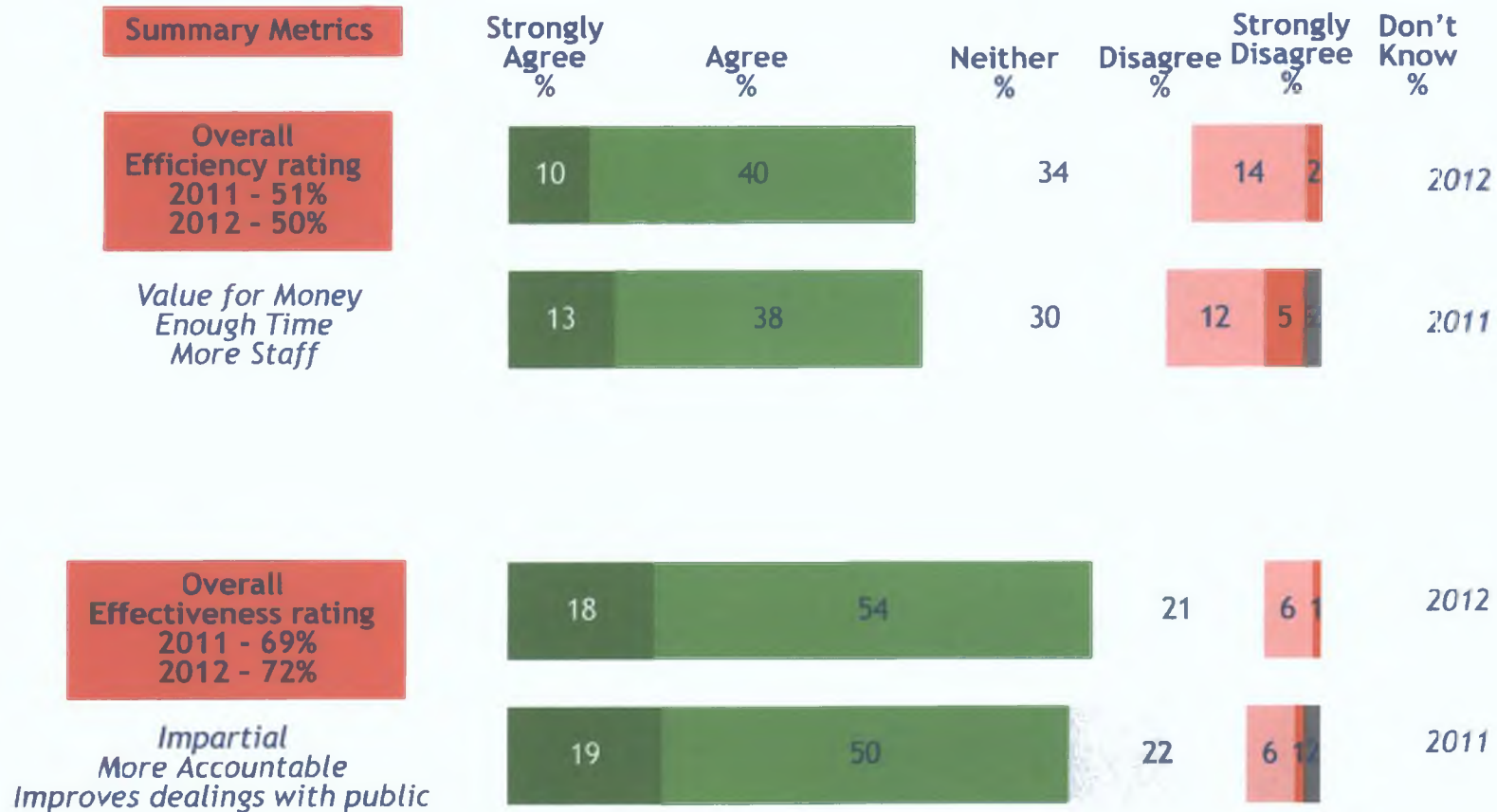
Base: All Adults 15+ (n=1,021)



Q. To what extent do you agree or disagree that GSOC...?

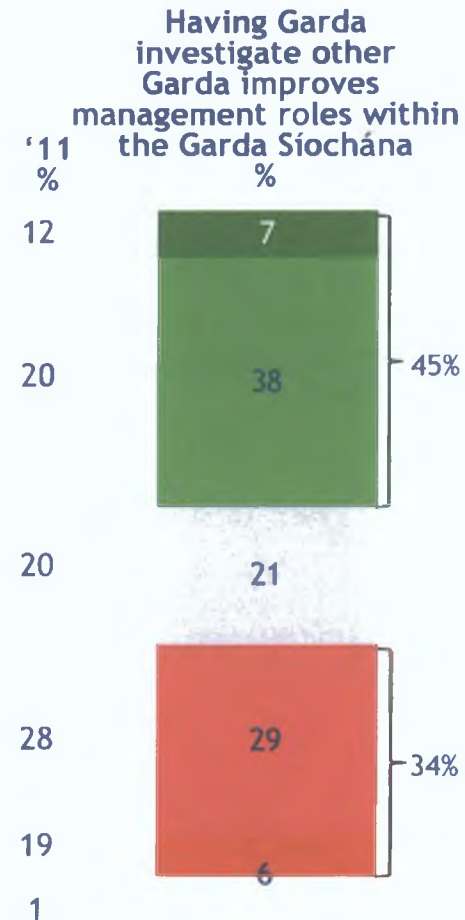
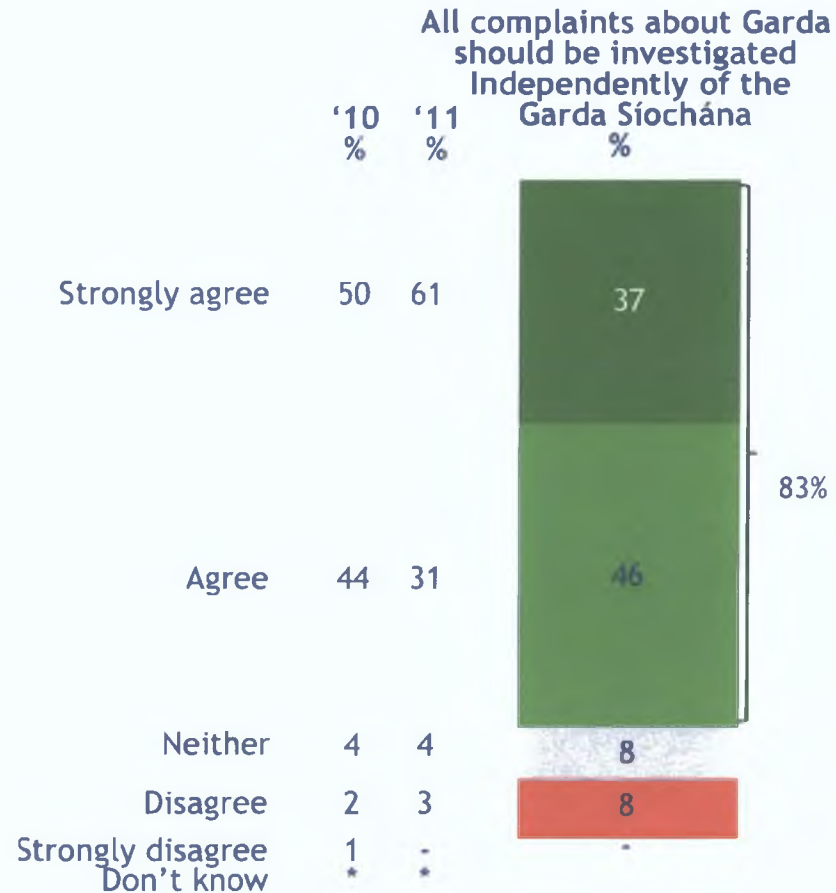
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**GSOC is rated as being more effective than efficient according to the assigned definitions. A high proportion have a neutral stance.**

Base: All adults 15+ (n=1,021)



# The majority support the continued independent investigation of complaints about the Garda; Strong resistance towards Garda investigating each other.


Base: All Adults 15+ (n=1,021)



Current legislation allows GSOC to have certain less serious complaint investigated by the Garda Síochána  
 Q. With that in mind, please select one of the following response to each of the statements.



Thank You!  
For further information contact:  
Guy Perrem  
Suzanne Behan  
Ph. 2974500



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**Ombudsman**  
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