

An Garda Síochána

Oifig Saorála Faisnéise
An Garda Síochána
Teach áth Luimnigh
Lárionad Gnó Udáras Forbartha Tionscail
Baile Sheáin
An Uaimh
Contae na Mí
C15 DR90



Freedom of Information Office
An Garda Síochána
Athlumney House
IDA Business Park
Johnstown
Navan
Co Meath
C15 DR90

Teileafón/Tel: (046) 9036350

Láithreán Gréasain/Website: www.garda.ie

Bí linn/Join us  

Riomh-phoist:/Email: foi@garda.ie

Re: Freedom of Information Request 000073-2017 Partially Granted

Dear

I refer to your request, dated 23rd February 2017 and received on the 24th February 2017, which you have made under the Freedom of Information Act 2014 (FOI Act) for records held by An Garda Síochána.

Part 1(n) of Schedule 1 of the Freedom of Information Act 2014 states that An Garda Síochána is listed as a partially included agency “*insofar as it relates to administrative records relating to human resources or finance or procurement matters*”. Therefore, only administrative records that relate to human resources, finance or procurement shall be considered.

Your request is shown below:

I would like copies of the following records.

The review audit of pay and pensions overpayments, May 2016.

The review examination of of SCRT by GPU and Garda Internal Audit, January 2017.

Both the Review audit and second review audit of DMR South Central, April 2016 and January 2017.

I wish to inform you that I have decided to part-grant your request on the 21st March, 2017.

The purpose of this letter is to explain that decision.

Seirbhís gairmiúla póilíneachta agus slándála a sholáthar le hiontaoibh, muinín agus tacaíocht na ndaoine ar a bhfreastalaímid

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1. Findings, particulars and reasons for decisions to deny access

On receipt of your request, the Garda Internal Audit Section was contacted and requested to provide the Internal Audits as listed above. This letter refers specially to the '*Review Audit of pay and pensions overpayments, May 2016*'.

In reviewing the records in this particular case, consideration was given to the provisions of the FOI Act and also the legislative obligations placed upon An Garda Síochána under various Acts. In particular the definitions of functions and responsibility were considered as set out under section 7 of the Garda Síochána Act 2005 and the unique position the Garda Organisation holds within Irish Society, in providing policing and security services for the State with the objective of:

- (a) preserving peace and public order,
- (b) protecting life and property,
- (c) vindicating the human rights of each individual,
- (d) protecting the security of the State,
- (e) preventing crime,
- (f) bringing criminals to justice, including by detecting and investigating crime, and
- (g) regulating and controlling road traffic and improving road safety.

Part 1(n) of Schedule 1 of the FOI Act states that An Garda Síochána is listed as a partially included agency "*insofar as it relates to administrative records relating to human resources, or finance, or procurement matters*". Therefore the only Garda records falling within the scope of the provisions of the FOI Act are administrative records relating to human resources, finance or procurement.

Section 37(1) - Personal information

Section 37(1) provides that a public body shall refuse to grant a request if access to the record concerned would involve the disclosure of personal information relating to an individual other than the requester. Furthermore, section 37(7) provides that a public body shall refuse to grant a request if access to the record concerned would, in addition to involving the disclosure of personal information relating to the requester, also involve the disclosure of personal information relating to an individual or individuals other than the requester, commonly referred to as joint personal information.

2. (1) *In this Act—*

"personal information" means information about an identifiable individual that, either—

- (a) would, in the ordinary course of events, be known only to the individual or members of the family, or friends, of the individual, or*
- (b) is held by an FOI body on the understanding that it would be treated by that body as confidential,*

and, without prejudice to the generality of the foregoing, includes—

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- (xi) *the name of the individual where it appears with other personal information relating to the individual or where the disclosure of the name would, or would be likely to, establish that any personal information held by the FOI body concerned relates to the individual,*

Personal information

37. (1) *Subject to this section, a head shall refuse to grant an FOI request if, in the opinion of the head, access to the record concerned would involve the disclosure of personal information (including personal information relating to a deceased individual).*

The decision has been made in accordance with section 37(1) and hence certain sections of the “*The review audit of pay and pensions overpayments, May 2016*” will not be released. As per section 37 of the FOI Act, I have considered the public interest issues which arise in this case and have taken account of the following factors in favour of release:

Public Interest Test.

I have considered the public interest issues which arise in this case and have taken account of the following factors in favour of release:

- Maximum openness, transparency, accountability and value for money in the use of public funds.
- There is an interest in ensuring that An Garda Síochána is accountable to the public for the decisions that they make.
- The public interest in members of the public exercising their rights under the FOI Act.

In considering the public interest factors which favour withholding the records I have taken account of the following:

- Protecting the right to privacy of individuals.
- The right of privacy of third parties,
- Public interest in protecting the ability of public bodies to carry out investigations in accordance with legislative responsibilities.
- Allowing a public body to hold personal information without undue access,
- The public interest is not best served by releasing these records,
- That there is a reasonable and implied expectation by employees that sensitive personal information will remain confidential.

Having balanced these factors, I considered that the public interest in preserving the protection of the privacy of the individual(s) involved outweighs the public interest which would be served were the records released to you.

The audit “*The review audit of pay and pensions overpayments, May 2016*” is attached and the list of redactions is contained in the attached Schedule of Records.

Section 31

A single record containing internal legal opinion by the Head of Legal Section has been redacted as per section 31(1) of the FOI Act. Documents whereby the primary focus of

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the document is the provision of legal opinion by a qualified legal professional are excluded from the provisions of the FOI Act under section 31 as shown below.

Parliamentary, court and certain other matters

31. “(1) A head shall refuse to grant an FOI request if the record concerned—
(a) would be exempt from production in proceedings in a court on the ground of legal professional privilege,”

I am of the opinion that the redacted document would be exempt from production in court proceedings as it is subject of legal professional privilege.

2. Right of Appeal

In the event that you are not happy with this decision you may seek an Internal Review of the matter by writing to the address below and quoting reference number **FOI-000073-2017**.

Freedom of Information Office,
An Garda Síochána,
Athlumney House,
IDA Business Park,
Johnstown,
Navan,
Co. Meath.
C15 DR90.

Please note that a fee applies. This fee has been set at €30 (€10 for a Medical Card holder). Payment should be made by way of bank draft, money order, postal order or Personal cheque, and made payable to Accountant, Garda Finance Directorate, Garda Headquarters, Phoenix Park, Dublin 8.

Payment can be made by electronic means, using the following details:
Account Name: Garda Síochána Finance Section Public Bank Account
Account Number: 10026896
Sort Code: 900017
IBAN: IE86B0F190001710026896
BIC: BOFIIE2D

You must ensure that your FOI reference number is included in the payment details.

You should submit your request for an Internal Review within 4 weeks from the date of this notification. The review will involve a complete reconsideration of the matter by a more senior member of An Garda Síochána and the decision will be communicated to you within 3 weeks. The making of a late appeal may be permitted in appropriate circumstances.

Please be advised that An Garda Síochána replies under Freedom of Information may be released in to the public domain via our website at www.garda.ie.


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Personal details in respect of your request have, where applicable, been removed to protect confidentiality.

Should you have any questions or concerns regarding the above, please contact me by telephone at (046) 9036350.

Yours sincerely,

 SUPERINTENDENT
HELEN DEELY
FREEDOM OF INFORMATION OFFICER.

23RD MARCH 2017.

Review Audit



Overpayments of Pay and Pensions

March 2016

INTRODUCTION

This Report represents a review audit of the management and control systems in relation to overpayments of pay and pensions from the Garda Vote. The review audit examined how the agreed recommendations of the Audit Report dated July 2013 and the review undertaken in 2014 were implemented in order to mitigate the risks identified and to provide the necessary assurance to management on the adequacy of the systems of internal control.

BACKGROUND

Within the Garda Human Resources and People Development Directorate (HR&PD) is a unit that deals with overpayments of pay and pension staffed by one Staff Officer and one Clerical Officer reporting to a HEO Pay & Pensions Section. The Financial Shared Services Centre (FSSC) in Killarney provides a payroll facility on a contracted basis for An Garda Síochána. The figures for overpayments are provided by the FSSC to Garda HR&PD quarterly. The Overpayments Section then notify the staff/member involved and request repayment either in one payment or as a deduction from future salary payments over a specified period of time.

A policy document regarding the Management of Overpayments was published on the Garda Portal in August 2015.

REVIEW AUDIT METHODOLOGY

The outstanding balances at 30th September 2015 were received from the Overpayments Unit HR&PD Directorate and analysed. There are three sub-elements within the overpayments namely, Civil Service Salaries, Garda Salaries and Garda Pensions. It should be noted that the pensions of Civil Servants retired from An Garda Síochána are paid from the Central Fund and not from the Garda Vote and therefore are not included here.

Table 1: Growth in Overpayments

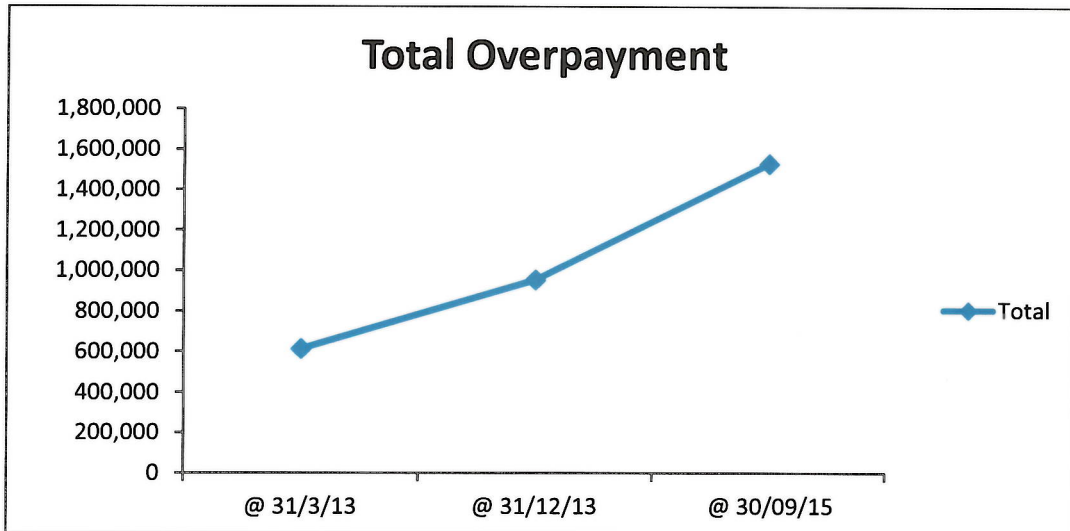
Overpayments	@ 31/3/13	@ 31/12/13	@ 30/09/15
Civilian Salary	220,661	230,845	417,835
Garda Pension	191,463	386,543	479,624
Garda Salary	202,352	337,819	632,521
Total	614,476	955,207	1,529,980

Source: FSSC, Garda HR&PD

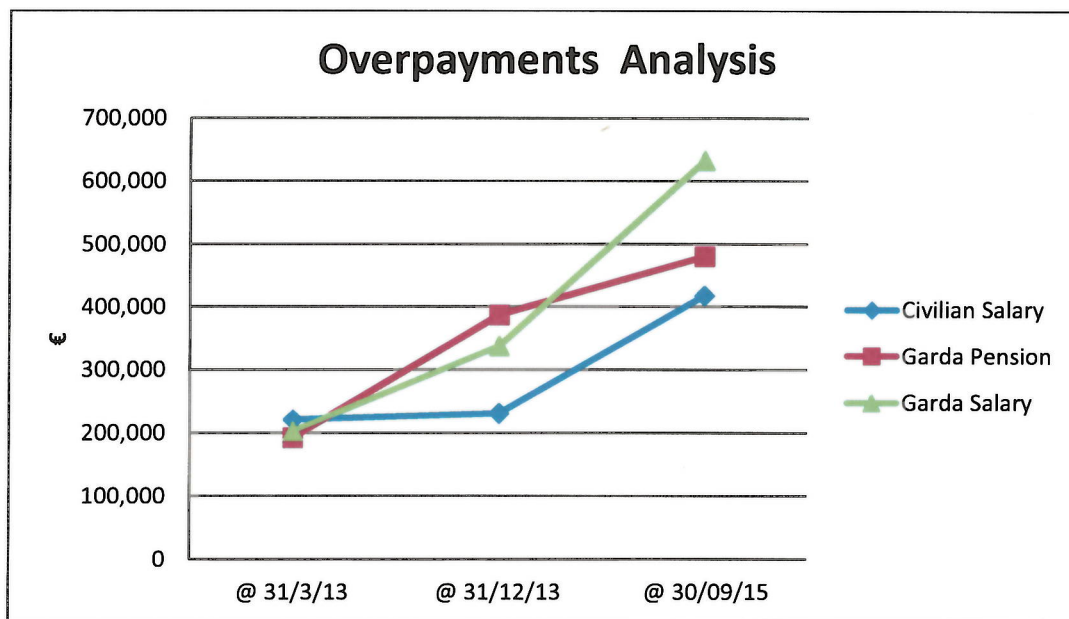
Garda Internal Audit Section

The total balance of overpayments has increased dramatically since 31st March 2013 (by 149%).

Graph 1: Total Overpayment.



Graph 2: Overpayment Analysis



In addition to reviewing the growth in overpayments under each of the main categories this review chose a sample of overpayments identified in 2015 for detailed testing. The purpose of this testing was to ascertain how these cases arose and are now being dealt with and whether adequate systems are now in place to recoup these amounts. GIAS also considered lessons learned to minimise the risk of future overpayments.

Garda Salary Overpayments

From Graph 2 above, it can be seen that the fastest growth was in relation to Garda salary overpayments. This growth in overpayments in relation to Garda salaries should not be considered as a diminution in the controls, but rather the opposite in that as recording procedures are enhanced more errors are discovered and are discovered earlier than in the past. The increase also reflects the changes in sickness absence management for Garda members and the changes made on foot of the Haddington Road Agreement.

Graph 3: Garda Salary Overpayments Aged Analysis

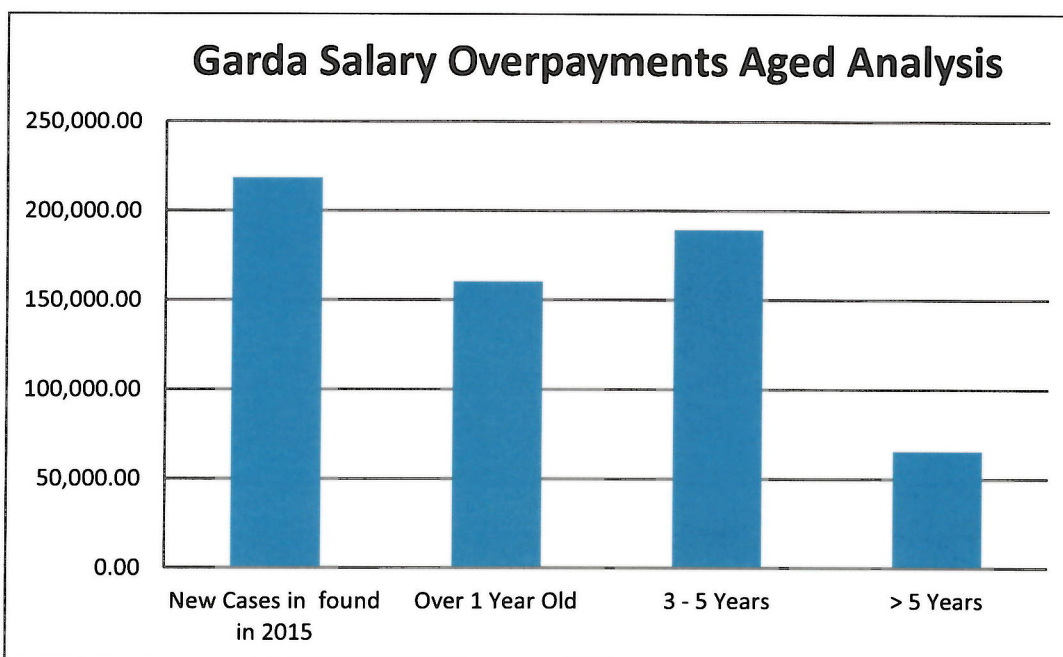


Table 2: Garda Salary Overpayments Aged Analysis

Garda Salary Overpayments Aged Analysis	€
New Cases in found in 2015	218,180
Over 1 Year Old	160,052
3 - 5 Years	189,089
> 5 Years	65,199
Balance Outstanding at 30/09/15	632,521

Source: FSSC and Garda HR&PD sorted by date.

Findings

The above aged analysis of the balance of €632k on Garda salary overpayments reveals that the largest amount relates to overpayments discovered in 2015. These have primarily arisen as a result of the Haddington Road Agreement that took effect in March 2014 and which reduced allowable sickness absence days and brought Garda sickness absence policy and procedures into line with the Public Service norm. As a result of these changes more Garda members exceeded their sick leave allowance which resulted in an increased level of salary overpayments. The lowest amount (€65k) relates to legacy overpayments more than 5 years old.

In total there are 657 incidences recorded cases of overpayments on Garda salaries of which 242 or 37% have been fully repaid. Of the 415 incidences with outstanding balances 262 (63%) have repayment plans in place. The cases without repayment plans amount to €296k in total. If we look at the most recent cases audited, in the nine months to 30/09/15 there were 172 outstanding balances of which 123 (72%) had repayment plans in place. This would indicate improved controls and show that errors are now being spotted and action taken earlier to recoup these overpayments.

A sample of 25 overpayment cases discovered in 2015 was selected for detailed examination which found:

- In 21 of these cases the overpayment was discovered within three months of the occurrence of the event that caused the overpayment.
- In 1 case there was a gap of over six years before the overpayment was discovered. This case related to an overpayment of increments following maternity leave.
- In 3 cases the time gap to discovery of the overpayment was 9 months, 9 months and 5 months respectively.
- In 5 of these cases the overpayment has now been fully repaid.
- In 19 cases payment plans have been agreed.
- In only 1 case is there no agreed plan in place.
- 22 of these repayment plans will result in the overpayment being repaid within two years.
- In three cases the repayment schedule will take 10 years, 7 years and 5 years respectively to recoup the overpayment.

Recommendations - Garda Salary Overpayments

The Overpayments Recoupment Unit within Garda HR&PD is to be commended for their work in detecting and recovering Garda salary overpayments in a timely fashion. GIAS have some concerns that adequate resources are not available to this Unit. It is strongly recommended that an

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additional Executive Officer be assigned to this Unit. With the outstanding balance in excess of €1.5m there will be a considerable benefit to the organisation and the Garda Vote in improving controls, responding swiftly, recovering more money more quickly as a result of an increased staffing investment in this area.

It is unlikely that the small amount of Garda salary overpayments relating to five years (€65k) and over will be recovered. Application should be made to DPER for sanction to get these cases written off.

Management Response

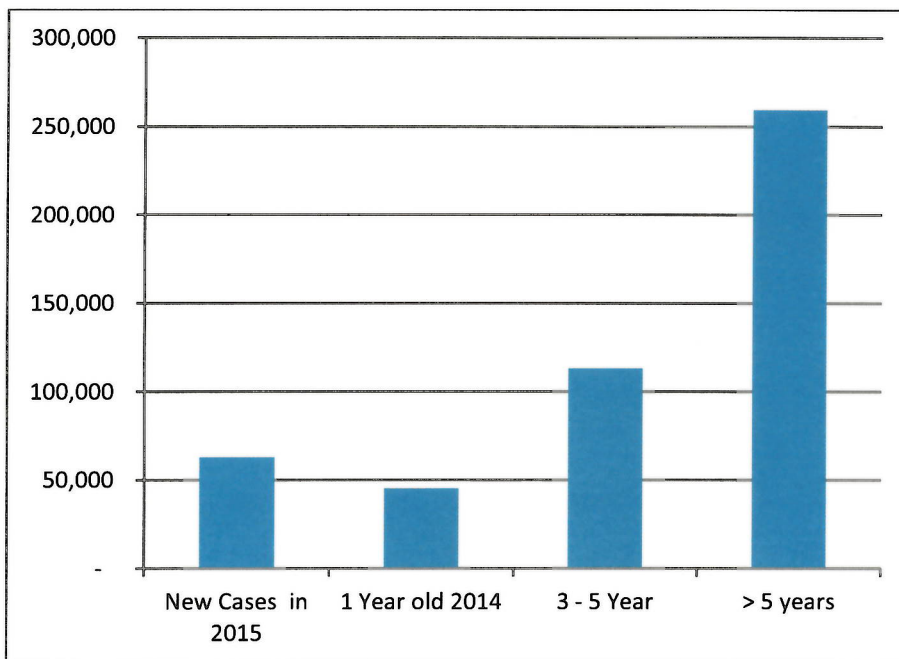
Garda Pensions Overpayment

By contrast to Garda Salary Overpayments the majority of the overpayments of pension, €259k (54%), relate to instances exceeding 5 years old, while only €62k (13%) relates to the nine months to 30/09/15. Of the 184 cases of overpayments recorded only 18 have been fully repaid. In addition to these 18 cases only a further 17 (19%) have repayment schedules.

Table 3: Garda Pension Overpayment Age Analysis

Age Analysis	No of Cases	Balance O/S
New Cases in 2015	43	62,694
1 Year old 2014	31	45,005
3 - 5 Year	75	112,728
> 5 years	36	259,198
	185	479,624

Graph 4: Garda Pension Overpayment Age Analysis



Recommendations from Audit Report 2013

Due to the combination of retirements due to service/age, early retirements and longer life expectancy, the number of Garda pensioners is likely to continue to increase with consequential implications for the incidence of overpayments as a result of notification of deaths. From discussions in HR&PD and the FSSC, GIAS is satisfied that management in these areas are aware of this and GIAS understand that:

- Discussions are at an advanced stage with Staff Associations and the Retired Members Association in relation to changing the payment of Garda Pensions from monthly in advance to monthly in arrears. GIAS appreciate the difficulties as, in addition to securing the agreement of the representative bodies, Article 12(5) of SI No. 63/1925, the Garda Síochána Pensions Order, will have to be amended.
- HR&PD is in ongoing consultation with the FSSC in order to consider the feasibility to move payments from advance to payments in arrears.

Appendix 1 – Presents extracts from the Audit Committee Minutes for the meeting of 26th July 2013 on these issues.

Update in relation to issue:

GIAS had sight of correspondence dated 22nd October 2015 from the Head of HR Directorate to the Executive Director HR&PD in which proposed changes to the Pensions Order 1925 are set out and three options for moving from payment of Garda pensions in advance to payment in arrears are proposed. We were informed that this letter has formed the basis of discussions with the Department of Justice, the Department of Public Expenditure and Reform and the Payroll Shared Service Centre (PSSC). It is likely that DPER in consultation with PSSC will move to standardise Garda pension payments in line with Public Sector norms.

Significant overpayment case reported in the Review Audit in 2013

Extract from 2013 Report:

In discussions with the Garda HRM, GIAS were informed of one significant recently discovered case of overpayment of €169,958.24 (€118,889.19 net) which has not been notified in reports to GIAS or the Audit Committee to date. This relates to a retired sworn member of An Garda Síochána who

in the Department of Justice & Equality. The Department had instructed the FSSC to abate this Garda pension; however, this was not done at the time.

When Garda HRM discovered that abatement was not being applied to this pension the advice of the Head of Legal Affairs was sought in relation to the interpretation of pension abatement and how it should be applied. The Head of Legal Affairs in turn referred the matter to the Office of the Attorney General. That office reverted stating that abatement should be applied in cases such, however the advices also stated that they considered what occurred was a 'mistake of law' and that any overpayment was not recoverable.

The employee was formally informed in writing of the position on 2nd November 2012 and in response ■ requested that HRM apply to the Minister for Public Expenditure & Reform for a waiver of abatement as provided for in the relevant Statutory Instrument (236/1966). However, the Department of Public Expenditure & Reform replied stating that there was no reason to waive abatement in this case. The letter from the Department of Public Expenditure & Reform also requested An Garda Síochána to give consideration as to how the overpayment is to be recouped.

Consequently, the FSSC was instructed to abate this pension with effect

Garda Internal Audit Section

in two of the four cases of overpayments arising from death the amounts have been fully repaid.

Recommendations - Garda Pension Overpayments

GIAS recommend that the move from payment of pension in advance to payment in arrears be undertaken at the earliest opportunity as there still exists a risk of loss to the Garda Vote in this regard.

It is important that the Garda Síochána Retired Members Association are kept informed regarding the revision of the 1925 Pensions Order and of the process for moving from payment in advance to payment in arrears. The options contained within the correspondence of 22nd October proposing a loan of one month's pension to every pensioner at the time the transition occurs and which would then be repaid over a number of years (not exceeding 3 years) is recommended. This positive measure would offset any negative effect on the recipient of implementing the change from payment in advance to payment in arrears.

Civil Servants Salary Overpayments

Table 4: Civil Service Salary Overpayments Age Analysis

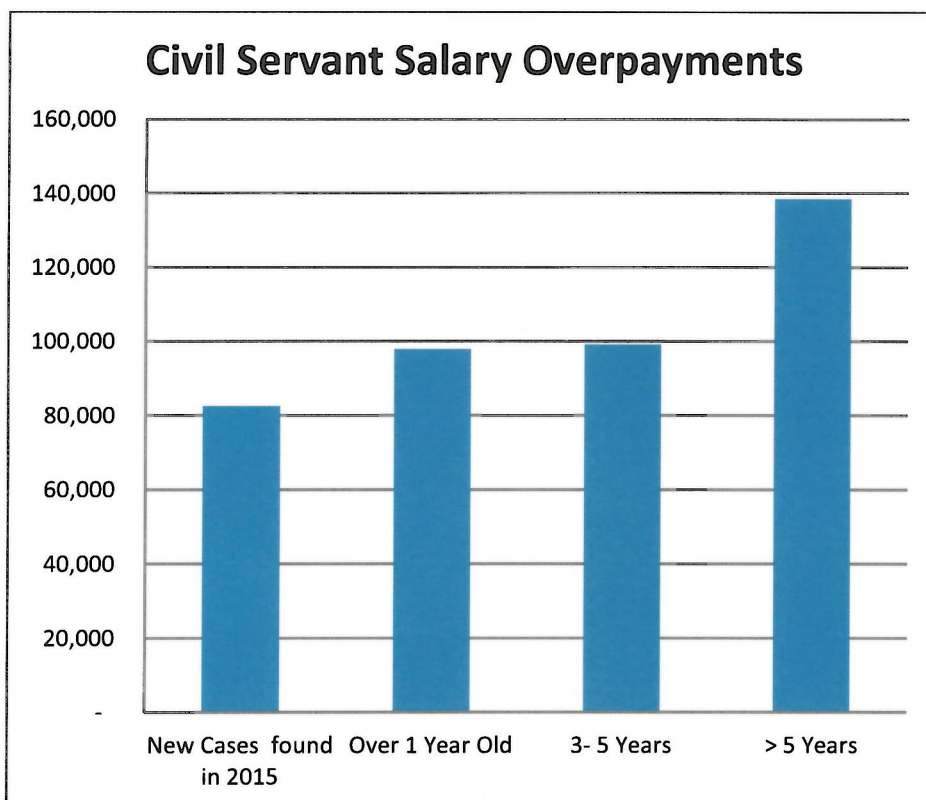
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New Cases found up to 30 th Sept 2015.	81,859
Over 1 Year Old	97,813
3- 5 Years	99,070
> 5 Years	138,493
Total	417,235

Source: PSSC, Garda HR & PD sorted by date.

The balance outstanding for Civil Service salary overpayments rose from €221k on 31/3/13 to €417k at 30/09/15 or by 89%. One third of the total amount relates to cases which are five years or older.

Graph 5: Civil Servant Salary Overpayment Age Analysis



Findings

From Graph 5 above it is clear that the largest category of outstanding overpayment is over five year old. Other than cases where there is a preserved pension (i.e. where staff have retired/resigned/been dismissed early and the pension is only accessible after a certain date) or a repayment plan in place, it is unlikely that this money will now be recovered.

Six overpayments relating to Civil Servants which were discovered in 2015 were examined as part of this review. Of these six cases all but one were discovered within two months of the occurrence of the incident that gave rise to the overpayment. In one case there was a gap of four months between the date of occurrence and the date of discovery of the overpayment. All six overpayments had repayment plans in place and one was fully recouped. The longest time frame for repayment of overpayment was just over three years. From the testing undertaken GIAS is satisfied that good controls are currently in place to detect overpayments quickly and to recoup any loss to the Garda Vote within a reasonable time frame.

Recommendation - Civil Servant Overpayments

An application for sanction to write-off irrecoverable amounts should be made to the Department of Public Expenditure and Reform. In this regard legacy overpayments over five years that are not subject to preserved pension procedures and which do not have repayment plans in place should be considered as unlikely to be recovered and should be written-off as bad debts.

Repayment Plans

Table 5: Repayment Plan

	% with Repayment Plans	
	@ August 2013	@ September 2015
Civil Service Salaries	50%	59%
Garda Salaries	23%	63%
Garda Pensions	21%	19%

The percentage of overpayment cases where repayment plans have been agreed with the employee concerned has remained similar between 2013 and 2015 in relation to Garda Pensions. The big success story over this period has been Garda salaries where the percentage with repayment plans in place rose from 23% of cases in 2013 to 63% in 2015. Civil Servants repayment plans have also increased from 50% to 59%. Over all three categories the percentage with repayment plans is 55%. This highlights the considerable amount of work being done by the Overpayments Section particularly in relation to Garda Salaries which represent 41% of the total outstanding amounts.

Recommendation - Repayment Plans

The Overpayment Recoupment Unit is achieving considerable success in recouping overpayment and their work should continue and be supported. As expressed on pages 5 and 6 of this Report, GIAS have concerns about the level of staffing resources available and recommend that an additional Executive Office be allocated to the Unit on a full time basis.

Conclusion

Garda salary overpayments have increased since 2013 mainly as a result of improved detection and the changes in sickness absence management as part of the Haddington Road Agreement. These changes have brought the Garda sickness management leave provisions into line with the Garda Civil Service Staff and the wider civil service.

The recommendations in regard to amending the 1925 Garda Pension Order made in the previous audit have not been implemented but are likely to be implemented in the near future. Responsibility for the payment of these pensions while still from the Garda Vote, has already been taken over by the Payroll Shared Service Centre. It is important that the Garda Retired Members Association be consulted in regard to the proposed changes.

There still remain large overpayments that are older than five years in relation to Garda Pensions (€259K) and Civil Service Salaries (€138K) as well as the Garda Salaries (€65K). It is unlikely that a large amount of these sums will be repaid and therefore GIAS recommend that they should be written off.

The Overpayment Recoupment Unit in Navan is achieving considerable success in putting in place agreements for the phased repayment of overpaid amounts but this Unit is under-resourced.

ACKNOWLEDGEMENTS

Garda Internal Audit Section wishes to take this opportunity to acknowledge the support and assistance provided by Claire Egan, Gerard Knightly and Catherine Bannon in relation to this Review Audit.

Niall Kelly

Head of Internal Audit
Date: 13/5/16

Appendix 1 - Extract from Audit Committee Meeting of 26th July 2013.

Overpayments Presentation

A presentation to the committee on overpayments was given by the Human Resource Management section. Assistant Commissioner Fanning (Garda HRM), Mr. Alan Mulligan (Director Garda HRM), Mr. Ken Ruane (Head of Legal Affairs), Ms. Bridget Mackin and Ms. Mary Bennett (Garda HRM, Pay and Pensions Section) were present for this presentation and addressed the committee on various matters arising. Ms. Mary Bennett presented a PowerPoint presentation to the committee. The Chairman suggested that when a person leaves the organisation they should be paid in arrears rather than in advance as they get gratuity upon leaving. Assistant Commissioner Fanning stated that he would look into this. A change to the Pensions Order, 1925 will be required if there is to be a move from payment in advance to payment in arrears. The change from the issue of a cheque to electronic funds transfer (EFT) is in progress but it is a long process as a lot of people are abroad or in nursing homes. The Chairman stated that this proposal does not get over the extent of late notifications. Assistant Commissioner Fanning stated that notifications are received from death notices and the retirement association and that it is envisaged that a presentation will be made to all Chief Superintendents at the next Commissioner's conference in November. Mr. Alan Mulligan referred to the report concerning overpayments that was supplied to the committee. The Chairman asked that the date the overpayment arose and the date the overpayment came to notice should both be recorded on the schedule of overpayments. Mr. Mulligan stated that this was possible and would not be a problem. The Chairman stated that the idea that overpayments continue indefinitely cannot go on and management need to address the situation and discuss policy on the matter.

Garda Internal Audit Section

