

An Garda Síochána and the Coroners Society of Ireland

Memorandum of Understanding



The Coroners Society of Ireland

Memorandum of Understanding between An Garda Síochána and the Coroners Society of Ireland

Effective Date	04/12/2023
Version No.	1.0
Approved by	Garda Executive
Introduced by	HQ Directive 049/2023
Policy Owner	Executive Director, Crime Legal

Purpose

Article 2 of the European Convention on Human Rights contains two substantive obligations upon State parties, namely;

- The general obligation to protect by law the right to life, and the prohibition of intentional deprivation of life, except in very limited circumstances.
- And, a procedural obligation to carry out an independent, effective investigation into alleged breaches under Article 2, in order to establish the facts in circumstances where a suspicious death has occurred.

The procedural obligation requires that investigations must satisfy a certain set of minimum standards. The function of coroners contributes to meeting the procedural obligation of the State. Any failure by the State to satisfy the required standards may be challenged in the courts. The purpose of this Memorandum of Understanding (MOU) is therefore to provide clarity in respect of the respective roles and the relationship of the Coroner and An Garda Síochána in terms of respecting the right to life.

Scope

This MOU and all associated documentation apply to members of An Garda Síochána and civilian staff. It also applies to Police Officers from the Police Service of Northern Ireland (PSNI) seconded to An Garda Síochána in accordance with Section 53, Garda Síochána Act 2005.

MOU Statement

The Garda Síochána and coroners interact closely in connection with ‘reportable deaths’,¹ such as sudden, unnatural, violent or unexplained deaths. Members of An Garda Síochána effectively act as coroners officers in carrying out certain functions. The Coroner is an independent statutory body in accordance with the Coroners Act 1962 and the Coroners (Amendment) Act 2019 (Coroner’s Acts). Coroners have a legal responsibility to investigate ‘reportable deaths’. This may require a post-mortem examination, sometimes followed by an inquest. The post-mortem is carried out by a pathologist acting on behalf of the coroner. There is a Coroner appointed for particular district areas by Local Authorities.

An Garda Síochána is a separate independent statutory body under the Garda Síochána Act, 2005 as amended (2005 Act). The policing principles of An Garda Síochána state that policing services are to be provided –

- (i) independently and impartially,
- (ii) in a manner that respects human rights, and
- (iii) in a manner that supports the proper and effective administration of justice.

The role of An Garda Síochána in assisting coroners with evidence is effectively derived from their power to investigate. One of the functions of An Garda Síochána under section 7(2) of the 2005 Act as amended is to ‘co-operate, as appropriate, with other Departments of State, agencies and bodies having, by law, responsibility for any matter relating to any aspect of’ the objective set out in section (7)(1) of the 2005 Act which includes:

- (a) preserving peace and public order,
- (b) protecting life and property,
- (c) vindicating the human rights of each individual, ...
- (f) bringing criminals to justice, including by detecting and investigating crime...’.

¹ Section 16(a) of the Coroners Act, 1962 (as amended by Section 9 of the Coroners (Amendment) Act, 2019)

Accordingly, An Garda Síochána is required, not only to assist coroners as provided for in the Coroner's Acts, but also to cooperate with a Coroner in their role of investigating reportable deaths. This includes arranging formal identification of the person who has died, gathering statements, providing reports and assembling juries when necessary. This assistance enables the Coroner to carry out their statutory function under the Coroners Acts. There is a duty on members of An Garda Síochána, if they become aware of a death within the district of the Coroner, of any person in which a medical certificate is not procurable, to inform the Coroner of the death. The Gardaí being involved does not mean that the death is being treated as suspicious.

In circumstances where criminal proceedings are being considered in relation to a death a member of An Garda Síochána not below the rank of Inspector may request a Coroner to adjourn an inquest. The Coroner shall adjourn the inquest for such period as he or she thinks proper.

Disclosure

It is recognised that files prepared by An Garda Síochána for the Coroner are the property of the Coroner. Accordingly, An Garda Síochána cannot authorise disclosure. Requests for access to these files should be submitted to the Coroner. Where such a request is received, they will be dealt with on a case by case basis to determine whether there are any issues that would prevent disclosure. This may include liaison with An Garda Síochána as appropriate, to determine whether there are policing issues that would prevent disclosure.

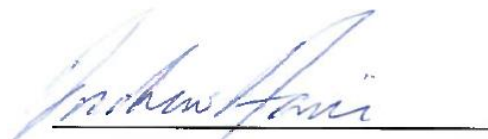
Coroners verdicts

A verdict is provided upon completion of an inquest in respect of the identity of the deceased, and how, when and where the death occurred. An inquest does not identify any person responsible for a death, adjudicate on guilt or innocence or determine civil or criminal liability. A Coroners verdict that is relevant to any aspect of the operation of An Garda Síochána will be forwarded by the relevant Coroner to the Garda Commissioner to enable a decision to be made as to whether further action by An Garda Síochána is required.

Future additions to this MOU

An Garda Síochána and the Coroners Society of Ireland agree that as different aspects of the interaction of their functions are identified that these will be set out by way of additions to this Memorandum of Understanding so as to clarify in their respective roles and responsibilities.

Signatories to the Memorandum of Understanding



J A Harris
Commissioner
An Garda Síochána

Date: 4 December 2023



Dr. Myra Cullinane
Senior Coroner Dublin District
Coroners Society of Ireland

Date: 14th December 2023

General Provisions

- A. Amendments.** Either party may request changes to this MOU. Any changes, modifications, revisions or amendments to this MOU which are mutually agreed upon by and between the parties to this MOU shall be incorporated by written instrument, and effective when executed and signed by all parties to this MOU.
- B. Applicable Law and Governance.** The construction, interpretation and enforcement of this MOU shall be governed by the laws of the State. The courts of the State shall have jurisdiction over any action arising out of this MOU and over the parties concerned. The relevant Policies and Procedures within An Garda Síochána which relate to this MOU shall be adhered to at all times.
- C. Entirety of Agreement.** This MOU, consisting of three pages plus these provisions, represents an integrated agreement between the parties and supersedes all prior negotiations, representations and agreements, whether written or oral regarding the headed matter.
- D. Severability.** Should any portion of this MOU be judicially determined to be illegal or unenforceable, the remainder of the MOU shall continue in full force and effect, and either party may renegotiate the terms affected by the severance.