



AN TÚDARÁS PÓILÍNEACHTA
POLICING AUTHORITY

**Policing Authority Clearance Process for Appointments to the ranks
of Assistant Commissioner, Chief Superintendent and
Superintendent in the Garda Síochána**

June 2018

1. Introduction and Background

Regulation 12 of the Garda Síochána Act 2005 (Appointments to the ranks of Assistant Garda Commissioner, Chief Superintendent and Superintendent) Regulations 2016 (“Regulation 12”) provides that the Authority shall not appoint a candidate selected for appointment to a specified rank unless (amongst other things):

- the candidate undertakes any clearance process that may be required by the Authority; and
- the Authority is satisfied as to the outcome of any such clearance process.

The Regulations provide that the reference to “clearance process” includes any process including vetting to establish the health and character of the candidate.

The suitability of candidates for appointment to candidates on promotion would normally be undertaken by the employer, however the regulations place this requirement on the Authority. As, the Authority does not have access to employer records which would enable it to check the various aspects with which it needs to be satisfied it is reliant on obtaining this information from other sources through the clearance process set out in this document.

The Authority’s *Statement of Practice* for the conduct of each selection competition for appointment to these ranks which is provided to candidates contains the following section relevant to the clearance process:

Clearance and Appointment

- *In advance of appointment of individuals from the established panel of candidates the Authority will make such enquiries as it considers necessary to verify the information provided in the candidate’s application.*
- *The Authority will carry out clearance processes in accordance with the regulations to establish the health and character of the candidate.*
- *When considering the relevance of any record for criminal or disciplinary offences as part of its clearance process, the Authority will take into consideration matters such as the nature of the conduct involved and the sanction applied.*
- *When considering any outstanding criminal or disciplinary investigation, the Authority will have regard to the entitlement of candidates to fair procedures.*
- *The Authority will make appointments to fill vacancies from the panel of candidates in the order of merit in accordance with the Regulations where it is satisfied as to the outcome of enquiries and its clearance process.*

This document sets out the process to be followed in respect of the clearance of candidates for appointment to the ranks of Assistant Commissioner, Chief Superintendent and Superintendent in the Garda Síochána by the Policing Authority.

2. Clearance Process

The Authority’s clearance process has a number of elements, the primary components of which are:

- candidates providing a self-declaration;

- the employer confirming the suitability of the candidate on grounds of health (including sick leave), suitability or otherwise and providing details of previous disciplinary actions, convictions, outstanding investigations and any other matters which they consider the Authority should be aware of having regard to Regulation 12; and
- the relevant complaints Ombudsman (GSOC or OPONI) confirming details of any outstanding investigations regarding the candidate and any other matters which they consider the Authority should be aware of having regard to Regulation 12.

Candidates are required to complete and submit a clearance form at the time of their final interview for the selection competition. Should the candidate be placed on a panel of candidates for consideration for appointment by the Authority, the clearance process in respect of that candidate will be activated only in the event that they come under consideration for appointment. This process will generally be commenced in the month prior to the Authority meeting at which the candidate will be considered for appointment in order that the outcome of the process will be up to date at the time that appointment is considered. At that point the Garda Commissioner and GSOC (or the PSNI and OPONI as applicable) will also be requested to complete clearance forms as part of the process.

The completed clearance forms will be considered and processed by nominated staff of the Authority. Where clearance forms disclose previous convictions, disciplinary actions or outstanding investigations, further details may be sought from the candidate or the relevant agencies in line with Regulation 12.

In advance of the Authority considering any appointment, the Executive will inform the Authority of the steps and checks that have taken place in undertaking the clearance process and any other considerations relevant to Regulation 12. The Authority will consider the outcome of the clearance process and the appointment of the candidate having regard to the relevant provisions of its Statement of Practice and the Regulations.

3. Candidate Clearance Form

Candidates who are selected to proceed to final interview for the selection competition concerned are provided with and asked to complete the Candidate Clearance Form. The completed form should be handed in a sealed envelope to the Authority Secretary (or a nominee) as the candidate departs from their interview. These forms will be kept in the Secretary's safekeeping until such time as the candidate comes for consideration for appointment.

The Selection Board will receive no information relating to the Candidate's clearance forms and will have no involvement in the clearance process.

The clearance form requires candidates to:

- Provide details of any previous disciplinary actions, previous convictions and any outstanding investigations that they are aware they are the subject of;
- Confirm their understanding of the clearance process; and
- Sign a declaration of suitability and confirmation of understanding and responsibility.

4. Employer and Ombudsman Clearance forms.

In the event that a candidate placed on a panel comes under consideration for appointment, the completed Candidate Clearance Form will be opened and processed by nominated staff of the Authority. At this point a process of obtaining signed clearance forms from each of the entities from which the Authority requires information for the clearance process will be commenced and requests made to:

- The Garda Commissioner or PSNI Chief Constable (or nominated representative), as applicable; and
- The Garda Síochána Ombudsman Commission (GSOC), or where applicable, the Office of Police Ombudsman of Northern Ireland (OPONI) or the Northern Ireland Policing Board (NIPB)

who will be requested to complete the applicable clearance forms as set out below and to provide any updates regarding any aspect of that material that comes to the attention of their organisation up to the point that they are notified of the candidate's appointment or on request.

Garda Candidates

The Clearance form for completion by the Garda Síochána will require that the Garda Commissioner provide in respect of the candidate:

- A declaration of suitability in regard to health, character or other grounds;
- Confirmation of suitability having regard to the candidate's sick leave record;
- Confirmation that the candidate has signed the undertaking regarding the Code of Ethics for the Garda Síochána; and
- Details of previous disciplinary actions, previous convictions and any outstanding investigations that the candidate is the subject of, including but not limited to criminal, disciplinary, complaints to GSOC or matters relating to bullying or harassment or similar.

The clearance form for completion by GSOC will request details of any outstanding investigations in respect of the candidate.

PSNI Candidates

The clearance form for completion by the PSNI will seek details of previous disciplinary actions, previous convictions and any outstanding investigations in respect of the candidate.

PSNI candidates placed on the panel will be requested to provide details of a number of referees including one senior PSNI referee. A reference/ references may be sought from these referees as appropriate.

The clearance forms for completion by OPONI and/or NIPB, will request details of any outstanding investigations in respect of the candidate.

5. Requests for clarification or further information

Where it is necessary to obtain further information or clarification in order to complete the clearance process, the Chief Executive or Secretary of the Authority may seek further information from any of the relevant agencies referenced above or from the candidate.

In the event that there is an issue of specific concern arising in relation to the character or health of a candidate that meets the following criteria, that is:

- sufficiently clear and significant that, if proven, it may be relevant to whether to appoint that person to the specified rank;
- originating from a sufficiently reliable source or is supported by evidence that on the face of it appears to be reliable; and
- already in the public domain

the Garda Commissioner (or the referee of a PSNI candidate) will be explicitly requested to have regard, amongst other things, to the specific matter concerned in confirming to the Authority the candidate's suitability for appointment. Any such request will be accompanied by a cover letter making clear that no judgment is being made in relation to the matters referenced.

It is envisaged that there could be an occasion where the Authority might be aware of a matter that appears to be significant and be based on reliable information, but is not a matter that is in the public domain. In such a case, it is envisaged that the Executive would seek legal advice on the specifics of the case before taking further action in regard to the candidate's right to fair procedures in these circumstances (i.e. without taking certain other steps).

6. Consideration of the Outcome of the Clearance Process

In advance of the Authority making any appointment, the Executive will inform the Authority of the steps and checks that have been carried out in undertaking the clearance process, the outcome of the process and any other considerations relevant to Regulation 12.

The Authority will then consider the appointment of the candidate having regard to this material and to the relevant provisions of the Statement of Practice and the Garda Síochána Act 2005 (Appointments to the ranks of Assistant Garda Commissioner, Chief Superintendent and Superintendent) Regulations 2016.

7. Data Protection

The Authority recognises the confidential and sensitive nature of information requested from candidates and from other agencies in the course of undertaking the clearance process, which is obtained by the Authority to enable it to carry out the activities associated with the appointment process in compliance with the Authority's obligations under the Regulations and other statutory requirements. The Policing Authority is the data controller for the purpose of this personal data which it processes in accordance with the General Data Protection Regulation (GDPR) and other relevant data protection law. Further information about the clearance process has been set out in the Privacy Notice that has been provided to candidates.