



Sent by post and email: commissioner@garda.ie

Commissioner Drew Harris
An Garda Síochána Headquarters
Phoenix Park
Dublin 8
D08 HN3X

28 April 2020

Dear Commissioner,

The Irish Human Rights and Equality Commission met on the 24th of April as part of its ongoing review of the human rights and equality implications of the COVID-19 pandemic. The Commission fully supports the national effort to tackle the COVID-19 pandemic and recognises that exceptional measures have been required to protect individual lives and public health.

In considering the implementation of the Health (Preservation and Protection and other Measures in the Public Interest) Act 2020 and associated Regulations as it relates to policing, the Commission believes that more detailed data is required on how the implementation of this legislation is impacting people in different sectors of society.

We note that while the number of arrests being made under the new section 31A of the Health Act 1947 (as introduced by the Health (Preservation and Protection and other Emergency Measures in the Public Interest) Act 2020) is being reported, no other details are being provided, including, for example, the gender of the persons arrested; their ethnicity; age bracket; geographic location (both of the arrest and, with due regard to the privacy rights of the arrested persons; the neighbourhood where s/he resides); and whether the individuals in question are being arrested for the first time, etc.

Furthermore, in the Garda Síochána's press release, covering to the 18th of April 2020 inclusive, it was recorded that:

405 COVID-19 related incidents that started as potential breaches of the regulations, but during the incidents other offences were disclosed. As such, long-standing legislation for offences such as public order, assault, road traffic, and drugs was used instead. This included incidents involving house/street parties, gatherings beyond the family unit, and non-essential travel.

The publication of similar data in the context of these incidents would provide greater clarity on the interplay between the Garda's use of the COVID-19 emergency powers and existing criminal law powers, thereby providing further transparency and reassurance on the appropriateness of the use of both sets of powers.

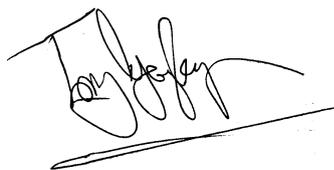
In addition to detailed data on arrests, more information is required on the use of the power to direct people under Section 31A(7) of the Health Act 1947 as amended, including the number of times that the power has been used by Garda members, a breakdown by geographical location on the use of this power, as well as any Garda guidance or instruction issued to Garda members on the power's use.

The Commission also seeks more transparency on the distribution of checkpoints across the State that have been set up, and/or are being used to police the COVID-19 restrictions, including their specific locations and time period that they are in place, as well as the rationale on which this is based.

In conclusion, the Commission considers comprehensive information is essential to assess whether these extraordinary powers are being exercised proportionately, and whether they are being implemented in line with human rights and equality principles.

The principle of transparency in the exercise of these powers is critical in order to provide reassurance to the public that their use is necessary, appropriate and fair. This shared understanding is the essential underpinning of Ireland's longstanding culture of policing by consent. It is of the utmost importance that Ireland comes through this crisis with that valuable tradition intact. Please do not hesitate to contact the Commission should you wish to discuss any of the matters raised in this letter, and I look forward to your response in due course.

Yours Sincerely,

A handwritten signature in black ink, appearing to read 'Tony Geoghegan', written over a horizontal line.

Tony Geoghegan
Acting Chief Commissioner