

Ban on Gardaí industrial action as hard to enforce as ever

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The planned actions by rank-and-file Gardaí, decided on at this week's special delegate conference of the 11,000-member Garda Representative Association (GRA), present a serious challenge to the longstanding Garda ban on industrial action.

According to the GRA statement, the conference "overwhelmingly" agreed that on the five Tuesdays in October (the 3rd, 10th, 17th, 24th and 31st), no voluntary overtime will be undertaken. These days include the policing-heavy Budget Day and Hallowe'en.

Also, on the week commencing November 6th – when the police force is due to revert to the pre-2010 roster, "delegates have decided that he or she will remain on the current 4 on / 4 off roster".

It was also agreed at the conference that if there is no change in the Garda Commissioner's decision to revert to the pre-2020 roster, then "delegates have decided that he or she will withdraw his or her labour on the 10th November".

Gardaí are forbidden by law to engage in, or coordinate industrial action, and previous attempts to use their considerable industrial power – in 1998 and 2016 – were carefully couched in terms that made it possible for the GRA (and AGSI in 2016) to argue that it was individual Gardaí withdrawing their service, rather than a conventional strike action.

The GRA leadership needs to be careful to take similar precautions this time, to protect against any legal injunction.

BALLOT MANDATE

Even if there was no Garda strike ban, and the GRA was just like any other public service union, a ballot for industrial action would be required. A ballot of 'no confidence' in the Garda Commissioner, overwhelming though the 98.3% result was, is unlikely to tick that legal box.

But if industrial action is legally challengeable by the management side, such legal action carries risks of its own. Firstly, it backs the GRA into a corner, creating further knots in the management/association relationship that later have to be untangled.

But secondly, what happens if individual Gardaí decide to ignore the injunction threat in significant numbers? Who arrests them – the 2,000 GRA members who did not take part in the ballot, or members of the other Garda associations in more senior ranks

STRIKE ISSUE SKIRTED

It was clear after the 2016 pay dispute – eventually defused by the Labour Court on the eve of a national police strike – that the current Garda ban on industrial action is effectively unenforceable in practice.

But once the immediate threat was gone, the reforms to Garda industrial relations after that dispute – including giving them formal access to the WRC and Labour Court – skirted the issue of industrial action.

One alternative approach could have been to take the Council of Europe decision in the Eurocop case taken by AGSI, which could have allowed some industrial action, but with restrictions due to the sensitive nature of policing.

This could have been preferable to the situation that now presents itself, where Gardaí are theoretically not allowed to take industrial action, but in practice can take action without the restrictions that exist where police unions are allowed to strike.

AGSI ENTERING TALKS

The 2,500-strong sergeants and inspectors' body, AGSI, are taking a different approach to the GRA compared to their similar stance in 2015.

A tweet from AGSI earlier this week, before the GRA conference, said that the rosters dispute was, at its heart, about the difference between the pre-2020 roster of six 10-hour days on, four days off, and the current Covid-era roster of four 12-hour days on, four days off.

It added: "AGSI is seeking to resolve the is matter through dialogue. The Garda Commissioner is entering talks with no pre-conditions."

Both GRA and AGSI had sought earlier this year to address the rosters situation in the internal Garda Conciliation Council (GCC), rather than the WRC, the Garda Commissioner's preferred forum.

But when the Commissioner agreed last week to use the GCC, the GRA said it would not engage until the resumption of the pre-2020 roster from November 6th was deferred.

While the Covid-era roster has been extended over a dozen times, the GRA says more time than the five weeks to November 6 is needed for balloting, let along negotiations on such a complex issue as rosters.