

Finding Your Way



A guide for families of victims following the death or serious injury of a loved one in a road traffic collision

PARC Road Safety Group
2024 Edition

What PARC Road Safety Group Does:

Since the inception of PARC in 2006, we have worked with families of road traffic victims and with all relevant stakeholders in road safety. We have been involved in many key campaigns to update road traffic legislation and policy changes in a number of critical areas including the following:

- Mandatory alcohol and drug testing of all drivers involved in fatal/serious collisions.
- Lowering of the drink driving limits.
- Automatic disqualification for drink drivers.
- Stronger penalties for unaccompanied learner drivers.
- Major changes to the outdated Garda Road Traffic Collision form to improve data collection and recording from collision scenes.
- Abolition of Garda fees previously charged to bereaved families for documents.
- Inclusion of the unborn in Road Traffic Collision statistics.
- Tightening up on loopholes which allowed drivers to evade penalty points in court.
- Time limit to make a complaint to the Garda Síochána Ombudsman Commission (GSOC) extended from six to twelve months.

PARC members researched and wrote this Plain English information guide.

Dedication

This guide is dedicated to all those who have lost their lives and to all whose lives have been devastated by road traffic collisions.

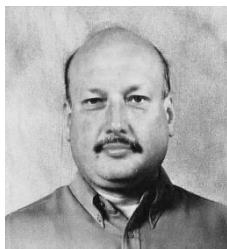
**Special thoughts for our dear friend and work colleague, the late
David Walsh, Dungarvan, Co. Waterford. R.I.P.**

PARC Road Safety Group

*'Promoting **Awareness Responsibility and Care** on our roads'*

PARC Road Safety Group is a national civil society organisation. It was founded by Susan Gray in 2006 after the death of her husband Steve in a road traffic collision in Gleneely, Inishowen, Co. Donegal on St. Stephen's Night 2004.

Stephen Gray's memory lives on and through the work and campaigns of PARC, set up in his name, he will never be forgotten.



PARC advocates for improved road safety and provides support, information and advocacy to bereaved and injured road traffic victims.

PARC Road Safety Group is a signatory to the European Road Safety Charter (ERSC).



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Acknowledgements

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Disclaimer

This document is not a legal document. It is a guide in plain English to help families of victims of road traffic collisions. While we have made every effort to ensure the accuracy of the information in this guide, PARC Road Safety Group cannot be held responsible for any errors or omissions.

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You can get a copy of this free 'Finding Your Way' guide from your Garda Family Liaison Officer or a copy can be posted to you by contacting PARC Road Safety Group -

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Introduction

This guide has been written by members of PARC Road Safety Group who had to find their way when they lost a loved one in a road traffic collision. It is a guide for families of victims where the driver under suspicion of having caused a fatal or serious injury collision has survived and a criminal prosecution may follow. If you are reading this because a loved one has died or has been seriously injured, please accept our heartfelt sorrow. We know the absolute devastation and pain which you are experiencing.

This guide is an outline of what is involved in the professional Garda investigation of fatal and serious injury collisions and the legal proceedings which follow. It can be a complex and confusing area. You may find it helpful to ask a relative or a friend to read this guide as well. We have put important tips in grey boxes.

You are on a search for answers, truth and justice for your loved one, let nobody stop you in your quest.

It is very important that every road death or injury is thoroughly investigated. This is essential for you to find out how and why the unnatural death or injury happened, to ensure fair criminal

prosecutions and compensation settlements, and to learn lessons so that lives are saved.

We strongly recommend that you attend all legal proceedings as you may learn something from each one. It can often be difficult to get answers to your questions outside of these proceedings.

Keep written records of your contacts with the Gardaí, the Coroner's Office, Solicitors, Office of the Director of Public Prosecutions (DPP) and so on.

Our guide starts with an outline of what happens immediately after a collision and highlights important things you need to know. Section 2 summarises the main legal proceedings involved in the investigation of an unnatural death due to a road traffic collision. You might not have to go through all of them but it is good to have an understanding in case you do. The next three sections go through the detail of each of these proceedings as follows:

- The inquest (Section 3),
- The Criminal Case (Section 4), and
- The Civil Case (Section 5).

The guide finishes with a list of further resources and supports that may help you get additional information and supports.

Section 1: After a Road Traffic Collision

This section describes what happens immediately after a road traffic collision under eight headings.

1. The emergency response

When a fatal or serious injury collision occurs, the Fire Service, Ambulance Service and Gardaí respond to the 999 or 112 call. The Fire Service is a rescue service at a road traffic collision. Their main goal is to rescue the injured while doing no further harm. The emergency services make every effort to have the casualties delivered to the hospital within one hour from the time of the collision. They contact the Health Service Executive (HSE) to plan a rescue strategy. Both the fire and ambulance services draw up a report outlining how they responded to the collision. The local doctor on call may also attend if requested.

Information to gather

The emergency calls to the Ambulance Service are logged. If you ask the National Ambulance Service (NAS), you may be able to get copies of the following records:

- time and date of an emergency call,

- time of arrival at the scene of the incident (if they responded),
- what hospital they went to, and
- a copy of the Patient Care Report (it won't identify any person involved in the collision).

The NAS will only give this information to an immediate member of the deceased person's family. When you ask for these records, you need to show the NAS evidence of your relationship to the victim.

How you get this information

If you want this information, you need to:

- write to the NAS and request it under the Freedom of Information Act 1997, Section 28(6) Regulations 2009;
- send proof of your identity; and
- send a signed letter from a solicitor or Peace Commissioner confirming that you are acting on behalf of the victim. (This signed letter is called a notary.)

(You can find contact details for NAS on page 45.)

The local Gardaí visit the scene of the collision and immediately secure and preserve it. They assist the injured and manage traffic. They establish the identity of the people involved and the contact

details of the next of kin. They may ask a religious person to attend to your loved one. It could be a priest to administer the last rites. Gardaí take brief statements from witnesses. The District Officer (Superintendent or Inspector) visits the scene and is assisted by the Forensic Collision Investigation Unit (FCI).

As a family member, we recommend that you ask for the name of the Superintendent in charge of the investigation and their contact details. You have to make an appointment to meet him or her as soon as possible. See Appendix A for possible questions you might want to ask.

2. Road factors

Gardaí at the scene record the details of the collision on a special form called the **Road Traffic Collision Details C(T)68 form**. This form asks for information such as:

- the date and time of the collision,
- the number of people involved in the collision,
- the vehicle (s) involved,
- the driver (s) details,
- details of road users involved,
- the numbers and types of injuries,

- details of alcohol and or drug tests carried out,
- weather conditions, and
- contributory factors.

The Gardaí and the Road Safety Authority (RSA) use this form to gather, record and analyse information on road traffic collisions. The RSA forward a copy to the relevant local authority. A representative from the local authority visits the scene with Gardaí to find out if road factors contributed to the collision and if so how they might be addressed. Recommendations on engineering solutions are sent to the Local Authority and to the National Roads Authority. An engineering solution could be clearer signage.

You can ask for a copy of an engineer's LA16 report from the local authority where the collision occurred.

3. Letting you know about the collision

Members of An Garda Síochána call to your family to break the news.

4. Identifying the body

A family member or a person named by the family must formally identify your loved one. A Garda, acting for the Coroner,

accompanies this person (identification witness) to the hospital.

Gardaí may retain your loved one's clothes for forensic analysis. The

next of kin is informed of the need for a post mortem (an autopsy).

A post mortem is a special medical examination of your loved one's body. It is carried out in **all** cases of an unnatural death to establish the medical cause of death.

Gardaí send a file on the circumstances of death to the Coroner.

Try to visit the scene of the collision with the Gardaí as soon as you can. This will help you to understand the circumstances which led to the collision.

We suggest that you hire a solicitor with relevant qualifications and expertise in road traffic law. We suggest you do this as soon as possible. They may advise you to hire a private Forensic Collision Investigator to examine the scene and vehicle(s) involved. Make sure that this person has the correct qualifications (is accredited).

5. Testing for alcohol and drugs (including medications)

By law, drivers involved in collisions where:

- there is death or injury, or

- there is a claim that the injury caused needed medical assistance,

must be tested for alcohol and drugs.

By law, the investigating Garda must take a preliminary test at the scene from all surviving drivers involved, unless this test would be prejudicial (harmful) to that driver's health. If a driver fails this test, they are taken to the Garda station for another test which will show the level of alcohol and or drugs in their system.

If taking a sample to use as evidence would be prejudicial (harmful) to the health of the driver, and the driver attends hospital, the Garda will request that a doctor or nurse carries out this test. The medical doctor treating the person may refuse such a test if they decide it would be prejudicial to the health of their patient.

From 27 November 2014 a blood sample taken from an unconscious driver can be tested for alcohol and drugs (Section 12 of the Road Traffic Act 2014).

Please note that there is a **lower drink driving limit** (20 mg) for professional drivers, learner drivers and those who are newly qualified.

All fatalities are tested for alcohol and drugs, including medications, as part of the post mortem examination. Samples are sent for testing to the Medical Bureau of Road Safety and the findings are recorded in a report called the **Toxicology Report**. The findings on all drivers as well as the Post Mortem (Autopsy) report of the deceased person(s) are sent to the Forensic Collision Investigators and they are included in the Garda Investigation File. Gardaí send copies of the deceased's reports to the Coroner in charge of the inquest.

After all criminal proceedings are over, you may ask for copies of your loved one's autopsy and toxicology reports from the Coroner in charge of the inquest.

If there are no criminal proceedings, you may request these reports before the inquest.

6. Post Mortem (also called 'autopsy')

The Coroner orders a post mortem examination after they are informed of an unnatural death. This examination is usually carried out by a hospital pathologist to establish the medical cause of the death of your loved one. As part of the post mortem, your loved one's body is tested for alcohol and drugs, including medications.

In some cases, the hospital may keep your loved one's organs for further tests. The hospital or the Coroner's Office will let you know if organs are retained. The hospital will let you know when these tests are completed. It may take three to nine months or more for the post mortem report to be ready.

If you have any questions about the post mortem report, write to the Coroner's Office **and not** to the hospital concerned.

7. Investigating Officers and the Garda Family Liaison Officer

There are four main categories of investigating officers involved after a road traffic collision. They are:

- The local Gardaí and District Officer (Superintendent or Inspector),
- The Forensic Collision Investigators (FCI),
- The Scene of Crime Unit (SCU) Officers, and
- The Public Service Vehicle Inspectors (PSVI).

Local Gardaí

The local Gardaí attend the scene immediately and, under the supervision of the District Officer (Superintendent or Inspector), begin an investigation into what caused the road traffic collision.

Forensic Collision Investigators (FCI)

If there is a death or there is likely to be one, the District Officer attending the scene (Superintendent or Inspector) calls for the services of the Forensic Collision Investigation (FCI) Unit.

Investigators in this unit are attached to the Traffic Corps in Divisions throughout the country. The FCI unit has a critical role in helping the District Officer to:

- identify the full extent of the scene(s);
- ensure that the scene is secured and preserved to prevent, as far as possible, the loss of evidence;
- advise and update them so that informed decisions can be made about road closures;
- locate, record and evaluate available evidence;
- make sure that the scene is photographed and recorded on video; and
- prepare reports.

Evidence

The evidence at a collision is varied includes:

- 'gouges' or other marks on the road surface,
- marks left by vehicle tyres,

- the point or area of impact,
- the rest position of vehicles in relation to the point of impact, damage caused to vehicles, and
- projectiles (examples of projectiles include vehicles or parts of vehicles involved in the collision).

FCIs use digital photography and modern surveying equipment.

They carry out an electronic survey of the scene. From this they can produce a detailed computerised scale plan of the scene.

When the forensic investigation of the scene is completed, a detailed report including the scale plan, crush damage analysis (if applicable) and any calculation carried out is then sent to the investigating officer as part of the overall investigation file. The investigating officer can then generate a 3D (three dimensional) reconstruction of the collision scene. It is also possible to give a range of likely vehicle speeds. This range is likely to be more accurate if more factors are available such as tyre marks, debris and so on.

The investigator can sometimes work out projectiles (explained above). This can help in figuring out likely impact speeds.

The Scenes of Crime Unit (SCU)

Gardaí in this unit take samples of evidence for forensic investigation. These include samples of paint, glass, blood, fibres and clothing. They also take photographs of the scene and look for CCTV and other evidence which may help to establish the cause of the collision.

Public Service Vehicle Inspectors (PSVI)

These Gardaí examine vehicles involved in the collision after they have been removed to a secure compound. This examination tests the road worthiness of the vehicle(s) before the collision. It is done after technical and forensic examinations.

Where a commercial vehicle is involved, the investigators examine the tachograph chart(s). A tachograph is a device fitted to a vehicle which records its speed, driving hours and rest periods. For information on regulations for professional drivers, visit the Road Safety Authority website www.rsa.ie and follow the links to 'professional drivers'.

The family and or their independent forensic collision investigator may examine and photograph the damaged vehicle(s) in the secure Garda compound after Gardaí have completed their tests.

An Garda Síochána's Charter for Victims

It is useful to be aware of An Garda Síochána's commitments to victims of crime. They apply to you and to your loved one. They include the following:

- informing the victim of the name, telephone number and station of the Investigating Garda;
- outlining the procedures and ensuring that the victim is kept informed of the process, including whether a suspect is charged or cautioned;
- providing information on the services available to victims;
- informing the victim when the accused is in custody or on bail and the conditions attached to the bail;
- informing the victim of the time, date and location of the court hearing of the charges against the accused;
- explaining the prosecution process involved and, if the victim is likely to be called as a witness; and
- explaining the circumstances in which a judge may ask for a Victim Impact Statement.

To read the full 'An Garda Síochána Victims Charter', visit www.garda.ie and follow the links to Garda Charter for Victims.

Garda Family Liaison Officer (Garda FLO)

Very soon after a fatal collision the Garda Superintendent in charge of the investigation appoints a Family Liaison Officer (FLO) to your family. This investigating officer will keep you updated on developments in the investigation and on the court proceedings.

The FLO will also tell you about support agencies and helpful practical information.

The Garda FLO will answer your questions about the collision and will keep in contact with you until court proceedings are finalised.

They will also support you at your loved one's inquest.

The FLO will keep a record of all their contacts with you and report back to the Superintendent in charge of the investigation relevant information your family offers on the victim or crash circumstances.

We encourage you to keep your own detailed records of all contacts with the FLO and the Superintendent. Please note the dates, reason for contact and the information exchanged. You need to ask for key information in writing.

If you are unhappy with the service provided by your FLO, you can complain to the Garda Síochána Ombudsman Commission (Please see contact details for this body on page 47.) If your family doesn't have a FLO, contact the Superintendent in charge of the investigation to request one.

8. The paperwork

In the weeks after the collision the Gardaí will take more detailed statements from witnesses. Witnesses should ask for a copy of their statement from the Gardaí. There is no charge for this copy.

Garda Criminal Investigation File

The Garda Investigation File includes:

- evidence gathered by the local Gardaí at the scene,
- statements from the investigating Gardaí,
- witness statements,
- the Forensic Collision Investigator's (FCI) Report,
- the Scenes of Crime Unit (SCU) Report,
- the Public Service Vehicle Inspectors (PSVI) Report,
- medical evidence,
- the Toxicology Report,

- the Autopsy Reports, and
- other evidence.

If there is a criminal trial, this file is part of the Book of Evidence.

PARC recommends that you meet regularly with the Superintendent in charge of the investigation to hear first-hand how it is progressing. He or she will send the completed Garda Investigation File, together with his or her recommendation as to the charge, to the DPP. Outside Dublin this is sent through the local State Solicitor. The Gardaí also forward a copy of the investigation file to the Coroner.

Section 2: Summary of the main legal proceedings

There are three separate legal proceedings following the investigation of an unnatural death due to a road traffic collision.

1. **An inquest (also called ‘Coroner’s Inquiry’)** – there will **always** be an inquest,
2. **A Criminal Case** – there may or may not be a criminal case, and
3. **A Civil Case** – it is up to you if you wish to take a civil case.

1. Inquest (or Coroner's Inquiry)

This is a public inquiry by a Coroner to establish the facts surrounding the unnatural death of a person. It generally takes place about 4-10 months after the death but can be longer. The Coroner will open a preliminary inquest and adjourn (postpone) it if there is going to be a criminal prosecution. It will proceed to a full inquest hearing if there **isn't** going to be a criminal trial. (Read about full inquest hearings on page 24.)

If there is going to be a criminal trial, the inquest will open and adjourn to allow for the criminal case to be heard before being concluded.

2. Criminal Case

A criminal case **only** takes place when the Director of Public Prosecutions (DPP) has decided that there is enough evidence to charge someone with a criminal offence, usually under the Road Traffic Acts. They make this decision based on the investigation file presented to their office by the Gardaí.

3. Civil Case

If the victim's family wishes, they may take a civil case. A civil case is where you seek to claim personal damages against someone (usually a driver) for loss or injury sustained in a collision. This case does not involve the State.

Each of the above legal proceedings has different aims and evidence requirements, although the same facts are used in each.

A criminal case and a civil case can run together. Usually, it is best to wait to hear the evidence from the criminal case before you consider taking a civil case. Please remember that you must lodge the papers to begin a Civil Case within two years of the date of the collision.

The next sections provide details on each of these proceedings starting with the inquest.

Section 3: The Inquest

An inquest is a public inquiry into an unnatural death to establish the identity of the deceased, the date and place of death and the circumstances surrounding the death, including the medical cause of death. It doesn't allocate blame to anyone. This means it doesn't make any legal decisions about who is at fault.

The inquest is held in a **Coroner's Court**. It is overseen by a Coroner who may be a medical doctor or a lawyer (solicitor or barrister). In Ireland, Coroners operate independently within their own districts. This means that procedures for court hearings are worked out by the individual Coroners in their own districts and differ between districts. Contact the Coroner you are dealing with to get information on the procedures in their district.

Some Coroners will keep in close contact with you from the start and your loved one's death may be mentioned many times before the full inquest date is set. However, this may not be the case in all districts. There should be **at least four months** between the date of the death and the inquest date. If it is planned too soon after the collision, you may be too upset to attend and anyone injured in the crash may not have been given enough time to recover physically or mentally.

You have a right to receive adequate notice of the inquest date from your Garda Family Liaison Officer (FLO). We encourage you to link in early with the Coroner's Office in the district where your loved one died. Go to www.coroners.ie to find out where the office is.

If you haven't been given enough notice of the inquest date, contact the Coroner's Office to request that the inquest is adjourned.

Interim Certificate of the Fact of Death

Before the inquest (or while waiting for the post mortem report) the Coroner may provide an Interim Certificate of the Fact of Death. Banks, insurance companies and other institutions usually accept this certificate.

Full Death Certificate

The death will be registered with a Coroner's Certificate after evidence of identification and medical cause of death have been taken when:

- an inquest is opened and adjourned, or
- the inquest is opened and concluded.

This Certificate is then sent to the Registrar of Births, Marriages and Deaths where the death is recorded. You can collect it and use it for banking, and legal purposes such as probate (authority to deal with your loved one's estate).

When inquests happen

As mentioned above, the timing of inquests depends on if there is likely to be:

- a criminal trial, or
- no criminal trial.

1. Where there is no criminal trial

If the DPP directs that there will be **no criminal proceedings**, the Coroner agrees a date with you for a full inquest. You can question witnesses directly or through your solicitor (if you have one) or the Coroner.

If you learn of any new evidence before or during the inquest, you should tell the Coroner and ask for it to be adjourned (postponed).

You **won't automatically get relevant documents before the inquest**. You need to write and ask the Coroner for them before the full inquest date. They will probably send you documents including:

- draft depositions (taken from original statements from witnesses),
- medical evidence,
- The Post Mortem Report, and
- Toxicology Reports (alcohol and drugs, including medications).

When there is going to be a criminal trial

If the DPP directs a criminal prosecution, **the inquest will be opened and adjourned (postponed)** to allow the criminal prosecution to take place. (You can read about the Criminal Case on page 27.)

The Coroner may issue a death certificate during this preliminary inquest if evidence is taken on the identification and medical cause of death of your loved one. When the inquest has been reconvened after the Criminal Case, the facts surrounding the road traffic collision will usually have been established, so, **unless** there are special reasons and the family asks that the facts are re-examined, there normally will not be a **full** inquest. Instead the inquest is usually resumed and concluded by the Coroner after he or she receives confirmation from the court clerk that the criminal prosecution has been dealt with. Some Coroners include in the death certificate that the victim's injuries were sustained in a Road Traffic Collision. You may ask for this and ask for a **'Record of Verdict'** from the Coroner.

If the DPP has directed a prosecution, you won't be able to get the pre-inquest documents (draft depositions, post mortem report and so on) until after the criminal case.

When the criminal procedures are over you should keep in touch with the Coroner to make sure you have full information on the inquest and procedures.

2. What to expect at the full inquest

By law an inquest into a death resulting from a road traffic collision must be held before a jury. The Coroner explains that the inquest aims to establish the cause of this unnatural death without blaming anyone. The Coroner then decides which witnesses are called and what evidence can be entered for hearing. Witnesses must take an oath and each of their depositions (parts of earlier statements) is read out to the court before the Coroner questions them. The jury and both parties are given the chance to ask the witnesses questions. If questioning shows that more evidence is needed, the inquest may be adjourned (postponed) for another day.

Gardaí give evidence of their investigations during the inquest. A notetaker (stenographer) may be present or the evidence may, in some cases be recorded but both are unusual outside of Dublin.

The Coroner tells the jury which verdicts are lawfully available in a particular case. The most common verdicts are accidental death or death by misadventure. A death by misadventure is where a person is killed due to an unintentional accident. Less common verdicts are recorded as unlawful death or an open verdict. An open verdict is where the jury agrees that the death is suspicious but can't decide on a verdict from the options available to them.

The jury may make recommendations which the Coroner follows up with a letter to any authority which may bring about change such as The Road Safety Authority, The National Roads Authority, An Garda Síochána or The Minister for Transport or The Minister for Justice.

There are two main sources of evidence: evidence from people and evidence from documents.

Evidence from people includes:

- the witness who identified the deceased;
- the last person to see the person alive;
- the person(s) who saw the collision or the aftermath or who saw those involved before the collision happened. (This may be someone the family suggests with the Coroner's agreement);
- the Garda Forensic Collision Investigator; and
- the ambulance crew and or doctor attending the scene, if any.

Evidence from paper sources often includes:

- medical evidence, especially where the deceased was alive for a time after the collision;
- the Autopsy Report;

- the Forensic Collision Investigator (FCI) Report;
- a computer-generated sketch of the collision scene; and
- depositions (part of earlier statements).

Some Coroners want to see the full book of evidence to prepare depositions from the witness statements. The content of a deposition should not blame a person or persons. Other Coroners get the depositions from the Gardaí. You should ask the Coroner how the depositions are drawn up for their court. Their content can vary depending on who draws them up.

3. After the inquest

You can request the following documents from the Coroner:

- the Record of Verdict,
- the Coroner's Certificate of Death, and
- the Inquest File.

You will have to pay for these documents.

If no criminal proceedings take place or if the defendant pleads guilty, these documents are a good source of information and may be important for any civil case.

Problems with the media?

Your family or a victim of a collision can make a complaint to the office of the Press Ombudsman about an article that personally affects them and has been published in the last three months in a newspaper or magazine that is a member publication of the Press Council of Ireland, if they think that it breaches (breaks) their code of practice. You can also complain about the behaviour of a journalist. Contact: www.presscouncil.ie

The next section deals with the main elements of a criminal case.

Section 4: Criminal Case

A criminal case happens after a preliminary inquest has been opened and adjourned until the case is over.

In the Irish legal system, a driver is innocent until proven guilty. If the Garda Investigation file sent by the Superintendent in charge of the investigation to the Office of the Director of Public Prosecutions (DPP) contains strong evidence against a suspect, the DPP, on behalf of the State will direct a criminal prosecution.

Write to ask the Superintendent in charge of the investigation to tell you when he or she sends the completed investigation file to the DPP, the charge he or she has recommended, and any decision made by the DPP, as soon as a decision is made.

An **indictable (major) offence** is an offence which can be tried by a jury in the Circuit Court.

There is no time limit for the Gardaí to begin a prosecution for indictable offences. It is very rare to prosecute for murder in a road traffic case. To do this, the prosecution would need to prove beyond a reasonable doubt that the driver intended to kill the deceased, or at least intended to cause serious harm to them.

To prove manslaughter, the prosecution need evidence of a high degree of negligence or gross negligence on the part of the driver.

These criminal cases begin in the District Court and are sent to the Circuit Criminal Court for trial and sentencing (if applicable).

1. Types of offences

There are two types of offences: indictable (major) offences and summary (minor) offences. The following are the most serious

indictable offences that can be considered if a prosecution is directed:

- murder,
- manslaughter (killing someone illegally which is not murder),
- dangerous driving causing death or serious bodily harm, or
- careless driving causing death or serious bodily harm.

The offence of dangerous driving causing serious bodily harm or careless driving causing serious bodily harm, although indictable offences, can be dealt with in the District Court on a plea of guilty only with the consent of the DPP. See Section 4 of the Road Traffic (No. 2) Act 2011 (available on www.irishstatutebook.ie).

Examples of **summary (minor) offences** include dangerous driving and careless driving. For these offences there is a **six-month time limit** from the date of the collision for Gardaí to begin a prosecution.

A **summary offence** is dealt with in a District Court.

2. The arrest and the criminal case

When the Gardaí are directed by the DPP to begin a prosecution for an indictable offence such as dangerous driving causing death or careless driving causing death, the suspect is arrested and charged

in the District Court. Sometimes the Gardaí will commence the proceedings by way of summons rather than arrest and charge.

The accused must be given The Book of Evidence within 42 days of when it has been decided that the case is to proceed on indictment. However, this time limit may be extended. They may appear many times in the District Court before a trial date is set.

During the hearing (called an arraignment hearing) in the Circuit Criminal Court, the charge(s) against the defendant are read. They plead either “guilty” or “not guilty” to each of the charges.

If the defendant pleads “guilty” as charged, there will be no trial just a sentencing hearing.

If they plead “not guilty” as charged there will be a full criminal trial in the Circuit Criminal Court before a judge and a jury followed (where applicable) by a sentencing hearing. Witnesses, including survivors who made statements, are usually called to give evidence. The person who identified the body may be called as an identification witness. The judgment is usually delivered, the jury dismissed, and a date set for the sentencing hearing if applicable.

In certain cases, the accused may be **acquitted** (declared free of guilt or blame) following a trial. This is something you should be prepared for.

In certain cases, a trial may end without a judgement. This could happen for example, because the jury could not reach a verdict. Of course, the conviction can be overturned for legal reasons by the Court of Appeal. In all cases the matter must be referred to the DPP to decide if there will be a **retrial**.

3. Legal representation

The team representing the accused is called the 'Defence' and the State's team is called the Prosecution. For a trial in the Circuit Criminal Court the legal teams for both the accused and for the Prosecution (People of Ireland - State) consists of a solicitor and a counsel (barrister). The victim's family is not entitled to legal representation in the criminal trial.

Defence Team (team representing the accused)

If the accused can afford legal costs they choose a solicitor to act on their behalf. The solicitor then chooses the counsel (a barrister or a senior counsel). If the accused can't pay for the legal costs of their defence, they are entitled to have a solicitor, through the Free Legal Aid Board, to represent them in Court. In the Circuit Criminal Court, the Judge decides if the accused gets one or two counsel.

Prosecution Team (State's Team)

For the most serious charges, the prosecution team is made up of a solicitor and junior counsel. In Dublin cases, the solicitor is from the Solicitors' Division of the DPP's Office. Outside of Dublin the solicitor is the local State Solicitor, who is a solicitor in private practice with a contract with the DPP to deal with prosecution work in their area. State Solicitors cannot act for a suspect while being The State Solicitor. They cannot act in the same case for both prosecution and defence.

In Dublin the junior counsel is chosen by a senior solicitor in the trials section of the Solicitors Division of the DPP's Office. Outside of Dublin there is a standing junior counsel who prosecutes in every case in their county. In the Circuit Criminal Court, a senior lawyer in the DPP's Office decides whether or not to hire a senior counsel.

Meeting before the trial ('Pre-trial meeting')

The family is entitled to meet with the prosecuting legal team before the trial and any sentencing hearing. This meeting allows the family to get to know the prosecution team and to learn about relevant procedures. Because of legal reasons the team will not normally go into the strength of the case, except where a plea is being offered to a lesser charge and that needs to be addressed.

The victim's family is entitled to have their views heard and considered. It is important to note that if the DPP has directed summary (minor) charges against the defendant together with the indictable (major) charges, it is possible to have the driver arraigned on these offences. This means they can be called before court to answer charges and to say whether they are guilty or not guilty to each charge. Examples of summary charges are:

- drink driving,
- no insurance,
- no valid driver licence, or
- learner driver unaccompanied by a qualified driver.

For more information, read the information booklet 'The role of the DPP' available from your FLO or visit www.dppireland.ie and follow links to 'Victims and Witnesses'. The prosecuting team has certain obligations towards families of victims. These are described in Chapter 12 of the 'Guidelines for Prosecutors' which is also available on the DPP website.

4. Preparing yourself for court

We advise you to visit the court beforehand so that you are familiar with the procedures. If you would like someone to support you in

the court contact the voluntary group, Victim Support at Court (VSAC) through www.vsac.ie. Ring the relevant Court Office to reserve seats in both the District and Circuit Criminal Courts.

Bring your solicitor with you on the day of the trial and or sentencing hearing. Your solicitor will not be allowed to say anything, however they will be able to explain the significance of what is happening.

Victim Impact Statement (VIS)

The VIS is a written record of how the road traffic collision affected your family. It gives you an opportunity to explain to the court what your loved one was really like and how you miss them. It gives your loved one a voice. It may include other reports from medical staff.

If you want the opportunity to read out your VIS in court under oath, you can request this. The judge will decide. Prepare your VIS well before the trial or sentencing hearing. Find out when to send your VIS to the Gardaí.

When you give a VIS to the Gardaí it becomes part of the evidence in the case. Your family should complete their VIS after the offender

has been found guilty in court or has pleaded guilty but before the judge decides on the sentence. As this is not a confidential document the Gardaí will give your VIS to the prosecution team, the offender and the offender's counsel. If you need help writing your VIS, read 'Making a Victim Impact Statement'. This is a short document published by An Garda Síochána, Victims of Crime Office and the Office of the DPP in 2013. A link to this document is: [www.dppireland.ie/filestore/documents/Making a Victim Impact Statement.pdf](http://www.dppireland.ie/filestore/documents/Making_a_Victim_Impact_Statement.pdf)

The family may wish to give their VIS to their solicitor to review before they submit it to the Gardaí, as the content may have repercussions for an appeal if there is one.

5. Appealing the sentence

The prosecution has the power to appeal or seek a review of certain decisions of a trial court. See Chapter 11, Guidelines for Prosecutors Director of Public Prosecutions. The link at: www.dppireland.ie

6. No prosecution due to lack of evidence

Although the Superintendent in charge of the investigation must send an investigation file to the DPP with his/her recommendation, this does not always mean that charges will be made. In some

instances, the Gardaí may advise that the crash was the fault of the fatally injured driver or injured person, but a file must still be prepared and sent to the DPP for direction before proceeding to the Coroner's inquest. Even where the Gardaí are not recommending a prosecution a file must be sent to the DPP.

When the DPP decides not to prosecute they send their reasons and decision to the Superintendent in charge of the investigation.

Usually, the main reason not to prosecute is lack of evidence. The DPP may inform Gardaí what evidence is needed for a prosecution.

If no prosecution was directed by the DPP, you can write to the DPP's office to ask why. Gardaí will provide you with a form to fill in to request reasons from the DPP. The form is also available in the Victims and Witnesses section of website: www.dppireland.ie

Important

You may request a review of the DPP's decision not to prosecute. You have 56 days from the date you were told of the decision not to prosecute. Visit www.dppireland.ie for details.

Where the DPP directs 'no prosecution' a full inquest can be heard. Please go to page 24 to read about what will happen at this hearing.

A full inquest cannot take place if there is any chance that there will be a criminal prosecution.

At the end of the criminal process

When the criminal and inquest process is over you should ask the Superintendent in charge of the investigation for a copy of the **‘The Garda Abstract Report’**. This is taken from the Garda Investigation File. This report usually includes:

- witness statements (including Garda statements),
- the Forensic Collision Investigator’s Report.
- a sketch of the scene (computer generated and or a rough sketch), and
- coloured photographs of the scene and of the vehicles involved. ¹

Please go to page 19 to learn more about the inquest.

¹ Note: As and from 1st January 2017 there is no charge by An Garda Síochána for the above documents for bereaved families. In cases of collisions resulting in a serious injury, fees are capped at a cost of €1,000.

7. Problems with the Garda investigation?

If you believe the Garda investigation into the collision has not been conducted properly, you can complain to the Garda Síochána Ombudsman Commission (GSOC). There are time limits for making a complaint.

You have twelve months to make a complaint from the time you become aware of the matter giving rise to your complaint unless the GSOC consider that “good reasons” exist to allow for the extension of time. (See Appendix C page 57)

PARC advises you to record any complaint(s) you may have and send it by registered post to the Garda Síochána Ombudsman Commission once you become aware of it.

You don't have to wait for the Garda investigation or criminal matters to finish before making your complaint. In fact, if you wait, it could result in your complaint being declared 'inadmissible' This means that it won't be heard. The GSOC will write to you to tell you if your complaint is admissible in full, in part or not at all. If admissible, GSOC will write to you outlining the name(s) of the officers investigating your complaint. They will also keep you informed on how their investigation(s) is progressing. [See Garda Síochána Act 2005(as amended) -S.103.]

Collisions involving a member of An Garda Síochána

In road traffic collisions involving a Member of the Garda Síochána (on **or** off duty and in a Garda vehicle **or** in their own private motor vehicle), if it appears to local Garda management that the Member's actions may have resulted in death or serious harm, they are legally obliged to refer the matter to the Garda Ombudsman Commission (S.102 of the Garda Síochána Act 2005).

The Garda Ombudsman Commission is an independent organisation with their own investigations staff. They provide a 24-hour 365 day on-call service to receive section 102 referrals from Garda Superintendents and have the same powers as the Gardaí when conducting investigations into possible criminal matters.

After an initial assessment of your complaint, the GSOC may decide to lead the investigation. When a member of the Garda Síochána is involved in a fatal collision, you are not charged for a copy of the Garda Abstract Report.

8. Civil Case

A Civil Case may be taken if the victim's family wish it. If a victim or the family of a victim claim personal damages against the driver for loss or injury sustained in a collision, this will be a civil law case. This case will not involve the State.

Personal injury claims and time limitations

A personal injury claim must begin within two years of the date of the road traffic collision and the process must start with the Personal Injuries Assessment Board (PIAB) www.piab.ie

The Injuries Board is an independent statutory body set up by the Government to assess how much compensation may be awarded to someone who has been injured, when liability (responsibility) or fault between the parties involved is agreed. Your solicitor will advise you.

Families may take a civil case even if the DPP decides that there will be no criminal prosecution. The standard of proof in civil actions is the 'balance of probabilities', while in the criminal case it is 'beyond a reasonable doubt'.

9. Motor insurance company

Following the death or serious injury of a loved one (driver, passenger, pedestrian or cyclist) in a road traffic collision, we advise you to contact the motor insurance companies involved in the incident. The Gardaí are not required to do this. After a collision most insurance companies gather information about the collision from:

- family members,
- a third party,
- reports from claims investigators, motor assessors or consulting engineers (appointed by the insurance company), and
- Garda reports which usually include a Public Service Vehicle (PSV) Inspector's Report.

A typical Garda report includes:

- a detailed description of the circumstances of the collision,
- the point of impact (if known),
- photos of the collision scene,
- relevant measurements, and
- details of all witnesses.

By law, the motor insurance company cannot give the personal details of witnesses.

Ask the motor insurance company to keep you up-to-date with developments, claims and settlements and any entitlements due on the policy.

If necessary, a representative of the insurance company, usually a solicitor, will attend an inquest. This could happen where there is a dispute about who is responsible or where new evidence could be brought to light. You won't always know that a representative will be present. Where applicable, the insurance company will know the dates for inquests and trials. The company will also receive a copy of the Garda Abstract Report.

Uninsured vehicles

Motor Insurers' Bureau of Ireland (MIBI) compensates innocent victims of collisions caused by uninsured and unidentified vehicles (such as in a hit and run). It also deals with claims from people involved in collisions caused by foreign registered vehicles.

It is important that collisions giving rise to a claim made to the MIBI are reported to An Garda Síochána within two days of the collision or as soon as the claimant reasonably can.

Section 3.14 of The Department of Transport's Agreement (signed 29 January 2009) between the Minister for Transport and the MIBI, (in the document "Motor Insurers' Bureau of Ireland - Compensation of Uninsured Road Accident Victims") gives details of the information you or your solicitor must send to MIBI, 5 Harbourmaster Place, IFSC, Dublin 1. www.mibi.ie E mail info@mibi.ie, Tel: (01) 676 9944.

If the suspect has previous road traffic convictions and the insurance company probably doesn't know about them, contact the Irish Insurance Federation Confidential Hotline – **1890 333 333** or (01) 676 1820.

Talk with your solicitor before you decide to accept any monies or interim payment from any third party involved.

Final note

We hope that you have found this guide helpful. It will be regularly updated by PARC Road Safety Group.

Please tell us if there is anything you would like included or further clarified.

Contact us by email: parcroadsafetygroup@gmail.com

Can You help?

All PARC members have one thing in common - we have all lost family members in road traffic collisions. Despite our pain and grief, we are working to make roads safer for all. PARC members attend courts, Coroners' inquests, Dáil and Seanad debates on road safety and are involved in many key campaigns to update road traffic legislation and policy changes in the area of road safety.

If you would like to help please contact us -

Email: parcroadsafetygroup@gmail.com

Follow us on Facebook and Twitter

Links to further information and resources

National Ambulance Service (NAS) NAS responds to emergency 999 or 112 calls. NAS provides medical help to patients who have serious or life-threatening injuries. To contact NAS, write or phone the Operational Support and Resilience Manager in the relevant NAS areas covering the 26 counties. There are three. Please see their addresses on the column opposite.	Web: www.hse.ie National Ambulance Service, Area Operations North Leinster Phoenix Hall St Mary's Hospital Phoenix Park Dublin 20 Tel: (01) 620 1403 National Ambulance Service, Area Operations South Kilcreene Hospital Kilkenny Tel: (056) 778 5568 National Ambulance Service, Area Operations West St Mary's Hospital Complex Castlebar Co Mayo Tel: (094) 902 1698
Collision Investigation: 'Garda Code' This is a confidential guide for the Gardaí into the investigation of fatal collisions so you won't be able to see it. However, you may find the following link helpful: www.garda.ie/Documents/User/Communique%20April%202010a.pdf "Forensic Collision Investigation". An Garda Síochána Management Journal April 2010.	
Road Accident Investigation for Road Engineers (World Road Association, PIARC) This resource will tell you the codes of investigating road traffic collisions in other countries. Web: www.who.int/entity/roadsafety/news/piarc_manual.pdf	

Road Traffic Acts Ireland “Road Traffic Law: The 1961-2017 Road Traffic Legislation” Robert Pierse, Bloomsbury Professional, ISBN ref: 978-1-52650-269-8. This is a reference guide covering major changes in road traffic law for legal staff.	
To get the Coroner’s details Contact your family doctor, Garda Liaison Officer or go to the website opposite and follow the links.	Web: www.coroners.ie
Forensic Engineers You can privately hire these engineers to conduct engineering investigations and act as expert witnesses in court.	Web: www.forensicengineers.ie For a list of members’ contact: Association of Consulting Engineers The Mews Montague Court 7-11 Montague St Dublin 2 Tel: (01) 475 7722
Garda Family Liaison Officer (FLO) This FLO works with bereaved families. They follow ‘An Garda Síochána Victims Charter’. Read the full charter on website.	Web: www.garda.ie
Personal Injuries Assessment Board (PIAB) You can contact the Injuries Board or get your solicitor to contact them.	Web: www.piab.ie Personal Injuries Assessment Board PO Box 8 Clonakilty Co Cork Tel: 1890 829121 Email: enquiries@injuriesboard.ie
Useful resources from the Office of the Director of Public Prosecutions (DPP) include ‘The Role of the DPP’ and ‘How we make prosecution decisions’. The DPP’s Office will give you information on the Irish Criminal Justice System.	Web: www.dppireland.ie Office of the Director of Public Prosecutions Infirmary Road Dublin 7 Tel: (01) 858 8500

Court Service If you want to book your seats for court, contact the Court Service. Please see details in the opposite column.	Web: www.courts.ie Head Office The Court Service 15-24 Phoenix St North Smithfield Dublin 7 Tel: (01) 888 6000
V-SAC (Victim Support At Court) This is a voluntary service which can provide victims and witnesses with a person to go with them when they attend court.	Web: www.vsac.ie Victim Support at Court Áras Uí Dhálaigh Four Courts Dublin 7 Tel: (01) 872 6785 or 087 2885521 Email: info@vsac.ie
Prisoner Release Information If you wish to be informed about prisoner release, you need to write to The Victim Liaison Officer. Contact details on the column opposite.	Web: www.garda.ie Follow links to 'Information for Victims of Crime' The Victim Liaison Officer Irish Prison Service Headquarters IDA Business Park Ballinalee Road Longford Tel: (043) 333 5100 Email: vlo@irishprisons.ie
Road Traffic Acts Ireland. For Road Traffic Acts visit the website in facing column.	Web: www.irishstatutebook.ie
Garda Síochána Ombudsman Commission (GSOC) is an independent statutory body established under the Garda Síochána Act 2005. By law, the GSOC independently investigates complaints against members of the Garda Síochána.	Web: www.gardaombudsman.ie Garda Síochána Ombudsman Commission 150 Upper Abbey Street Dublin 1 LoCall: 1890 600 800 Tel: (01) 871 6727

The Garda Síochána Act 2005 as amended. GSOC's functions and responsibilities are governed by the Garda Síochána Act 2005, as amended. It can be read on www.gardaombudsman.ie in the section 'Relevant Legislation'.	
Medical Bureau of Road Safety (MBRS) The Medical Bureau of Road Safety is responsible for the chemical testing of alcohol and drugs (including medications) in driving in Ireland.	Web: www.mbrs.ie
Road Safety Authority (RSA) The RSA aims to save lives and prevent injuries by reducing the number and severity of road collisions. The RSA website is a source of information regarding driving in Ireland.	www.rsa.ie The Road Safety Authority Moy Valley Business Park Primrose Hill Ballina Co Mayo Lo-Call: 1890 40 60 40
Irish Council for Civil Liberties (ICCL) This is an independent human rights watchdog, which monitors, educates and campaigns in order to secure human rights for everyone.	www.iccl.ie ICCL Unit 11 First Floor Usher's Quay Dublin 8 Tel: (01) 912 1640 Email: info@iccl.ie

Personal help for you and your family

Crime Victims Helpline - You can ring this free helpline to talk with a trained volunteer who will listen and provide you with support and information at this difficult time. If there is a serious road traffic crime involved, they can link you into a range of support services and help you understand the Criminal Justice System.	www.crimevictimshelpline.ie Freephone No: 116006 Tel: 1850 211407 Text: 085 1337711 Email: info@crimevictimshelpline.ie
Irish Tourist Assistance Service (ITAS) A service offering immediate support and assistance to tourists who are victimised while visiting Ireland. The Service is free.	Web: www.itas.ie ITAS 6-7 Hanover St East Dublin 2 Tel: 1890 365 700 or (01) 661 0562 Email: info@itas.ie
Citizens Information Board (CIB) have a free booklet, <i>"Information for those affected by bereavement (2018)"</i>. It provides information on practical and legal matters following a bereavement including details on financial supports. Call, email or visit a local CIB centre.	Web: www.citizensinformation.ie Tel: (0761) 07 4000
Samaritans for confidential emotional support, you can ring their helpline anytime.	Web: www.samaritans.org Free call: 116 123

The Irish Association of Counselling and Psychotherapy To find an accredited counsellor or Psychotherapist, ask your family doctor or contact the Irish Association of Counselling and Psychotherapy.	Web: www.iacp.ie Tel: (01) 230 3536 Email: iacp@iacp.ie
Barnardos offer a bereavement counselling service for children and young people who have lost someone close to them such as a parent or a sibling.	Web: www.barnardos.ie Tel: (01) 473 2110
Anam Cara – a national voluntary organisation, offering on-line and face-to-face support services to bereaved parents following the death of a child regardless of age or circumstances of their death.	Web: www.anamcara.ie Anam Cara HCL House Second Avenue Cookstown Industrial Estate Tallaght Dublin 24 Tel: (01) 404 5378 or 085 2888888 Email: info@anamcara.ie
Headway helps people who have brain injury to rebuild their skills to achieve the best quality of life that they can. They also provide support to families who have been affected by brain injury.	Web: www.headway.ie Tel: 1800 400 478

National Rehabilitation Hospital (NRH) provides inpatient and outpatient services to patients who, as a result of an accident, illness or injury, have acquired a physical or cognitive disability and require specialist medical rehabilitation.	www.nrh.ie National Rehabilitation Hospital Rochestown Avenue Dún Laoghaire Co Dublin Tel: (01) 235 5000 Email: enquiries@nrh.ie
The Rehab Group provides training, employment, health and social care to people with disabilities, including those with physical injury and acquired brain injury.	Web: www.rehab.ie Communications and Public Affairs Team Rehab Group Beach Road Sandymount Dublin 4 Tel: (01) 205 7200 Email : info@rehab.ie
ABI Ireland Acquired Brain Injury Ireland - provider of flexible and tailor-made services for people with acquired brain injury.	Web: www.abiireland.ie Acquired Brain Injury (ABI) National Office 64 Mulgrave Street Dún Laoghaire Co Dublin Tel: (01) 280 4164

Spinal Injuries Ireland This organisation run venture, sport and social activities for people with spinal injuries.	Web: www.spinalinjuries.ie Spinal Injuries Ireland Unit G3 Pottery Business Centre Pottery Road Dun Laoghaire Co Dublin Tel: (01) 653 2180 Email: info@spinalinjuries.ie
The Irish Wheelchair Association (IWA) provides service to people with limited mobility in Ireland. They provide a range of services including access to the Disabled Parking Permit Scheme.	Web: www.iwa.ie IWA Áras Chúchulainn Blackheath Drive Clontarf Dublin 3 Tel: (01) 818 6400 Email: info@iwa.ie
Financial assistance Your local citizen's information office will help you find out about financial, taxation, legal and social welfare issues following a death.	Web: www.Citizensinformation.ie Follow the links to Death Related Benefits.
Welfare Officer with the Health Service Executive (HSE) Contact your local welfare officer through your HSE Health Centre.	Web: www.hse.ie Follow the links to local health offices.

Appendix A: Checklist of questions

Checklist of questions for meeting with the Superintendent in charge of the investigation

- What is the name, station and telephone number of the Investigating Garda and the PULSE incident number. (This number is a telephone number distinct for each crime.)
- What is the driver's name and Motor Insurance Company details?
- Was the scene sealed off and preserved?
- Did the driver have a valid driver's license? Type?
- Was the driver (s) tested for alcohol and drugs? If so, what was the result of the tests?
- Was the driver's mobile phone checked for calls made or received by them at the time of collision?
- Where are the vehicles involved? When can they be inspected?
- Did the Garda Forensic Collision Unit and the Scenes of Crime Unit attend the collision scene?
- Did a doctor attend to your loved one? Can I have their details?
- What is the Coroner's name and contact details?

- Can you give me regular updates on the investigation and keep me informed in writing when and if the Gardaí charge or caution a suspect?
- Can you write to me about the Crime Victim's Helpline and other services available to victims including the Garda Family Liaison Officer?

When a suspect is due to appear in court, ask the Superintendent in charge of the investigation the following questions:

- Is the suspect being held in prison or on bail and are there any conditions attached to the bail?
- When is the time, date and location of all the court appearances by the suspect including the trial and sentencing dates? Can you keep me posted on these details?
- Can you explain the prosecution process and if I am likely to be called as a witness.
- Ask what facilities and supports are in the court for victims and witnesses.
- Ask for all information about preparing a Victim Impact Statement and the deadline for submission of that statement.
- Ask to be told of the final result of the criminal trial.

- If you are a tourist, ask to be given the contact details of the Irish Tourist Assistance Service.

Ask in writing

Write to the Superintendent in charge of the investigation and ask to be immediately told about:

- The preliminary and or full inquest dates.
- When he or she send the completed investigation file to the Director of Public Prosecutions (DPP) and details of the recommended charge(s).
- When the DPP has made a decision about a charge(s) and what the charge(s) is.
- When the suspect is served with the charge(s).
- All court appearances by the suspect in connection with the collision.
- The date for submitting a victim impact statement.
- The criminal trial date and sentencing date (if applicable).

Appendix B: Time limit reminders

If you believe the Garda investigation into the collision has not been conducted properly, you may decide to make a complaint to GSOC stating the misconduct alleged. Complaints should be lodged with GSOC within **twelve months** of the incident or within twelve months of you becoming aware of the misconduct giving rise to your complaint. GSOC is legally entitled to extend the twelve-month time limit if the Commission considers that there is 'good reason'.

Gardaí have a time limit of **six months** from the date of the collision to begin a prosecution for offences of a summary nature including dangerous driving and careless driving.

If the Director of Public Prosecutions (DPP) has made the decision not to prosecute, you may write to the DPP within **56 days (8 weeks)**, from the date you were informed of that decision, to ask for a review of the decision not to prosecute. In some cases, the DPP may extend these time limits. For further details visit www.dppireland.ie

A personal injury claim must begin (logged) within **two years** of the date of the collision and the process must start with the Personal Injuries Assessment Board www.piab.ie

Appendix C: Extension of time limit for making a complaint to the GSOC

“In deciding whether there are good reasons to grant an extension, the Ombudsman Commission will consider a broad range of issues / factors, including:

- *The duration of the delay in the lodging of a complaint and its effect on the likely efficacy of an investigation*
- *The cause of the delay*
- *Where facts and/or material grounding the complaint, which were reasonably outside the complainant’s power to know or procure, have come to light after the twelve-month time limit*
- *The circumstances of the complaint (especially where the complainant’s capacity to make the complaint was impeded during the twelve-month period due to infirmity, incapacity, vulnerability and / or disability), and*
- *The cause of the failure to observe the twelve-month time limit including, for example, difficulty in the communication of the complaint.*

This would include where the transmission of a written complaint to the Ombudsman Commission is, for reasons outside the control of the complainant, unduly delayed in the post

The above list is not exhaustive.

In all instances, discretion as to whether an extension of the twelve- month limit is to be granted or not rests with the Ombudsman Commission.”

Notes

This edition of PARC's 'Finding Your Way' information booklet is dedicated to the memory of:

28-year-old **Mary Enright** (*nee Walsh*) and her unborn daughter **Mollie** who lost their lives in a road traffic collision in Tipperary on 26th March 2012.



19-year-old **Shane (Wheelo) Whelan** who lost his life in a road traffic collision in Louth on 27th October 2013.



58-year-old **Geraldine Clancy** and her 22-year-old daughter **Louise** who lost their lives in a road traffic collision in Cork on 22nd December 2015.



13-year-old **Lee Henry** who lost his life in a road traffic collision in Dublin on 22nd October 2016.

28-year-old **Karl Robertson** who lost his life in a road traffic collision in Dublin on 9th March 2017.



26-year-old **Kerrie Browne** who lost her life in a road traffic collision in Kerry on 2nd October 2019.

54-year-old **Maurice Fehilly** who lost his life in a road traffic collision in Limerick on 4th January 2020.



21-year-old **Dylan Killalee Maher** who lost his life in a road traffic collision in Dublin on 12th November 2023.

Their families have generously sponsored editions of our booklet.

“Courage isn’t having
the strength to go on -
it is going on when you
don’t have the strength”



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