

# An Garda Síochána

Oifig Saorála Fáisnéise,  
An Garda Síochána, Teach áth Luimnigh,  
Lárionad Gnó Udáras Forbartha Tionscail,  
Baile Sheáin , An Uaimh,  
Contae na Mí.  
C15 DR90



Freedom of Information Office,  
An Garda Síochána, Athlumney House,  
IDA Business Park,  
Johnstown, Navan,  
Co Meath.  
C15 DR90

Teileafón/Tel: (046) 9036350

Bí linn/Join us  

Láithreán Gréasain/Website:  
[www.garda.ie](http://www.garda.ie)

Ríomh-phoist:/Email: [foi@garda.ie](mailto:foi@garda.ie)

## Re: Freedom of Information Request FOI-000002-2020 Request Part-Granted

*Dear*

I refer to your request, dated 27<sup>th</sup> December, 2019 and received on 30<sup>th</sup> December, 2019 and subsequently extended to the 21<sup>st</sup> February, 2020, which you have made under the Freedom of Information Act 2014 (FOI Act) for records held by An Garda Síochána.

Part 1(n) of Schedule 1 of the FOI Act states that An Garda Síochána is listed as a partially included agency "insofar as it relates to administrative records relating to human resources, or finance or procurement matters". Therefore, only administrative records that relate to human resources, finance or procurement shall be considered.

Your request sought:

*Under the FOI Act 2014, I am seeking copies of the following audit reports (FOI-000479-2019 refers):*

- *Garda band.*
- *Meath Division.*
- *Limerick Division.*
- *Overtime & Allowances.*
- *Audit of Clare Division.*
- *Value for Money Audit of Towing Services.*

*I would prefer to receive this information electronically, ideally in its original electronic format.*

I wish to inform you that I have decided to part-grant your request on the 21<sup>st</sup> February, 2020.

The purpose of this letter is to explain that decision.

## 1. Findings, particulars and reasons for decision

Upon receipt of your request, the Garda Internal Audit Section (GIAS) were contacted and copies of the audits requested by you were provided to this office. While the audits contain information relating to human resources, finance and procurement matters, they also contain additional information outside of these areas.

In this regard, I wish to advise you that I am part-granting the release of the following audits;

- Garda band.
- Meath Division.
- Limerick Division.
- Audit of Clare Division.
- Value for Money Audit of Towing Services.

A number of redactions have been applied to the attached audits and the reasons for these redactions are set out in the attached schedule of records for each audit. I now wish to explain these redactions in my correspondence below.

### **Part 1(n) of Schedule 1:**

Section 6(2)(a) of the FOI Act provides that an entity specified in Schedule 1, Part 1 of the Act shall, subject to the provisions of that Part, be a public body for the purposes of the FOI Act. Schedule 1, Part 1 contains details of bodies that are partially included for the purposes of the FOI Act and also details of the certain specified records that are excluded. If the records sought come within the description of the exclusions of Part 1, then the FOI Act does not apply and no right of access exists.

Part 1(n) of Schedule 1 of the FOI Act provides that An Garda Síochána is not a public body for the purposes of the FOI Act other than in relation to administrative records relating to human resources, or finance or procurement matters.

The term “administrative records” is understood to mean records relating to the processes of running and managing a business or organisation. As a result, the FOI Act excludes operational policing business as opposed to the defined administrative processes of An Garda Síochána.

The non-administrative records pertaining to human resources, finance and procurement along with the operational elements of each audit are considered out of the scope of the FOI Act insofar as it pertains to An Garda Síochána and are therefore is not provided in accordance with Part 1(n) of Schedule 1 of the FOI Act. This information has been redacted accordingly.

### **Section 37 – Personal Information**

I am conscious of my obligations to retain personal information in a confidential and secure manner and prevent personal information from being released into the public domain unnecessarily. Personal information is defined at Section 2 of the FOI Act and includes the following:-

### **Section 2 – Interpretation**

2. (1) *In this Act—*

*“personal information” means information about an identifiable individual that, either—*

- (a) would, in the ordinary course of events, be known only to the individual or members of the family, or friends, of the individual, or*
- (b) is held by an FOI body on the understanding that it would be treated by that body as confidential,*

*and, without prejudice to the generality of the foregoing, includes—*

- (iii) information relating to the employment or employment history of the individual,*

A number of the records contained in each of the audits have been redacted in accordance with Section 37 of the FOI Act which refers to personal information. I am refusing this information as I believe that by releasing same could easily identify the various individuals involved beyond their family and friends and it would be considered a breach of the confidentiality upon which the information is being held by the Garda Organisation. I am therefore applying Section 37(1) Personal Information which states:

- 37 (1) *Subject to this section, a head shall refuse to grant an FOI request if, in the opinion of the head, access to the record concerned would involve the disclosure of personal information (including personal information relating to a deceased individual).*

There is a Public Interest Test applicable to section 37 of the FOI Act.

#### ***Public Interest Test***

As per section 37 of the FOI Act I have considered the public interest issues which arise in this case and have taken account of the following factors in favour of release:

- Ensuring openness and transparency of organisational functions to the greatest possible extent,
- The public interest in members of the public exercising their rights under the FOI Act,
- That there is more than just a transitory interest by the public in this information,
- The right to privacy is outweighed by the needs of the public.

In considering the public interest factors which favour withholding the records I have taken account of the following:

- Allowing a public body to hold personal information without undue access by members of the public,
- The public interest is not best served by releasing these records,
- That the Organisation can conduct its business in a confidential manner,
- That there is a reasonable and implied expectation by employees that sensitive personal information will remain confidential,
- That there is no overriding public interest that outweighs the individual’s right to privacy.

A public interest test was carried out when considering the release of the personal information but having balanced the factors both for and against the release, I decided that the public interest in preserving the personal information and the reasonable expectation that information can be maintained in a confidential manner by An Garda Síochána in the context of their employment outweighs the public interest which would be served were the records released to you.

### **Section 32 – Law enforcement and public safety**

With particular reference to the Audit relating to Towing – June 2019 and in addition to the exemptions set out above, I am to advise you that I am applying Section 32 of the FOI to the names of the companies mentioned in this particular audit as I am of the view that the release of such information could prejudice or impair the investigation of offences by An Garda Síochána. The functions of An Garda Síochána are, in the main, directed towards the prevention, detection and investigation of criminal activities. It is not in the public interest to impair or prejudice Garda functions by releasing information under the FOI Act which could reasonably be expected to harm an investigation, put at risk public safety or be detrimental to the investigative process. For example, it is reasonable to expect that the persons/companies supplying certain operational related services to An Garda Síochána receive due consideration for their safety and that of their premises and are not unnecessarily placed in situations where they could be subjected to harm in any way. There are certain circumstances when assistance is provided to An Garda Síochána relating to investigations where vehicles are towed and stored by private companies. It is reasonable to expect that the identification of the amount of money paid to private individuals/companies who provide a service in such circumstances could be subjected to intimidation or other harmful methods in an attempt to negatively impact a criminal investigation. Similarly, the vehicles towed must not be interfered or tampered with to ensure the investigative process, enforcement of law or lawful methods to protect public safety are not impaired or prejudiced.

Sections 32(1)(a)(i), 32(1)(a)(ii), 32(1)(a)(iii) and 32(1)(a)(ix) (Law enforcement and public safety) is applicable to the information contained herein in this regard.

As a result of these genuine and reasonable concerns the release of certain records are excluded under section 32 of the FOI Act. Section 32 is set out below.

### **Section 32 – Law enforcement and public safety**

*32.(1) A head may refuse to grant an FOI request if access to the record concerned could, in the opinion of the head, reasonably be expected to—*

*(a) prejudice or impair -*

- (i) the prevention, detection or investigation of offences, the apprehension or prosecution of offenders or the effectiveness of lawful methods, systems, plans or procedures employed for the purposes of the matters aforesaid,*
- (ii) the enforcement of, compliance with or administration of any law,*
- (iii) lawful methods, systems, plans or procedures for ensuring the safety of the public and the safety or security of persons and property,*
- (iv) the security of a building or other structure or a vehicle, ship, boat or aircraft, or*

I am of the opinion, that I have satisfied the public interest in this matter as detailed above.

With regard to the Towing Contract, it should be noted, that An Garda Síochána published a Prior Indicative Notice on eTenders last year letting the market know that the organisation was planning to retender for towing management. It is envisaged that the tendering process will commence from March onwards.

I wish to advise further that I am refusing to release the “*Overtime & Allowances*” audit in accordance with Section 15(1)(d) of the Freedom of Information Act which states the following:

## **Section 15(1)(d)**

*Refusal on Administrative Grounds to grant FOI requests*

*15(1) A head to whom an FOI request is made may refuse to grant the request where –  
(d) the information is already in the public domain*

This audit has been the subject of a previous FOI request and as such, has been published on the FOI Decision Log on the Garda website. Access to this request and the appropriate records may be sought by following the link attached below.

<https://www.garda.ie/en/information-centre/freedom-of-information/decision-log/internal-audit/interal-audit-general-decision-logs-2019.html>

## **2. Right of Appeal**

In the event that you are not happy with this decision you may seek an Internal Review of the matter by writing to the address below and quoting reference number **FOI-000002-2020**.

***Freedom of Information Office, An Garda Síochána, Athlumney House, IDA Business Park, Johnstown, Navan, Co. Meath C15 DR90***

Please note that a fee applies. This fee has been set at €30 (€10 for a Medical Card holder). Payment should be made by way of bank draft, money order, postal order or personal cheque, and made payable to Accountant, Garda Finance Directorate, Garda Headquarters, Phoenix Park, Dublin 8.

Payment can be made by electronic means, using the following details:

**Account Name:** Garda Síochána Finance Section Public Bank Account

**Account Number:** 10026896

**Sort Code:** 900017

**IBAN:** IE86BOFI90001710026896

**BIC:** BOFIE2D

**You must ensure that your FOI reference number (FOI-000002-2020) is included in the payment details.**

You should submit your request for an Internal Review within 4 weeks from the date of this notification. The review will involve a complete reconsideration of the matter by a more senior member of An Garda Síochána and the decision will be communicated to you within 3 weeks. The making of a late appeal may be permitted in appropriate circumstances.

Please be advised that An Garda Síochána replies under Freedom of Information may be released in to the public domain via our website at [www.garda.ie](http://www.garda.ie).

Personal details in respect of your request have, where applicable, been removed to protect confidentiality.

Should you have any questions or concerns regarding the above, please contact me by telephone at (046) 9036350.

Yours sincerely,

Maria Brodigan ACTING ASSISTANT PRINCIPAL  
MARIA BRODIGAN  
FREEDOM OF INFORMATION OFFICER

21<sup>st</sup> FEBRUARY, 2020