

An Garda Síochána

Oifig Saoráil Faisnéise
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

Ríomh-phoist/Email: foi@garda.ie

Re: Freedom of Information Request FOI-000217-2016 Request Refused

Dear

I refer to the Freedom of Information Act 2014 (FOI Act) and your submission to An Garda Síochána dated 4th June 2016 and received on the 7th June 2016. You subsequently amended this request on 16th June 2016 and your request has been progressed on that basis.

Part 1(n) of Schedule 1 of the Freedom of Information Act 2014 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. Records that relate to the functions and management of the organisation are restricted.

Your amended request, as agreed with the FOI office, is shown below:

‘I would like to amend my FOI request to cover the dates from January 2013 to date. I am seeking the excel spreadsheets and related credit card bills for travel and subsistence expenses incurred/claimed by the Commissioners in this period’.

I wish to inform you that I have decided to **refuse** your request on 6th July 2016.

The purpose of this letter is to explain that decision.

1. Findings, particulars and reasons for decisions

The sections of the FOI Act which can apply to deny access to documents are known as exemption provisions.

Section 15(1)(d) of the FOI Act states that:

'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'

Your request wherein you are “*seeking the excel spreadsheets and related credit card bills for travel and subsistence expenses incurred/claimed by the Commissioners*” is being refused under section 15(1)(d) of the FOI Act. The travel and subsistence expenses of the Garda Commissioner for the period in question are already published on the Garda website and may be accessed by following the attached link: www.garda.ie/Controller.aspx?Page=18348

I am of the opinion that the public interest is satisfied with the publication of the expenses as provided on the Garda website and therefore there is no requirement to provide the information as per section 15(1)(d) of the FOI Act.

In addition to Section 15(1)(d), I am also applying Section 32(1)(a) & (b) of the Freedom of Information Act 2014 to your request.

Section 32: Law Enforcement and Public Safety.

Section 32 is a harm based exemption. It applies where access to a record concerned could reasonably be expected to prejudice or impair the matters specified in the subsections. An Garda Síochána is obliged to identify the potential harm that may occur if the records are released and having identified that harm, consider the reasonableness of any expectation that the harm will occur.

The Commissioner, in conjunction with being the Head of Policing Services, is also the Head of the Security Service of the State. Therefore the provision of information which could result in a security risk cannot be provided for operational and security reasons. I believe that access to excel spreadsheets and related credit card bills detailing travel and subsistence expenses made by the Commissioner presents a risk to her ability to conduct her security related functions confidentially. The documents sought can identify the purpose and nature of the duties being conducted inclusive of dates, times and locations. The release of these documents presents an unnecessary and potentially harmful risk to the Commissioner personally and the success of her functions performed as Head of the Security Service of the State.

The release of records that could potentially identify the locations frequented by the Commissioner presents a potentially harmful risk to her own safety if the information was to be used for criminal purposes.

It is for these reasons that the request is refused as follows:

Section 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,*

(b) endanger the life or safety of any person,

In addition certain records are exempted in accordance with section 42 of the FOI Act, specifically section 42(b)(i) to (x) and 42(c)(i) refers as set out below:

Restriction of Act

42. This Act does not apply to—

(b) a record held or created by the Garda Síochána that relates to any of the following:

- (i) the Emergency Response Unit;*
- (ii) the Secret Service Fund maintained by it;*
- (iii) the Special Detective Unit (SDU);*
- (iv) the witness protection programme sponsored by it;*
- (v) the Security and Intelligence Section;*
- (vi) the management and use of covert intelligence operations;*
- (vii) the Interception of Postal Packets and Telecommunications Messages (Regulation) Act 1993;*
- (viii) the Criminal Justice (Terrorist Offences) Act 2005;*
- (ix) the Criminal Justice (Surveillance) Act 2009;*
- (x) the Communications (Retention of Data) Act 2011,*

(c) a record held by—

- (i) the Criminal Assets Bureau,*

However, notwithstanding the aforementioned exemptions, and as previously advised, the following link will provide the overall annual expenses in relation to the Commissioners travel and subsistence www.garda.ie/Controller.aspx?Page=18348 The information outlined under the category 'Commissioner Annual Expenses' relates to expenses up to and including the 31st December, 2015.

In relation to the 2013 Commissioner's expenses, the figures display the amount claimed by the then Commissioner Martin Callinan. There is no record of any expenses claimed by Commissioner Callinan between 1st January 2014 and his retirement in March 2014. The remaining Commissioner's expenses for 2014 are included in the expenses claimed by the then Deputy Commissioner O'Sullivan, Operations, who was the Acting Garda Commissioner for that period. The 2015 figures relate to expenses claimed by Commissioner O'Sullivan who was appointed Commissioner on the 25th November 2014.

Allowable expenses are categorised as follows:

Domestic Travel and Subsistence

Domestic travel and subsistence can be driven by operational demands at any given time at Regional and National level. In addition Senior Management is frequently required to attend various governance boards, management meetings and public forums.

Foreign Travel

Out of State travel is undertaken by Senior Management for the purposes for crime investigation, immigration matters, exchange of information with external police forces and agencies abroad, conferences and training courses connected with advancement in policing methods and techniques, safe guarding state security and other security based purposes.

I am also of the opinion that the records contained within the spread-sheets and credit card bills outline details regarding the Commissioner's functions in respect of his/her role as the Commissioner of An Garda Síochána and the Head of Security of the State. These records are outside the scope of the provisions of the FOI Act under Part (1)(n) of Schedule 1 insofar as it pertains to An Garda Síochána as they are not an administrative record relating to Human Resources, Finance or Procurement. I am also of the opinion that the publication of the expenses as outlined above on the Garda website satisfies the public interest in this matter.

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 **F01-000217-2016**.

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: IE86B0F190001710026896
BIC: BOFIE2D

You must ensure that your FOI reference number 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.

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,

 SUPERINTENDENT
HELEN DEELY
FREEDOM OF INFORMATION OFFICER

8th July 2016