

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-000402-2016

Dear

I refer to the Freedom of Information Act 2014 and your submission to An Garda Síochána dated 7th November 2016 and received on 8th November 2016.

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.

Your request is shown below:

*‘A detail breakdown of the cost of the trip to the International Association of Chiefs of Police in San Diego in October 2016 plus all accompanying receipts.
Details to include hotel costs, flight costs, subsistence, travel, meals, drinks, and any other categories of spend for each of the travelling party, including Commissioner Noirin O’Sullivan, Chief Superintendent Jim McGowan, Assistant Commissioner Michael O’Sullivan and the head of the Garda Inspectorate, Robert Olson.*

I confirm I am happy to amend the FOI request to exclude Chief Inspector Olsen’.

I have now made a final decision to partially grant your request on 30th November 2016.

The purpose of this letter is to explain my decision.

1. Findings, particulars and reasons for decision

Details of your request were forwarded to the Finance Directorate within An Garda Síochána who conducted a search of their records and identified a number of records in this regard.

To ensure that the statutory and administrative requirements for the use of public funds are complied with, Senior Management Expenses are processed and paid in line with Department of Public Expenditure & Reform Provisions & Guidelines and in compliance with the Expenses Regulations and Procedures governing An Garda Síochána as well as being subject to Internal and External audits.

Out of State travel is under taken by Garda Personnel for the purposes of crime investigation, immigration matters, ongoing Policing Operations abroad, exchange of information with external Police forces and agencies abroad, conferences and training courses connected with advancement in policing methods & techniques, safe guarding state security and other security based purposes.

Garda Commissioner O'Sullivan, Chief Superintendent James McGowan and the Private Secretary to the Commissioner attended the IACP Annual Conference and Exhibition in San Diego in October 2016.

The IACP is a professional association for law enforcement worldwide which is dedicated to advancing and promoting the law enforcement profession and protecting the safety of law enforcement officers.

The IACP's stated mission includes the fostering of police cooperation and the exchange of information and experience among police administrators throughout the world, and the development and dissemination of improved administrative, technical and policing operational practices.

'Active' membership of the IACP is open to Chiefs of Police including (in Ireland) to Chief Superintendent and Superintendent rank, as well as command-level police officers in public law enforcement agencies. The IACP Annual Conference and Exhibition brings together a comprehensive educational programme, renowned keynote speakers, community-building special events and the largest collection of tactical equipment and technology solutions available for law enforcement. The Garda Commissioner gave the keynote address to the International Delegation Luncheon on the 17th October 2016. The Commissioner accompanied by her Private Secretary attended a number of meetings with senior officers from other police services during the conference as did Chief Superintendent McGowan.

Your request also sought a *detailed breakdown of the cost of the trip to the International Association of Chiefs of Police in San Diego in October 2016 plus all accompanying receipts.*

Foreign travel and subsistence is expended by Garda Personnel for a variety of purposes and the payment of a subsistence allowance is to cover expenditure that may be incurred by members while on official duty. I can now advise you that the expense claims for both Chief Superintendent McGowan and the Private Secretary have been received and they amount to the following:

Expenses Payable to	Expenses Received
Chief Superintendent McGowan	€450.60
Private Secretary to Commissioner	€452.76

*The amount of allowance is payable in dollars and the rate difference is due to exchange rate on the day

The majority of expenditure associated with refreshments are processed by way of subsistence claims by members whereby an allowance is available to members who are absent from the base for a certain period of time, however a breakdown of this expenditure is not available on the FMS. In this regard, I am applying Section 15(1)(a) of the FOI Act to your request in seeking information on *'meals, drinks, and any other categories of spend for each of the travelling party'*.

Section 15(1)(a) states:

A head to whom an FOI request is made may refuse to grant the request where –
(a) The record concerned does not exist or cannot be found after all reasonable steps to ascertain its whereabouts have been taken,

You have also sought the *accompanying receipts* in respect of the *cost of the trip to the International Association of Chiefs of Police in San Diego in October 2016.*

Please see attached a copy of invoices for flights and accommodation for Commissioner O'Sullivan, Chief Superintendent McGowan and the Private Secretary to the Commissioner.

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 provision of information which could result in a security risk cannot be provided for operational and security reasons. I believe that access to certain information contained within the attached **Schedule of Records at pages No's 1, 2, and 3** could potentially identify the accommodation frequented the Garda Commissioner and other officers internationally, and presents a potentially harmful risk to their safety if the information was to be used for criminal purposes.

The Garda Commissioner in conjunction with being the Head of Policing Services is also the Head of the Security Service of the State. Therefore any information regarding the security of the Commissioner especially in her capacity as Head of Security, will not be provided for operational and security reasons. I am conscious of the fact that once records are disclosed under the provisions of the FOI Act there is no control as to whom the information is shared with. Therefore a release of records under the FOI Act is considered a release to the world in general and not just the individual requesting the information.

It is for these reasons that access to the information contained within the records of **Schedule of Records at pages No.1 to 3** is partially granted.

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—

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

Section 36 Commercially Sensitive Information

The information relating to certain fees applied by Club Travel have been redacted under the provisions of section 36(1)(b) as it is a very real possibility that the disclosure of the information could prejudice the competitive position of Club Travel if shared. I am satisfied that the release of the details involved could prejudice the competitive position of Club Travel and is commercially sensitive due to the fact that it exposes their fees structure and would be advantages to other likeminded companies engaging in the same business as Club Travel when devising their own fees structure. The competitive position of Club Travel would be prejudiced and disadvantaged should their pricing structures be made available to the public at large.

Therefore that section 36(1)(b) applies.

Public Interest

This leaves me to consider, under section 36(3), whether the public interest would, on balance, be better served by the release of the records.

In considering where the balance of the public interest lies, I accept that there is a legitimate public interest in persons being able to conduct commercial transactions without fear of suffering commercially as a result. However, there is also a public interest in the enhancement of openness, transparency and accountability in public bodies. Indeed, I am conscious that section 11(3) of the FOI Act requires public bodies, in performing functions under the Act, to have regard to, among other things, the need to achieve greater openness in their activities, to promote adherence by them to the principles of transparency in government and public affairs, and to strengthen their accountability.

The public interest in enhancing transparency and accountability has been served by the release of the details of the invoices excluding certain fees. In the circumstances of this case, and having carefully considered the records I find that, on balance, the public interest would not be better served by the release of the management fees.

Section 37 – Personal Information

I am refusing to release the details as outlined in the attached **Schedule of Records at page No. 1**, as 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

(ii) *information relating to the financial affairs of the individual,*

I am refusing to provide details such as the credit card account number and credit limit as these details are unique to the individual and assigned accordingly by the bank to the said individual, not the Office. They therefore refer to information relating to the financial affairs of the individual. To release this information 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).

While section 2 of the Act provides that certain information about staff of an FOI body cannot be considered to be personal information, I do not consider any of those exceptions to apply in this case.

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 the financial affairs of personnel outweighs the public interest which would be served were the records released to you in their entirety.

By releasing the invoices in a redacted form and providing the costs associated with the Office holder's credit card I am of the opinion that the public interest is satisfied.

2. Rights 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-000402-2016**

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 (FOI-000402-2016) 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 will be removed to protect confidentiality where applicable.

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.

 **DECEMBER, 2016**