

# 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)

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**Mr. Mark O' Regan**  
**Sunday Independent**

## **Re: Freedom of Information Request FOI-000190-2017** **Partially Granted**

*Dear Mr. O'Regan,*

I refer to your request, dated and received on 25<sup>th</sup> April, and subsequently clarified 10<sup>th</sup> May, 2017 which you have made under the Freedom of Information Act (FOI) 2014 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:

*'I also request access to any correspondence from any TD, regarding the proposed or actual transfer of any member of An Garda Síochána from one section of the force to another, or from one geographical location to another 1<sup>st</sup> January 2016 to 30<sup>th</sup> April 2017'.*

I wish to inform you that I have decided to partially grant request on the 29<sup>th</sup> May, 2017.

The purpose of this letter is to explain my decision.

## **1. Findings, particulars and reasons for decision to deny access.**

Firstly I wish to inform you that 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"*.

Only administrative records that relate to human resources, finance or procurement shall be considered. I am of the opinion that the details requested, if supplied in the manner sought could inadvertently result in the identification of the individuals concerned within the Garda Organisation itself.

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

*"(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)."*

Section 37(1) provides that a public body shall refuse to grant a request if access to the record concerned would involve the disclosure of personal information relating to an individual other than the requester.

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,*
  - (xii) the name of the individual where it appears with other personal information relating to the individual or where the disclosure of the name would, or would be likely to, establish that any personal information held by the FOI body concerned relates to the individual,*

I am satisfied that parts of certain records contain details relating to personal information of Garda members.

Furthermore, Section 37(7) of the FOI Act provides that an FOI body shall refuse to grant a request if access to the record concerned would involve the disclosure of personal information relating to an individual or individuals other than the requester. This is referred to as joint personal information.

*'37(7) Notwithstanding paragraph (a) of subsection (2), a head shall, subject to paragraphs (b) to (e) of that subsection and subsections (5) and (8), refuse to grant an FOI request if, in the opinion of the head, access to the record concerned would, in addition to involving the disclosure of personal information relating to an individual or individuals other than the requester'.*

Section 37(7) of the FOI Act is a mandatory exemption which therefore does not allow for the use of discretion by the FOI Officer when considering the release of such information. There are circumstances provided for at section 37 (2) in which the exemptions at 37(7) do

not apply. However I am satisfied that none of the circumstances identified at section 37(2) arise in this case.

A number of the records contain references to joint personal information which if released would, in my opinion, be in breach of the purpose of the FOI Act (section 37) and the reasonable expectation the personal information will be safeguarded by An Garda Síochána. 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.

I am refusing parts of some records in accordance with Section 37 (1) and (7).

### ***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 outweighs the public interest which would be served were the records released to you.

In addition I am also applying Part 1(n) of schedule 1 to a number of records as outlined in the attached schedule of records. As previously advised 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.

## 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 **F01-000190-2017**.

Freedom of Information  
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:** BOFIIIE2D

**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](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,

 **SUPERINTENDENT**  
**HELEN DEELY**  
**FREEDOM OF INFORMATION OFFICE**  
**29<sup>th</sup> May, 2017**