

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



Láithreán Gréasain/Website:

www.garda.ie

Ríomh-phoist/Email: foi@garda.ie

**Mr. Robin Schiller,
The Irish Independent,**

Re: Freedom of Information Request FOI-000303-2017 Request Partially Granted

Dear Mr Schiller,

I refer to your request, dated 6th July 2017 and received on 7th July, 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:

- 1. Relating to the number of internal bullying complaints made by a member of An Garda Síochána against a colleague in the years 2014, 2015, 2016 and the year ending July 6, 2017.*
- 2. Relating to the number of internal assault complaints made by a member of An Garda Síochána against a colleague in the years 2014, 2015, 2016 and the year ending July 6, 2017.*

3. *Relating to the number of internal sexual harassment complaints made by a member of An Garda Síochána against a colleague in the years 2014, 2015, 2016 and the year ending July 6, 2017.*
4. *Relating to the number of internal sexual assault complaints made by a member of An Garda Síochána against a colleague in the years 2014, 2015, 2016 and the year ending July 6, 2017.*

I wish to inform you that I have decided to partially grant your request on the 20th July 2017.

The purpose of this letter is to explain my decision.

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

The Human Resource and People Development Division were contacted with regard to your request seeking records for the number of bullying and sexual harassment complaints made by Gardai against their colleagues. Previously a number of FOI Requests have been answered and the responses are available on the Human Resources FOI Disclosure Log on the Garda webpage. The following decisions may be of interest to you.

2015 Requests	2016 Requests	2017 Requests
FOI-000028-2015	FOI-000116-2016	FOI-000109-2017
FOI-000090-2015	FOI-000211-2016	FOI-000136-2017
FOI-000154-2015	FOI-000337-2016	
	FOI-000451-2016	

With regard to question 1 and 3 of your request, Table 1 below shows the number of bullying and sexual harassment complaints made by a member of An Garda Síochána against a colleague in the years 2014, 2015, 2016 and the year ending July 6, 2017.

Table 1

Year	Bullying	Sexual Harassment	Total Number of Complaints
2014	9	1	10
2015	4	1	5
2016	2	0	2
2017	5	0	5

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

Part 1(n) of Schedule 1 - Out of Scope

With regard to your request, questions 2 and 4, the records sought relate to criminal offences. Thus the provisions of the FOI Act, Part 1(n) of Schedule 1, are relevant. 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 information pertaining to criminal matters i.e. Assault and Sexual Assault which result in criminal investigations. These types of records are not considered an administrative record and do not come within the ambit of this partially included agency as set out in Part 1(n) of Schedule 1 of the FOI Act.

The Office of Information Commissioner (OIC) described what an administrative record with regard to An Garda Síochána in OIC Case number 160054. The OIC stated

“The Act does not define the term "administrative records" as provided for in Part 1(n) apart from stating that they relate to human resources, or finance or procurement matters. The term "administrative records" is commonly understood to mean records relating to the processes of running/managing a business or organisation. It seems to me that the purpose of Part 1(n) is to restrict the right of access to those functions or processes of AGS that relate to the administration or management of the organisation, and only in relation to matters concerning human resources, or finance or procurement matters. Records relating to the core functions of AGS, such as the investigation of criminal activity, are excluded from the ambit of the Act.”

Therefore I am refusing your request for the records relating to criminal matters such as assault and sexual assault.

An Garda Síochána expect its officers to behave with the highest standards of integrity and professionalism at all times, and any conduct, which brings or is likely to bring discredit to the organisation will be investigated.

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-000303-2017**.

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: BOFIIIE2D

You must ensure that your FOI reference number FOI-000303-2017 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

20TH JULY 2017