

# 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)

**Ms. Kelly O'Brien**  
**Evening Echo,**

## **Re: Freedom of Information Request FOI-000016-2017** **Partially Granted**

*Dear Ms. O'Brien,*

I refer to your request, dated and received on the 17<sup>th</sup> January 2017, 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:

- 1. I am requesting records concerning investigations within An Garda Síochána on members for alleged breaches of discipline during 2012, 2013, 2014, 2015 and 2016, broken down by Garda district.*
- 2. Specifically, I would like to know how many breaches were alleged during those years throughout the different districts, a brief description of what the alleged breaches were, how many were upheld and, where they were upheld, what sanctions were imposed on the offending member.*

I am aware that you have been in contact with a member of my staff and discussed the nature of your request. As a result of the discussions with my staff you narrowed the parameters of the FOI Request to the following:

- The number of breaches - In each District in Cork Division (of which there are three) and the financial sanctions associated with those breaches.

I wish to inform you that I have decided to partially grant your request on the 13<sup>th</sup> February 2017. Appendix A refers.

The purpose of this letter is to explain my decision.

### **1. Findings, particulars and reasons for decision.**

The Discipline Section at Internal Affairs is responsible for the oversight of all investigations undertaken by An Garda Síochána under the provisions of the *Garda Síochána (Discipline) Regulations 2007/2011* (Statutory Instrument Nos. 214 of 2007 ([www.irishstatutebook.ie/eli/2007/si/214/made/en/print](http://www.irishstatutebook.ie/eli/2007/si/214/made/en/print)) and 620 of 2011 ([www.irishstatutebook.ie/eli/2011/si/620/made/en/print](http://www.irishstatutebook.ie/eli/2011/si/620/made/en/print)), which came into effect on 1<sup>st</sup> June, 2007 and 22<sup>nd</sup> November, 2011. The purpose of these Regulations is to provide a code of conduct for all members of An Garda Síochána, which must be strictly adhered to. Any suspected breaches may be subject of investigation by Officers appointed pursuant to the Regulations. The penalties provided under the Regulations include dismissal, requirement to retire or resign as an alternative to dismissal, reduction in rank; reduction in pay, warning, caution and advice.

Members of An Garda Síochána are subject to the Garda Síochána (Discipline) Regulations, 2007 as amended. As per the Regulations, minor disciplinary matters are locally addressed by way of Regulation 10. Such records are retained locally and are not held centrally. Matters of a more serious nature (Part 3) and less serious nature (Part 2) are progressed centrally through the Discipline Section.

There are three Garda Divisions in Cork County which are Cork North, Cork West and Cork City. There are 27 breaches of regulations in 2016, for all three divisions, where the investigation has been concluded. The Garda division of Cork North had no breaches recorded as concluded in 2016.

With regard to this request I must refuse the information at the level of District for the Cork West and Cork City Division as there is a very limited number of breaches recorded which in my opinion, if released to you, would facilitate the identification of a particular individual(s). Due to the personal and sensitive nature of the information being requested regarding an individual's employment history the information cannot be provided under section 37 of the FOI Act. I have therefore provided the breaches of discipline at the level of Garda Division. 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—*

- (vi) *information relating to any criminal history of, or the commission or alleged commission of any offence by, the individual,*

I believe that the individual(s) involved will become easily identifiable 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. The release of information about a particular incident will allow for a person(s) to become more identifiable and possibly named in the public domain and is personal information. I am therefore applying Section 37(1) Personal Information which states:

***Section 37 - Personal Information***

- 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 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. 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 its disciplinary proceedings outweighs the public interest which would be served were the records released to you.

The public interest is served by the release of the information in the format provided at Appendix A.

## 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 **F01-000016-2017**.

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:** BOFIE2D

**You must ensure 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 OFFICER.**

**13<sup>TH</sup> FEBRUARY 2017**

Breaches of Discipline Concluded in 2016				
Division	Breach	Result		
		In Breach/Not in Breach	Non Monetary	Temporary Reduction in pay
Cork North	N/A	N/A	N/A	N/A
Cork West	Neglect of Duty	Not in Breach	N/A	N/A
	Neglect of Duty	In Breach	Advice	N/A
	Discreditable Conduct	Not In Breach	N/A	N/A
	Discreditable Conduct	In Breach	N/A	€500
	Neglect of Duty	In Breach	N/A	€60
	Neglect of Duty	In Breach	N/A	€200
	Neglect of Duty	In Breach	N/A	€60
	Neglect of Duty	In Breach	N/A	€60
	Neglect of Duty	In Breach	N/A	€60
Cork City	Discreditable Conduct	In Breach	N/A	€150
	Falsehood/ Prevarication	In Breach	N/A	€150
	Neglect of Duty	In Breach	Reprimand	N/A
	Falsehood/ Prevarication	Not In Breach	N/A	N/A
	Neglect of Duty	In Breach	N/A	€50
	Neglect of Duty	In Breach	N/A	€50
	Neglect of Duty	In Breach	N/A	€50
	Neglect of Duty	In Breach	N/A	€50
	Neglect of Duty	In Breach	N/A	€50
	Discourtesy	In Breach	Advice	N/A
	Discreditable Conduct	In Breach	Reprimand	N/A
	Criminal Conduct	In Breach	N/A	€400
	Discreditable Conduct	In Breach	N/A	€60
	Discreditable Conduct	In Breach	N/A	€60
	Neglect of Duty	In Breach	N/A	€100
	Falsehood/ Prevarication	Not In Breach	N/A	N/A
	Discreditable Conduct	Not In Breach	N/A	N/A
Falsehood/ Prevarication	Not In Breach	N/A	N/A	