

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

Ríomh-phoist/Email: foi@garda.ie

Re: Freedom of Information Request FOI-000152-2019 Part-Grant

Dear

I refer to your request, dated 21st April, 2019 and received on 23rd April, 2019 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:

I now wish to make a Freedom of Information Request under the Freedom of Information Act 2014 for the following Information

- (1) The number of Gardai in Receipt of Substitution Allowance between September 2011 and January 2019*
- (2) Where these members are/were stationed while in receipt of this allowance.*
- (3) Under the Garda Code Regulations is Garda HQ considered a Station*
- (4) Under the Garda Code Regulations is The Garda College considered a station.*

I wish to inform you that I have decided to part-grant your request on the 21st May, 2019.

The purpose of this letter is to explain my decision.

1. Findings, particulars and reason for decisions.

Upon receipt of your request, the relevant sections of An Garda Síochána were contacted to retrieve the records. Part 1 of your request is seeking *'The number of Gardai in Receipt of Substitution Allowance between September 2011 and January 2019'*. The table below shows the number of Gardai in Receipt of Substitution Allowance between September 2011 and January 2019.

Number of Gardai in Receipt of Substitution Allowance - September 2011 to January 2019	
September 2011 to December 2011	31
2012	105
2013	87
2014	66
2015	63
2016	67
2017	58
2018	59
January 2019	12

Part 2 of your request is seeking *"Where these members are/were stationed while in receipt of this allowance"*. In accordance with Section 37 of the FOI Act, I am to advise you that I am refusing to provide this information as it is deemed to be of a personal nature. The records you request if supplied in the manner sought, could inadvertently result in the identification of the individuals concerned within the public domain or within the Garda Organisation itself. I am therefore applying Section 37(1) 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).*

Under the FOI Act, records are released without any restriction as to how they may be used and thus, release under the FOI Act, is in effect, regarded as being released to the world at large. As a result, I am conscious of my obligations to retain personal information in a confidential and secure manner and prevent personal information from being released in to the public domain unnecessarily. Section 2 of the FOI Act defines personal information as follows:

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) and, without prejudice to the generality of the foregoing, includes —
(iii) information relating to the employment or employment history of the 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 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 service providers that 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.

Parts 3 and 4 of your request is seeking the following information:

- (3) *Under the Garda Code Regulations is Garda HQ considered a Station*
(4) *Under the Garda Code Regulations is The Garda College considered a station.*

Section 11 of the FOI Act provides for a right of access to records held by FOI bodies. Requests for information are therefore not valid requests under the Act, as opposed to requests for records. FOI bodies are not required to create records under the Act if none exist and it does not oblige FOI bodies to answer general queries nor provide a mechanism for answering questions, except to the extent that a question can reasonably be inferred to be a request for records which contain the answer to the question asked or the information sought. In this regard, I am to advise you that I am refusing parts 3 and part 4.

For data protection purposes we are shredding the documents supplied by you in your original request.

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-000152-2019**

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: IE86BOFI90001710026896

BIC: BOFIE2D

You must ensure that your FOI reference number (FOI-000152-2019) 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 the FOI Office by telephone at (046) 9036350.

Yours sincerely,

 **ACTING ASSISTANT PRINCIPAL**
MARIA BRODIGAN
FREEDOM OF INFORMATION OFFICER

21st MAY, 2019.