

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

Bí linn/Join us



Ríomh-phoist:/Email: foi@garda.ie

Re: Freedom of Information Request FOI-000198-2019 Request Part Grant

Dear

I refer to your request, dated and received on 15th May, 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:

The number of alleged breaches in each Garda division in Ireland in 2018 and so far in 2019, along with a brief description of the nature of the breach, such as 'neglect of duty', 'discreditable conduct', 'falsehood/prevarication', 'criminal conduct' etc, whether the member was found to be in breach or not in breach, the non-monetary result (eg advice, reprimand, N/A) and, if applicable, amount of temporary reduction in pay.

I wish to inform you that I have decided to part grant your request on the 13th June, 2019.

The purpose of this letter is to explain my decision.

1. Findings, particulars and reasons for decision.

The Internal Affairs Section of An Garda Síochána were contacted to identify the information requested in your FOI Request. There are 29 operational Divisions and we have been advised that 165 members across these Divisions were subject to breaches in discipline in 2018.

The Sections of the Freedom of Information Act 2014 which deny access to information are known as exemptions. I am refusing the release of information at Divisional level as, in my opinion, if this information is released to you, it could 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. Personal information is defined at section 2 of the FOI Act and included the following:

Section 2 – Interpretation

(2) (1) "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 forgoing, includes,

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

I believe the individual(s) involved would become easily identifiable beyond their family and friends and it could 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(5) 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 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.

Your request seeks “*a brief description of the nature of the breach, such as 'neglect of duty', 'discreditable conduct', 'falsehood/prevarication', 'criminal conduct' etc*”. I am refusing to provide this information to you in accordance with Section 15(1)(i) as this has been previously supplied to you in FOI-000197-2019.

Section 15(1)(i) of the FOI Act 2014 states:

15. (1) *A head to whom an FOI request is made may refuse to grant the request where –*

- (i) *the request relates to records already released, either to the same or a previous requester where –*
- (i) *the records are available to the requestor concerned*

Your request also sought information on the non-monetary result of the breaches. I am refusing to provide this information to you in accordance with Section 15 (1)(c). These records are not held centrally and would require a manual trawl of 165 files in order to retrieve same. This would cause a significant distribution to the workload of the office and therefore I am refusing the provision of same.

Section 15(1)(c) of the FOI Act 2014 states;

15. (1) *A head to whom an FOI request is made may refuse to grant the request where—*

- (c) *in the opinion of the head, granting the request would, by reason of the number or nature of the records concerned or the nature of the information concerned, require the retrieval and examination of such number of records or an examination of such kind of the records concerned as to cause a substantial and unreasonable interference with or disruption of work (including disruption of work in a particular functional area) of the FOI body concerned,*

Furthermore, I am refusing to release the records for 2019 under Section 15(1)(d) which states:

- 15(1) *A head to whom an FOI request is made may refuse to grant the request where*
- (c) *the information is already in the public domain.*

I wish to advise that this information is already published on the Garda website and may be accessed by following the attached link:

<https://www.garda.ie/en/about-us/our-departments/governance-and-accountability/internal-affairs/complaints-discipline-statistics.html>

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-000198-2019**.

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-000198-2019 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 me by telephone at (046) 9036350.

Yours sincerely,

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

13th JUNE, 2019.