

# 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](http://www.garda.ie)

Bí linn/Join us  

Ríomh-phoist:/Email: [foi@garda.ie](mailto:foi@garda.ie)

## Re: Freedom of Information Request FOI-000227-2020 Request Part Granted

*Dear*

I refer to your request, dated 3<sup>rd</sup> July, 2020 and received on 6<sup>th</sup> July, 2020 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:

*Under the Freedom of Information 2014 Act, I seek the following information:*

- 1. Any documents relating to the suspension of Executive HR Director, John Barrett, in August 2018 to date.*
- 2. Whether Mr. John Barrett is suspended with full pay, with partial pay or with no pay? If with partial pay, how that has been calculated.*
- 3. If Mr. Barrett's acting replacement, Mr. Alan Mulligan's salary has increased since he took over as Acting Executive HR Director. If so, what was his salary as HR Director was compared to Acting Executive HR Director.*

I wish to inform you that I have decided to **part grant** your request on the 30<sup>th</sup> July, 2020.

The purpose of this letter is to explain that decision.

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## 1. Findings, particulars and reasons for decision

Upon receipt, your request was forwarded to the relevant Section of An Garda Síochána where a search was conducted in respect of same. I wish to advise you that a number of records were identified, however, I am refusing to release these records requested in part 1 of your request in accordance with Section 29 & Section 30 of the FOI Act, 2014 which states:

### Section 30 - Functions and negotiations of FOI bodies

*30(1) A head may refuse to grant an FOI request if access to the record concerned could, in the opinion of the head, reasonably be expected to –*

- (b) have a significant, adverse effect on the performance by an FOI body of any of its functions relating to management (including industrial relations and management of its staff) or*
- (c) disclose positions taken, or to be taken, or plans, procedures, criteria or instructions used or followed, or to be used or followed, for the purpose of any negotiations carried on or being, or to be, carried on by or on behalf of the Government or an FOI body*

The Office of the Chief Administration Office have advised this office that Mr. Barrett has been and is subject to a Formal Investigation Pursuant to the Civil Service Disciplinary Code (Circular 19/2016) presided over by an independent investigator (Senior Counsel). An Garda Síochána are currently working to bring this matter to a conclusion.

The release of any records under the FOI Act is understood, effectively to be equivalent to its release to the world at large. In this regard, it would be remiss of this office to release records which could reasonably be expected to prejudice the effectiveness of any discussions taking place with the interested parties around the matters outlined in your request. By releasing records prematurely would disclose information into the public domain which are still the subject of ongoing discussions and which have not yet been finalised.

Section 30(1)(b) refers to significant, adverse effect on the performance by an FOI body of any of its functions relating to management (including industrial relations and management of its staff).

### **Harm Test**

Section 30 requires the following Harm Test to be carried out as part of the decision making process. Disclosure of the processes currently been undertaken and details in respect of same could put future discussions and similar processes at a disadvantage by prejudicing the effectiveness of these methods.

In addition to Section 30, I am also applying Section 29 of the FOI Act. The records sought by you are part of a deliberative process and as such will form an integral part of any outcome that is yet to be decided upon. Section 29 of the Freedom of Information Act 2014 refers as follows:

## **Section 29 - Deliberations of FOI bodies**

29(1) *A head may refuse to grant an FOI request –*

- a) *If the record concerned contains matter relating to the deliberative processes of an FOI body (including opinions, advice, recommendations, and the results of consultations, considered by the body, the head of the body, or a member of the body or of the staff of the body for the purpose of these processes, and*
- b) *the granting of the request would, in the opinion of the head, be contrary to the public interest,*

*and, without prejudice to the generality of paragraph (b), the head shall, in determining whether to grant or refuse to grant the request, consider whether the grant thereof would be contrary to the public interest by reason of the fact that the requester concerned would thereby become aware of a significant decision that the body proposes to make.*

### **Public Interest Test**

As per Section 29 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,
- Ensuring fairness of procedures and that decisions are fair and equitable and evenly applied,

In considering the public interest factors which favour withholding the records I have taken account of the following:

- Allowing a public body to make its decisions without undue intrusion into the process,
- The public interest is not best served by releasing these records,
- Premature release could negatively affect future decision making processes.
- Premature release could contaminate the decision making process.

A public interest test was carried out when considering the release of the records but, having balanced the factors both for and against the release, I have, on balance, decided that the public interest in preserving the integrity of these ongoing discussions would be better served by withholding the records.

In relation to Part 2 & 3 of your request I can advise that Mr. Alan Mulligan's appointment to Acting Executive Director in HR&PD commenced on the 20<sup>th</sup> November, 2018. The table attached details the time frame, the current salary and the acting up allowance for the specified time frames. You will note that the table is dated up to the 31<sup>st</sup> March, 2020. Sanction is being sought to extend the acting up past 31<sup>st</sup> March. If sanction is approved the acting up allowance will be paid retrospectively. In respect of part three of your request, I wish to advise you that Mr. John Barrett was suspended by the Minister for Justice & Equality in October 2018, on full pay.

## 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-000227-2020**.

***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-000227-2020) 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,



ASSISTANT PRINCIPAL

**PAUL BASSETT**

**FREEDOM OF INFORMATION OFFICER**

30<sup>th</sup> JULY, 2020.

**APPENDIX A**

<b>Reason</b>	<b>Start Date</b>	<b>End Date</b>	<b>Current Salary</b>	<b>Annual Allowance</b>	<b>Total</b>
Higher Duty Allowance	20/11/2018	20/12/2018	€119,389.92	€8,233.08	€127,623
Higher Duty Extension	21/12/2018	19/01/2019	€119,389.92	€8,233.08	€127,623
Higher Duty Extension	20/01/2019	19/02/2019	€122,545.92	€5,077.08	€127,623
Higher Duty Extension	20/02/2019	19/03/2019	€122,545.92	€5,077.08	€127,623
Higher Duty Extension	20/03/2019	31/03/2019	€122,545.92	€5,077.08	€127,623
Pay increase	01/04/2019	19/04/2019	€122,545.92	€7,819.08	€130,365
Higher Duty Extension	20/04/2019	19/05/2019	€122,545.92	€7,819.08	€130,365
Higher Duty Extension	20/05/2019	19/08/2019	€122,545.92	€7,819.08	€130,365
Higher Duty Extension	20/08/2019	31/08/2019	€122,545.92	€7,819.08	€130,365
Pay increase	01/09/2019	19/11/2019	€124,427.92	€8,218.08	€132,646
Higher Duty Extension	20/11/2019	31/03/2020	€124,427.92	€14,247.08	€138,675