

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 ND62



Freedom of Information Office,
An Garda Síochána, Athlumney House,
IDA Business Park,
Johnstown, Navan,
Co Meath.
C15 ND62

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-0000124-2020 Request Part Granted

Dear

I refer to your request, dated 6th March 2020 and received on 9th March, 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 FOI Act 2014, I am seeking the following:

- *copies of all correspondence between AGS and the OPW with regard to the development of a building that will provide new accommodation for AGS at Military Road. This request to cover the period 1 July 2019 to date of receipt of the request*

I wish to inform you that I have decided to part-grant your request on the 6th April, 2020.

The purpose of this letter is to explain that decision.

1. Findings, particulars and reasons for decision

Upon receipt of your request, the Estate Management Section of An Garda Síochána was contacted and a number of records were identified in respect of your request.

Section 6(2)(a) of the FOI Act provides that an entity specified in Schedule 1, Part 1 of the Act shall, subject to the provisions of that Part, be a public body for the purposes of the FOI Act. Schedule 1, Part 1 contains details of bodies that are partially included for the purposes of the FOI Act and also details of the certain specified records that are excluded. If the records sought come within the description of the exclusions of Part 1, then the FOI Act does not apply and no right of access exists.

Part 1(n) of Schedule 1 of the FOI Act provides that An Garda Síochána is not a public body for the purposes of the FOI Act other than in relation to administrative records relating to human resources, or finance or procurement matters.

HR records refer to personal records of staff working within An Garda Síochána. They also relate to statistical information in respect of the organisation, e.g sick leave, discipline, retirements, etc. Financial records relate to the financial expenditure of the organisation and procurement records relate to the contracting of services and the tendering process associated with same.

In this regard, I am to advise you that only records that relate to human resources, finance and procurement have been reviewed for the purposes of this request.

Estate Management have provided this office with a detailed spreadsheet of all expenditure to date with regard to the development of Military Road. A copy of this spreadsheet is now herewith attached for your perusal.

I am to advise you that I am refusing to provide any additional correspondence with between An Garda Síochána and the OPW with regard to the building of Military Road as I am satisfied that this project is still in very much in an ongoing stage and therefore the identified records remain part of a deliberative process that is ongoing within the Organisation. As such these records 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

(a) 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 the decision making process would be better served by withholding the records.

Therefore, in accordance with the requirements of section 29(1)(a) and 29(1)(b) of the Freedom of Information Act 2014 I am refusing to provide the records as sought by you.

Section 30 - Functions and Negotiations of FOI Bodies

As outlined above Estate Management Section have advised this office that discussions in respect of the development of the accommodation and relocation of many of the Garda National Units to the building at Military Road are still ongoing. When considering the release of records under the FOI Act, I must also have regard to the fact that the FOI Act places no restrictions on the type or extent of the subsequent use to which a record may be put and that release under FOI effectively amounts to disclosure to the world at large. In this regard, it would be remiss of this office to release records that could be reasonably expected to prejudice the effectiveness of any decision making processes and discussions surrounding the requirements of AGS for the relocation of Garda National Units to Military Road. By releasing this information would disclose positions to be taken and the effectiveness of procedures that may be utilised in the effective establishment and resourcing of these offices.

I am also of the opinion that by releasing correspondence between An Garda Síochána and the OPW could impact on future discussions and negotiations, not just about Military Road but for future building management projects, therefore having an adverse effect on the performance of the organisation. The release of this type of detailed information is not in the best interest of the public.

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). The information contained in the records refers to the planning and management of the Units to be assigned to Military Road, including information pertaining to resourcing and industrial relation matters. Parties engaged in discussions and the sharing of insights and information on the basis that these discussions were being carried out in confidence. There is also a reasonable expectation that management can engage confidentially with Garda Association and Civil and Public Service Union representatives in relation to the processes involved in relocating offices and staff and by releasing this information could adversely impact on Garda Managements ability to carry out its functions in relation to same. Section 30 advises as below:

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, 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*

Harm Test

Section 30 requires the following Harm Test to be carried out as part of the decision making process. The release of management discussions surrounding these changes could be prejudicial to the reform process by reducing the effectiveness of future processes. Thus the harm caused is the impairment of current and future building management decision making processes.

Section 32 – Law Enforcement and Public Safety

In addition to Section 30, Sections 32(1)(a)(iii) and (iv) is also applicable to the information you have requested. Section 32 of the FOI Act which states:

32.(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—

- (a) prejudice or impair –*
- (iii) lawful methods, systems, plans or procedures for ensuring the safety of the public and the safety or security of persons and property*
- (iv) the security of a building or other structure or a vehicle, ship, boat or aircraft,*

The functions of An Garda Síochána are, in the main, directed towards the prevention, detection and investigation of criminal activities. It is not in the public interest to impair or prejudice Garda functions by releasing information under the FOI Act which could reasonably be expected to harm an investigation, put at risk public safety or be detrimental to the investigative process. For example, it is reasonable to expect that the persons/companies carrying out their duties in an operational capacity by An Garda Síochána receive due consideration for their safety and that the premises in which these individuals are attached to are not unnecessarily placed in situations where they could be subjected to harm in any way. It is reasonable to expect the details in respect of the sections and the building in which they are being assigned to wherein they are providing a service which involves the protection of the security of the state, could be subjected to intimidation or other harmful methods in an attempt to negatively impact a criminal investigation.

In addition to the above exemptions, I am also applying Section 42 of the FOI Act to the HR related records. Section 42 states the following:

Section 42 – Restrictions of Act

42 This Act does not apply to –

- (b) *a record held or created by the Garda Síochána that relates to any of the following:*
 - (i) the Emergency Response Unit;*
 - (ii) the Secret Service Fund maintained by it;*
 - (iii) the Special Detective Unit (SDU);*
 - (iv) the witness protection programme sponsored by it;*
 - (v) the Security and Intelligence Section;*
 - (vi) the management and use of covert intelligence operations;*

- (vii) *the Interception of Postal Packets and Telecommunications Messages (Regulation) Act 1993;*
- (viii) *the Criminal Justice (Terrorist Offences) Act 2005 ;*
- (ix) *the Criminal Justice (Surveillance) Act 2009;*
- (x) *the Communications (Retention of Data) Act 2011;*

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-0000124-2020**.

Freedom of Information Office, An Garda Síochána, Athlumney House, IDA Business Park, Johnstown, Navan, Co. Meath C15 ND62

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-0000124-2020) 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.

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

6th APRIL 2020

Military Road Garda NSS HQ
2019 PAYMENTS

Invoice Processed	Certified	Reference	PO	Supplier	Service	Fees (incl.VAT)	GRN	NPPO
08/01/2019	SOC, 8/1/19	172278	259077	DBFL	Civil and Structural (Nov.2018)	€21,349.42	302206	11/01/2019
08/01/2019	SOC, 8/1/19	172403	259077	DBFL	Civil and Structural (Dec.2018)	€21,349.42	302207	11/01/2019
10/01/2019	SOC, 8/1/19	INV-2197	268483	Scollard Doyle	QS, Stage ii, month 10	€7,380.00	302210	11/01/2019
10/01/2019	SOC, 9/1/19	SI033058	297013	RPS (Belfast)	Hydraulic modelling	€13,407.00	302468	14/01/2019
22/01/2019	Eoin Bradley, 22/1/19	21033	294617	Wain Morehead Architects	Thermal Modelling (payment #1)	€2,171.64	303805	
29/01/2019	GG, 29/1/19	3935	279757	O'Connell Mahon	Review/opinion Part 9 process	€2,214.00	304475	
19/02/2019	Eoin Bradley, 14/2/19	INV.21044	294617	Wain Morehead Architects	Thermal Modelling (payment #2)	€1,634.53	306945	
25/02/2019	Eoin Bradley, 18/2/19	INV-2276	268483	Scollard Doyle	QS, Stage ii, month 12	€12,300.00	307606	
11/03/2019	Derek Fortune, 7/3/19	INV.19030015	305382	PJ Hegarty	Enabling Works (Cert#1)	€117,666.65	309229	14/03/2019
19/03/2019	DF, 28/2/19	Inv.2238	268483	Scollard Doyle	QS, Stage ii, month 11	€12,300.00	307606	
25/03/2019	-	Inv.11551	305391	Carron and Walsh	Contract Administrators for enabling works (payment #1)	€5,674.44	310614	28/03/2019
25/03/2019	Derek Fortune, 11/3/19	551-22	307446	City Models	Physical model	€7,378.77		
08/04/2019	EB, 5/4/19	INV-2308	268483	Scollard Doyle	QS, Stage ii, month 13 (final payment stage (ii))	€21,094.50	312441	09/04/2019
08/04/2019	EB, 5/4/19	Inv.21057	294617	Wain Morehead Architects	Thermal Modelling (payment #3)	€772.17	312482	11/04/2019
22/05/2019	-	Inv.2444	314063	Burke Catering	Planning meeting#3 (held on 30 Apr 2018)	€32.05	317339	11/06/2019
28/05/2019	Derek Fortune, 10/5/19	Inv.19050016	305382	PJ Hegarty	Enabling Works (Cert#2)	€227,373.35	317924	05/06/2019
28/05/2019	-	Inv.11610	306391	Carron and Walsh	Contract Administrators for enabling works (payment #2)	€10,965.00	317957	05/06/2019
05/06/2019	EB, 28/5/19	Inv.21072	294617	Wain Morehead Architects	Thermal Modelling (payment #4)	€627.30	318313	
17/06/2019	-	Inv3025	284933	Burke Catering	Design Team Meeting (June 2018)	€32.05	324779	19/07/2019
						€485,722.29		