

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

Láithreán Gréasain/Website:
www.garda.ie

Bí linn/Join us  

Ríomh-phoist:/Email: foi@garda.ie

Re: Freedom of Information Request FOI-000354-2021 Request Part-Granted

Dear

I refer to your request, dated and received on 13th October, 2021 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:

All records (including but not limited to reports, emails and communications) in respect of the payment by any organisation for the management of any non-public duty event, including each concert, festival, sporting event, racing event and any other miscellaneous event in the period between 2 July 2018 to 29 February 2020 (the "Relevant Organisation").

In that regard, we ask that you specifically provide the following records in respect of each Relevant Organisation:

- *the exact sum paid by the Relevant Organisation in respect of each non-public duty event for which a payment larger than €1000 was paid to An Garda Síochána, including any contribution paid to An Garda Síochána to provide policing services outside of such event (e.g. traffic control);*
- *a breakdown of how the sum paid by the Relevant Organisation to An Garda Síochána was calculated including but not limited to:*

- *the number of members in attendance at the non-public duty event and a breakdown of their respective ranks;*
- *the rate charged per member in attendance at the non-public duty event;*
- *the basis for calculating the number of members required to attend the non-public duty event; and*
- *the communications with the relevant organisation setting out the basis for calculating the sums to be paid.*

I wish to inform you that I have decided to part-grant your request on 10th November, 2021.

The purpose of this letter is to explain my decision.

1. Findings, particulars and reasons for decision

Upon receipt details of your request was forwarded to the relevant sections of An Garda Síochána who conducted a search of their records. 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.

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.

The first part of your request sought records in respect of

“the exact sum paid by the Relevant Organisation in respect of each non-public duty event for which a payment larger than €1000 was paid to An Garda Síochána, including any contribution paid to An Garda Síochána to provide policing services outside of such event (e.g. traffic control)”

for the period 2nd July 2018 to 29th February 2021. I am refusing this element of your request pursuant to Section 15(1)(d) of the FOI Act wherein:

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

The relevant records in respect of 2018 and 2019 have been the subject of previous Freedom of Information requests. It is the policy of this Office to publish FOI decisions on the Garda website. As such, the information sought in the first part of your request in respect of 2018 and 2019 are already in the public domain and are available at

<https://www.garda.ie/en/information-centre/freedom-of-information/decision-log/finance-general/finance-general-decision-logs-2020.html>

I am granting that element of part one of your request relating to January and February 2020 and enclose same herewith.

In respect of the remainder of your request, I have been advised that the records sought by you are subject to an ongoing legal action. As a result, I am refusing the remaining parts of your request in accordance with Section 29 of the FOI Act. The records sought by you are part of a deliberative process that is ongoing within the Organisation 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.

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.

Additionally, the provisions of Section 30(1)(c) of the FOI Act apply to the requested records. Section 30(1)(c) states:

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 –

(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

When considering the release of records under the FOI Act, I must 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. I am of the opinion that releasing details in relation to the negotiation process engaged in by An Garda Síochána in regard to the performance of Non Public Duty could impact on the response of An Garda Síochána to a pending legal action and therefore have 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.

Public Interest Test

In applying the provisions of both Section 29 and Section 30 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.

In addition to Section 29 and Section 30, there are other provisions of the FOI Act which apply to the remainder of your request.

Records relating to *“the number of members in attendance at the non-public duty event and a breakdown of their respective ranks”*, and *“the basis for calculating the number of members required to attend the non-public duty event”* are operational policing records. As such they fall outside the scope of the FOI Act insofar as it relates to An Garda Síochána. Therefore, in addition to Section 29 and Section 30, I am refusing these elements of your request based on Part 1(n) of Schedule 1 of the FOI Act. 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”*. As such, operational policing matters are excluded from the provisions of the FOI Act.

In respect the remainder of your request, namely,

“the rate charged per member in attendance at the non-public duty event”
and

“the communications with the relevant organisation setting out the basis for calculating the sums to be paid”,

I am also applying the provisions of Section 36(1)(b) and Section 36(i)(c) of the FOI Act to these elements of your request in refusing same. I consider the records sought in this part of the request to be commercially sensitive information as defined by the FOI Act:

Commercially sensitive information

36. (1) Subject to subsection (2), a head shall refuse to grant an FOI request if the record concerned contains—

- (b) financial, commercial, scientific or technical or other information whose disclosure could reasonably be expected to result in a material financial loss or gain to the person to whom the information relates, or could prejudice the competitive position of that person in the conduct of his or her profession or business or otherwise in his or her occupation, or*
- (c) information whose disclosure could prejudice the conduct or outcome of contractual or other negotiations of the person to whom the information relates*

I am satisfied that the release of the records sought would prejudice the competitive position of the organisations involved by making a significant element of their cost base publically known. This information therefore is commercially sensitive in accordance with the provisions of Section 36 of the Act

Harm Test

Section 36 also requires a harm test to be carried out as part of the decision making process. As stated above, the release of information under the Act is, in essence, a release to the public at large. If the records sought were made available to you it is reasonable to expect that it would prejudice the ability of the organisations in question to conduct negotiations in respect of their operations in the future as other parties would be aware of their cost structure. I am of the view that the release of cost structures could be reasonably expected to result in a material financial loss by the organisations concerned as it could prejudice their competitive position in the conduct of their business. The placing of these cost structures into the public domain could also reasonably be expected to give a competitive advantage to other organisations involved in similar undertakings.

Therefore, I am refusing this part of your request under the provisions of section 36(1)(b) & 36(1)(c) as it seeks commercially sensitive information.

Public Interest Test

There is a Public Interest Test associated with section 36 of the FOI Act whereby my decision must be made having fully considered the public interest relevant to this request.

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 being released.
- The right to commercial confidentiality is outweighed by the needs of the public regarding the expenditure of public funds by a public body.

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

- Allowing a public body to hold commercial information without undue access by members of the public.
- The best course of action which is in the public interest with regard to these records.
- That An Garda Síochána can conduct its business with external contractors in a confidential manner.
- That there is a reasonable and implied expectation by contractors that financial information pertaining to services provided will be held in a confidential manner.
- That there is no overriding public interest that outweighs the right to privacy by an individual or in this case the financial activities of a service provider.

Having balanced the public interest factors both for and against the release, I decided that the public interest in preserving the information and the reasonable expectation that information can be maintained by An Garda Síochána without prejudicing future financial endeavors by external service providers outweighs the public interest which would be served were the records released to you.

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-000354-2021**.

Freedom of Information Office, An Garda Síochána, Athlumney House, IDA Business Park, 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: An Garda Síochána Imprest Account

Account Number: 30000302

Sort Code: 951599

IBAN: IE28DABA95159930000302

BIC: DABAIE2D

You must ensure that your FOI reference number FOI-000354-2021 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,



PAUL BASSETT
FREEDOM OF INFORMATION OFFICER

10th November, 2021.

<i>Applicant</i>	<i>Place of duty</i>	<i>Date Of Duty</i>	<i>Amount Paid</i>
IRFU	Aviva Stadium	01/02/2020	€27,514.00
IRFU	Aviva Stadium	08/02/2020	€23,001.89
Amphitheatre Ireland	3 Arena	06 to 09/02/2020	€9,840.00
GAA	Croke Park	25/01/2020	€6,360.92
GAA	Croke Park	19/01/2020	€6,171.54
GAA	Croke Park	22/02/2020	€6,055.47
GAA	Croke Park	08/02/2020	€5,909.69
Amphitheatre Ireland	3 Arena	28/01/2020	€4,300.00
Amphitheatre Ireland	3 Arena	31/01/2020	€4,200.00
Amphitheatre Ireland	3 Arena	22/02/2020	€3,960.00
Mayo GAA	McHale Park	01/02/2020	€3,958.00
Amphitheatre Ireland	3 Arena	10/01/2020	€3,770.00
Wexford GAA	Wexford Park	02 & 16/02/2020	€3,716.00
Amphitheatre Ireland	3 Arena	14/01/2020	€3,620.00
Connacht Rugby	Sportsground	01/01/2020	€3,612.16
Amphitheatre Ireland	3 Arena	10/02/2020	€3,510.00
Bohemians Football Club	Dalymount Park	15/02/2020	€3,465.00
Amphitheatre Ireland	3 Arena	29/02/2020	€3,380.00
Amphitheatre Ireland	3 Arena	27/02/2020	€3,120.00
Amphitheatre Ireland	3 Arena	28/02/2020	€3,080.00
Leinster Rugby	RDS	26 to 31/01/2020	€2,932.40
Galway 2020	Tuam	04/02/2020	€2,554.88
Connacht Rugby	Sportsground	01/01/2020	€2,549.76
Irish Coursing Club	Clonmel	14,15,16/02/2020	€2,519.91
Galway 2020	Clifden & Spiddal	02 & 03/02/2020	€2,469.00
VIP Productions	Phoenix Park	22/02/2020	€2,080.00
Donegal GAA	Ballybofey	25/01/2020	€2,050.00
Kerry GAA	Tralee	01/02/2020	€2,000.00
Leinster Rugby	RDS	12/01/2020	€1,996.74
Waterford GAA	Walsh Park	26/01 & 23/02/2020	€1,980.00
Raheny 5 Mile	Raheny	26/01/2020	€1,980.00
Leinster Rugby	RDS	28/02/2020	€1,717.00
Amphitheatre Ireland	3 Arena	22/02/2020	€1,640.00
Leinster Rugby	RDS	15/02/2020	€1,619.67
GAA	Croke Park	18/01/2020	€1,529.12
Leinster Rugby	RDS	04/01/2020	€1,527.62
The Drowning	Bray	28/02/2020	€1,250.58
Leinster Rugby	Donnybrook	11/02/2020	€1,237.68
Donegal GAA	Letterkenny	09/02/2020	€1,201.00
Fingal County Council	Donabate	23/02/2020	€1,160.00
Cumann Luthchleas Gael	Breffni Park	04/01/2020	€1,102.00
Donegal Mini Stages	Milford	25/01/2020	€1,000.00