

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-000182-2021 Request Part-Grant

Dear

I refer to your request, dated and received on 14th May, 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:

- 1) As of 13 May 2021 The amount of revenue that is still outstanding to An Garda Síochána in regards to non public duty charges for events that were policed in 2019 and Q1, 2020; Please include the name of organisation that has yet to fully pay AGS their agreed amount for policing their event; and the amount of fee that is currently outstanding per event in tabular form*
- 2) If AGS charge a penalty fee which applies where the non public duty charges owed Gardai is not fully paid within the subsequent 12 months of event eg Amount of funds outstanding plus 20% of total charge fee as penalty etc regarding events that were policed in either 2019 or Q1, 2020*
- 3) If AGS have issued legal action against event organiser regarding the failure to fully pay non public duty charges for which Gardai policed their event in 2019 and Q1, 2020 in tabular form*

In this regard, I have decided to part-grant your request on the 25th May, 2021.

The purpose of this letter is to explain that decision.

1. Findings, particulars and reasons for decision

Details of your request were provided to the Finance Section of An Garda Síochána who have briefed this office regarding same. Under Section 30 of the Garda Síochána Act 2005, An Garda Síochána may provide and charge for police services for events on private property or in areas open to the public if:

- (a) *It is in the public interest and consistent with the functions of An Garda Síochána to provide the services, and*
- (b) *The Commissioner is satisfied that the person has paid or will pay to the Commissioner the charges for the services.*

Non-public duty is performed by members of An Garda Síochána under arrangements made with organisers of events such as football matches, concerts and race meetings, etc. who seek to engage the services of members of An Garda Síochána to perform duties to which they would not normally be assigned.

Members of An Garda Síochána have been made available for the performance of such duties and the State has charged for their services. This work is normally performed by members who would otherwise be off duty. It is generally the practice to charge organisations for the costs of duties performed by members inside the event.

In general, the cost of policing duties performed by Gardaí outside the event such as traffic control, beat patrols and other public policing duties which would be additional to those normally performed at the location, are not paid by the organisation hosting the event but fall to be paid from the Garda Vote. However, at some specific larger events An Garda Síochána seeks a contribution from the promoters to overall policing costs. In this regard, I advise that the level of contribution to be made to An Garda Síochána is agreed by the local District Officer with the organisers, taking into account the nature and size of the event.

At all times, it is the policy of An Garda Síochána that the safety of the public must be the ultimate concern.

In respect of part 1 of your request I have been advised that, as of 21st May 2021, the total revenue outstanding for events policed in 2019 is €936,747 and the amount outstanding for events policed in Q1 2020 is €71,248.

I am refusing to release the names of the organisations who have yet to fully pay their policing costs as I deem this information to be commercially sensitive. I am refusing to provide this information in accordance with Section 36(1)(b) of the FOI Act which refers to commercially sensitive information. Section 36 states:

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

An Garda Síochána is actively pursuing these outstanding debts. To release the names of those organisations and the amount owed could prejudice their positions and competitiveness in their conduct for future business. The prospect of prejudicing the commercial and competitive position of a commercial body who have sought the services of An Garda Síochána is not the purpose of the FOI Act and Section 36 of the Act provides safeguards in that respect.

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:

- Accountability of a Public Body with regard to the expenditure of public funds.
- 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.
- That the provision of overall expenditure figures for companies meets the needs of the Public Interest in this matter.

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 companies outweighs the public interest which would be served were the records released to you.

Harm Test

Section 36 also requires a harm test to be carried out as part of the decision making process. I am of the view that by releasing the outstanding payments which have yet to be paid could reasonably be expected to result in a material financial loss to these companies as it could

prejudice their competitive position in the conduct of their future business dealings with other companies. The companies present customers may become aware of their financial obligations to An Garda Síochána, which could in turn prejudice any current or future negotiations with these customers.

In respect of parts 2 and 3 of your request, I have been advised that An Garda Síochána does not apply a penalty fee to outstanding debt and An Garda Síochána has not issued legal action against an event organizer regarding failure to pay non-public duty charges for events policed by Gardai in 2019 and Q1 of 2020.

Therefore, I am refusing parts 2 and 3 of your request in accordance with Section 15(1)(a) of the Freedom of Information Act 2014 which states:

Refusal on administrative grounds to grant FOI requests

15(1)(a) the record concerned does not exist or cannot be found after all reasonable steps to ascertain its whereabouts have been taken

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-000182-2021**.

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: An Garda Síochána Imprest Account

Account Number: 30000302

Sort Code: 951599

IBAN: IE28DABA95159930000302

BIC: DABAIE2D

You must ensure that your FOI reference number (FOI-000182-2021) 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,



ASSISTANT PRINCIPAL

PAUL BASSETT

FREEDOM OF INFORMATION OFFICER

25 MAY, 2021.