

An Garda Síochána



Freedom of Information

Code of Practice

Freedom of Information Office

August 2016

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1 FOREWORD

The introduction of the Freedom of Information Act 2014 (FOI Act), which An Garda Síochána became subject to on the 14th October 2015, is in keeping with the constant transformation process emanating from within An Garda Síochána.

The corporate goal “*to better serve the public by being more open and transparent in our everyday duties*” can be further achieved by providing formalised access to records held by An Garda Síochána in compliance with the provisions of the FOI Act.

The ethos and spirit embodied by the FOI Act should be extended across much of the business conducted by An Garda Síochána as it continually strives to deliver a professional service.

The standardised implementation of the FOI Act throughout An Garda Síochána will be enhanced by the introduction of this Code of Practice

MICHAEL O’SULLIVAN
ASSISTANT COMMISSIONER

2 INTRODUCTION

An Garda Síochána became subject to the Freedom of Information Act 2014 (FOI Act) on the 14th October 2015.

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 held by An Garda Síochána that relate to human resources, finance or procurement will be considered for release under the FOI Act.

Since 1998, when the first Freedom of Information Act was introduced, there has been greater accountability by public bodies, inclusive of public bodies in receipt of funding from the State and certain other bodies, in the managing of public affairs. This has created significant challenges in public bodies and required changes to the way records are maintained and stored.

The complexity of requests being received by the Freedom of Information (FOI) Office has brought into focus the enormity of record keeping being conducted by An Garda Síochána. The management of records held by An Garda Síochána requires a structured framework across all areas to guarantee the most efficient response possible is provided to members of the public. The use of electronic means of storage and increased usage of email creates its own particular unique challenges which must be managed in a structured way to allow the greatest possible access to those records.

The implementation of the FOI Act must also be considered in conjunction with the legislative requirements provided for in the Data Protection Act 1988 and the Data Protection (amendment) Act 2003 (DPA Acts). The purpose of the DPA Acts and the FOI Act is to make available to the public personal and non-personal records thus providing transparency and openness within An Garda Síochána.

The development of an FOI Code of Practice is necessary to support the implementation of the FOI Act and the Code of Practice published by the Minister for Public Expenditure and Reform under section 48 of the FOI Act.

The purpose of the FOI Code of Practice is:

- To tackle the challenges of implementing the FOI Act in An Garda Síochána.
- To strengthen the structures and procedures established for FOI in An Garda Síochána.
- To promote best practice and encourage consistency and standardisation.
- To provide an understanding of the role of the FOI Office and FOI Officer.
- To provide an understanding of the roles of persons nominated to process requests made under the FOI Act.
- To promote the publication of information.

3 DEFINITIONS

“**Administrative Process**” means access to records outside the confines of the FOI Act.

“**FOI Act**” means Freedom of Information Act 2014.

“**Central Processing Unit**” means the unit established by the Department of Public Expenditure to provide guidance on the FOI Act.

“**Information Commissioner**” means the Information Commissioner of the Office of the Information Commissioner established to oversee the implementation of the FOI Act.

“**Electronic Device**” includes any device that uses any electrical, digital, magnetic, optical, electromagnetic, biometric or photonic means, or other forms of related technology, or any combination thereof, to store or transmit data, or both store and transmit data.

“**Exempt Record**” means—

- (a) a record in relation to which the granting of an FOI Request would be refused pursuant to *Part 4* or by virtue of *Part 5*, or
- (b) a record that is created for or held by an office holder and relates to the functions or FOI activities of —
 - (i) the office holder as a member of the Oireachtas or a political party, or
 - (ii) a political party;

“**eFOI System**” means the system in place for An Garda Síochána to record relevant FOI activities relating to an FOI Request.

“**FOI Body**” means a public body or a prescribed body.

“**FOI Request**” means an application for access to a record pursuant to the FOI Act.

“**FOI Officer**” means the person that has been delegated to conduct the business of FOI on behalf of the Garda Commissioner. A person of Superintendent rank is currently delegated at the FOI Officer.

“**FOI Office**” is the office established to centrally process FOI Requests. It is based at Athlumney House, IDA Business Park, Johnstown, Navan Co. Meath.

“**Head**” means head of an FOI Body. In relation to An Garda Síochána it is the Garda Commissioner.

“**Internal Reviewer**” means a person who holds a higher position than the FOI Officer within An Garda Síochána and is nominated to carry out an appeal process.

“**Liaison Personnel**” means specific individuals trained in the FOI Act who provides information and support to the Senior Point of Contact regarding FOI Requests.

“**Minister**” means the Minister for Public Expenditure and Reform.

“Publication Scheme” means the method by which certain records are published for public viewing.

“Requester” means a person who submits an FOI Request.

“Record” includes—

- (a) a book or other written or printed material in any form (including in any electronic device or in machine readable form),
- (b) a map, plan or drawing,
- (c) a disc, tape or other mechanical or electronic device in which data other than images are embodied so as to be capable, with or without the aid of some other mechanical or electronic equipment, of being reproduced from the disc, tape or other device,
- (d) a film, disc, tape or other mechanical or electronic device in which visual images are embodied so as to be capable, with or without the aid of some other mechanical or electronic equipment, of being reproduced from the film, disc, tape or other device, and
- (e) a copy or part of anything which falls within *paragraph (a), (b), (c) or (d)*, and a copy, in any form, of a record shall be deemed, for the purposes of this Act, to have been created at the same time as the record;

“Senior Points of Contact” means the nominated manager in a specific area trained in the FOI Act who has responsibility for ensuring FOI Requests are processed.

“Week” means a period of 5 consecutive week-days and, in determining such a period, a Saturday or a Public Holiday (within the meaning of the Organisation of Working Time Act 1997) shall be disregarded.

Note 1- Records under the control of An Garda Síochána

In the FOI Act any reference to records held by the FOI body includes a reference to records under the control of that body.

4 ROLE OF THE FREEDOM OF INFORMATION OFFICE

4.1 Freedom of Information Office (FOI Office)

The role of the FOI Office is to process an FOI Request made under the FOI Act. The FOI Office was established by the Garda Commissioner and HQ Directive 87/2015 refers. The FOI Office accepted the first FOI Request on the 14th October 2015.

4.2 Partially Included Agency

The FOI Office provides guidance on the implementation of the FOI Act and is responsible for communicating the decision to the Requester on behalf of An Garda Síochána. The FOI Office is responsible for building good working relationships with other public bodies to encourage standardisation across public bodies responding to FOI Requests. The FOI Office provides advice on how the FOI Act should be interpreted and is a reference point for Garda staff processing an FOI Request.

An Garda Síochána is listed as a partially included agency for the purpose of the FOI Act and matters pertaining to criminal investigations are not subject to the provisions of the FOI Act. The FOI Act states that An Garda Síochána need only consider FOI Requests regarding “*administrative records relating to human resources, or finance or procurement matters*”. Consequently only those types of records will be considered for release under the provisions of the FOI Act. However, if the records requested are deemed outside of the scope of the FOI Act, but otherwise deemed suitable for release, it is not a bar to them being released.

4.3 Central Policy Unit (CPU)

The CPU is established under the Department of Public Expenditure and Reform (DPER) for the purpose of overseeing the implementation of the FOI Act throughout the Public Sector. The CPU issues relevant guidance notes for use by all FOI bodies. It is the responsibility of the FOI Office to ensure that the advices from the CPU are made available to the relevant personnel within the Garda FOI framework.

4.4 Receiving an FOI Request

A request for information which references the FOI Act or appears to be an FOI Request should be scanned and forwarded to foi@garda.ie without delay. Each FOI Request must be

answered within 20 working days from the time it is received by An Garda Síochána. It is only when the FOI Request is received at the FOI Office that the process of retrieving the relevant records can be commenced. Requests for information may be received by email, post or hand delivered into any location where An Garda Síochána is represented.

4.5 Information Commissioner

The Information Commissioner, who is independent of the Government, in the performance of his/her functions has similar responsibilities to the Data Protection Commissioner. The Information Commissioner is responsible for ensuring that records are released in accordance with the provisions of the FOI Act and maximum access is provided to the public. The Information Commissioner can review, upon appeal by an FOI Requester, decisions made by public bodies, review the operation of the FOI Act, make binding decisions and publish his/her decisions to assist in the interpretation of the FOI Act. The FOI Office is responsible for collating and providing records to the Information Commissioner on behalf of An Garda Síochána when requested to do so.

Note 2- When is an FOI Request received by An Garda Síochána

The 20 day period for answering an FOI Request officially begins when it is received by An Garda Síochána as an Organisation and not just when it is received at the FOI Office. Therefore it is of critical important that an FOI Request received at a Garda Station, Garda Office or by an individual representing An Garda Síochána is forwarded to the FOI Office without delay.

5 ROLE OF THE FREEDOM OF INFORMATION OFFICER

5.1 Freedom of Information Officer (FOI Officer)

The FOI Officer is the custodian for all FOI Requests received by An Garda Síochána. The FOI Officer has sole responsibility for the final decision with regard to the release or non-release of information in response to each FOI Request received.

5.2 Expertise

The FOI Officer shall be a recognised point of reference on how to apply the FOI Act to records held by An Garda Síochána. The FOI Officer will have the necessary expertise and experience to deal with the array of FOI Requests received.

The FOI Officer is responsible for providing FOI related statistical information to senior management within An Garda Síochána and the Department of Public Expenditure and Reform. The FOI Officer is also responsible for contributing evidence-based submissions for consideration as part of future policing plans thus ensuring the requirements established under the FOI Act are continually being fulfilled.

5.3 Guidance

The FOI Officer is a point of contact for Garda staff seeking advice or guidance on a particular FOI Request. The FOI Officer must be able to give guidance on the exceptions provided for under the FOI Act. The FOI Officer must also be able to explain the need for a Public Interest Test, a Harm Test, the application of fees and redaction procedures etc. The FOI Officer is the reference point for the Senior Points of Contact (SPOC) nominated within the areas of Human Resources, Finance and Procurement.

5.4 Maintaining Standards

The FOI Officer is responsible for maintaining standards and ensuring consistency in answering FOI Requests. The FOI Officer will organise training and refresher training as necessary and continue to raise awareness of the obligations provided for under the FOI Act. The FOI officer will liaise with the Central Policy Unit (CPU) in the Department of Public Expenditure and Reform and other FOI Officers as appropriate to keep abreast of developments and lessons learned across the Public Sector.

5.5 *Managing Relations*

The FOI Officer should be cognisant of the fact that he/she may be the first point of contact the Requestor has with An Garda Síochána and should be helpful and respect the rights of the individual at all times. The FOI Officer is also the point of contact with the CPU and the Office of Information Commissioner (OIC) and the development of good relationships must be a priority for the FOI Officer. In addition the development of good working relationships internally with Liaison Personnel and SPOCs is essential for the effective implementation of the FOI Act.

5.6 *Dissemination of Decisions*

The FOI Officer will ensure that:

- up to date FOI related information,
- precedents set by the FOI Office in responding to requests or applying exemptions,
- results of Internal Reviews, and
- any appeal decisions made by the Information Commissioner

are disseminated to the relevant Garda FOI personnel.

5.7 *Publication of Information*

The FOI Officer will be able to inform and contribute to the development of policy on the publication (routine or otherwise) of documents and information subject to the FOI Act. The FOI Officer will also provide advice on the content of information being considered for publication outside of the scope of the FOI Act.

5.8 *Requester Engagement and Transfers*

The FOI Officer will ensure that FOI staff engages with Requesters to assist in formulating valid FOI Requests. The Requester shall be contacted at the earliest possible opportunity if it is deemed necessary. The FOI Officer will promote the process of early engagement with the general public to allow the FOI Request be understood fully, manage expectations and also identify if the request needs to be transferred to a more suitable public body for consideration.

5.9 *Access to Data and Information*

The FOI Officer will provide guidance on accessing data using other pieces of legislation or administrative routes. The particulars of the Data Protection Act 1998 (as amended) and

European Communities (Access to Information on the Environment) Regulations 2007 – 2014 will, in some cases, form part of the FOI Officers decision making process and as such he/she must have knowledge of these data access routes.

5.10 General Access

The FOI Officer will ensure that access to the FOI Office is multifaceted incorporating access by email, telephone and postal services and that these access routes are known internally throughout An Garda Síochána and by the general public.

5.11 Standard Setting

The FOI Officer is a key resource within An Garda Síochána for implementing the ethos of FOI and must endeavor to achieve best practices and be dedicated to providing an excellent standard of service to the general public. The FOI Officer will advise senior Garda management of issues which impact on achieving overall compliance with FOI legislation while also championing the implementation of any solutions required.

5.12 Third Party Consultation

In cases where the release of a record may impact upon a third party (third party being a person or organisation that is not the Requestor or An Garda Síochána) consultation shall be considered by the FOI Officer with that third party regarding the information contained in the record concerned. It is the responsibility of the FOI Officer to ensure contact is made with third parties to allow a submission be made for the consideration of the FOI Officer prior to a decision being made about the release of the record. This type of interaction develops a better working relationship between organisations and individuals working with An Garda Síochána.

5.13 Statistical Information

Statistical Information is provided by the FOI Officer on a monthly basis to DPERs and includes the number of FOI Requests being met within the legislative timeframes.

5.14 Record Management

The FOI Officer will also be responsible for proactively promoting good record management systems within An Garda Síochána.

5.15 Training

There is a responsibility on the FOI Officer to ensure that he/she has advanced training on all aspects of FOI legislation and keeps abreast of legislative developments, Case Law and OIC decisions.

6 ROLE OF A SENIOR POINT OF CONTACT

6.1 Senior Point of Contact (SPOC)

A Senior Point of Contact (SPOC) is a skilled manager in a particular area which is subject to the FOI Act. The most suitable person, based in the areas where the FOI Act is relevant, is selected to be a SPOC. The SPOC is the first point of contact for the staff of the FOI Office and provides a critical link for records being sought in response to an FOI Request.

The following areas have a SPOC appointed.

- Human Resources and People Development
- Internal Affairs
- Procurement
- Finance
- Internal Audit

6.2 Human Resources

The SPOC in Human Resources & People Development is responsible for FOI Requests that seek records relating to Garda personnel such as sick leave, allocation of resources, resignations/retirements, personal records and similar records.

6.3 Internal Affairs

A SPOC in Internal Affairs has been assigned to process discipline records held by HR & PD. This SPOC manages requests concerning records maintained under the Discipline Regulations.

6.4 Procurement

The SPOC in Procurement is responsible for records relating to the purchase of goods/services for An Garda Síochána. Similarly matters concerning the tendering process and contractual information on service providers are processed by the SPOC in procurement.

6.5 Finance

The SPOC in Finance is responsible for FOI Requests which seek records relating to financial transactions conducted by An Garda Síochána. This includes payments received by external companies for providing a service and records relating to money claimed by Garda staff while in the course of their duties i.e. subsistence, overtime, mileage, overseas travel expenses etc.

6.6 Internal Audit

A SPOC was appointed in the Garda Internal Audit Section (GIAS) given the nature of the work undertaken by the section as it generally relates to human resources and/or finance and/or procurement. The SPOC is responsible for managing FOI Requests which seek information contained in Audit Reports relating to Human Resources, Finance or Procurement.

6.7 Expertise

The SPOC is a point of reference for the Liaison Personnel and the staff of the FOI Office when considering the appropriateness/relevance of an FOI Request. The SPOC will provide the expertise in his/her particular area of work and will be able to quickly assess the type of records which will need to be considered to facilitate a response to the Requester. The SPOC shall be aware of what guidance is available within An Garda Síochána and centrally from the CPU or the OIC.

6.8 Guidance

The SPOC is the first point of reference for Liaison Personnel seeking advice and guidance on an FOI Request. The SPOC must ensure that the staff dealing with the request are suitably trained and have a full understanding of the legislative requirements to provide records under the FOI Act. The SPOC will raise any issues of interpretation of the FOI Act with the FOI Office and/or the FOI Officer to ensure the correct implementation and understanding of the FOI Act is applied within his/her area of expertise.

6.9 Application of Fees

The SPOC shall be in a position to provide advice to the FOI Office on the application of search and retrieval fees as provided for under the provisions of the FOI Act. The SPOC will make a recommendation to the FOI Office on the application of fees within 5 days of receipt

of the FOI Request. The Requester must be notified if fees are to be applied within 10 days of the FOI Request being received.

6.10 *Standard Setting*

The SPOC is a key resource within his/her section for implementing the ethos of FOI and should encourage staff to be conscious and conduct their work in a manner that will best serve the general public. The SPOC will ensure as much detail as possible is provided in response to an FOI Request and advise the FOI Office of issues which impact upon staff when applying the FOI Act to its fullest capacity.

6.11 *Publication Scheme*

The SPOC is responsible for developing a publication scheme for his/her section and for providing information suitable for publication. The SPOC will ensure that their publication scheme is reviewed and updated as necessary. The SPOC will keep the FOI Officer informed of updates which may affect the decision making process insofar as current and future FOI Requests are concerned.

6.12 *Certification*

The SPOC is responsible for ensuring the “*Certification of Adequacy of search for records*” and “*Adequacy of Search Checklist*” forms are completed correctly and signed before being uploaded onto the eFOI system. It is the responsibility of each SPOC to ensure that these forms are completed for relevant FOI Requests.

6.13 *Monthly SPOC Meetings*

The SPOC will attend the FOI management meetings to discuss issues and suggest methods of improving systems and processes to provide a better service to the general public via FOI. It is the responsibility of the SPOC to ensure his/her staff are up to date on any issues raised at the meetings or changes to the FOI procedures agreed at the meeting.

6.14 *Training*

There is a responsibility on all SPOCs to ensure they have more than adequate training on FOI and that they keep abreast of developments such as legislative changes, OIC decisions and case law etc.

Note 3 – Application of fees

The application of fees cannot be sought retrospectively. Therefore the SPOC should carefully consider the amount of search and retrieval effort that is required to collate the records required to facilitate an answer to the Requester.

Note 4 – Access to personnel records for Garda Members (Serving and Retired)

HR & PD has established a process whereby current and retired Garda members may access their own personnel records without using the FOI Act or the Data Protection Acts. HQ Directive 98/2015 refers.

7 ROLE OF LIASION PERSONNEL

7.1 Liaison Personnel (LP)

The LP is an integral part of the FOI procedure within each section and are relied upon to meet the demands of each FOI Request. The LP conducts the search and retrieval process and assessment of fees relating to FOI Requests with the assistance of the SPOC.

7.2 Expertise

The LP will receive basic FOI Act training (and advanced training where appropriate). The LP can make recommendations to the SPOC as to how the FOI Request should be dealt with. The LP can make recommendations to the SPOC regarding exemptions to be applied to an FOI Request. The LP will ensure all records are identified that are relevant to the FOI Request. The LP will seek advice from the SPOC or FOI Office staff immediately any difficulty arises to ensure it is dealt with speedily. The LP shall always be conscious of the twenty-day deadline set to respond to FOI Requests.

7.3 Clarification

The LP may require further clarification on a request via the SPOC or FOI Office. If the LP is unable to provide information due to an ambiguity in the request it is his/her responsibility to discuss the matter with the SPOC. If the matter cannot be clarified then the LP shall contact the FOI Office immediately seeking advice on how to progress the matter.

7.4 Standards

The LP shall make all necessary enquires and provide all records in answer to a request. The LP should be aware of the guidance available from both within its own Public Body and centrally from the CPU or the OIC. A high standard in record retrieval will ensure that any response provided to the Requester is complete and accurate. The LP should ensure all records including electronic records which may be relevant to the request are identified and all staff engaged in the search and retrieval process has a clear understanding of the records which should be extracted for review.

7.5 Search and Retrieval

The LP will ensure that early consideration is given to estimating the cost which will be incurred in completing a search and retrieval process for the records requested. This must be

done immediately an FOI Request is received as search and retrieval costs cannot be applied after ten days has elapsed since receiving the FOI Request.

7.6 Meeting Deadlines

The LP should ensure that all timeframes provided for in the FOI Act are met and that records are retrieved in a timely fashion. If third party consultation or further contact with a Requester is required the FOI Office should be contacted without delay. It is the responsibility of the LP to know and understand the timeframes provided for under the provisions of the FOI Act.

7.7 Schedule of Records

The LP, where necessary, shall prepare a Schedule of Records clearly stating whether the records should be redacted or not and identifying the complete list of records retrieved for the purpose of the request.

7.8 Training

There is an onus on all Liaison Personnel to ensure they have adequate training on FOI and are kept abreast of developments such as legislative changes, OIC decisions, case law etc.

8 ROLE OF AN INTERNAL REVIEWER

8.1 Rank of Internal Reviewer

The Internal Reviewer will be of a higher rank/grade within An Garda Síochána than the FOI Officer who made the decision in respect of the FOI Request which has been submitted for Internal Review.

8.2 Internal Review Request

The Internal Reviewer is responsible for conducting a review of the FOI Officer's decision making process and for making an independent decision the FOI Request. The Internal Reviewer will ensure that he/she is satisfied that all information is made available for the Internal Review to take place. The Internal Reviewer must consider each case on its own merits and in conjunction with any points of contention raised by the Requester.

8.3 Review Decision Options

It is the responsibility of the Internal Reviewer to make a decision based on the information presented and any other information that he/she considers relevant. The Internal Reviewer may affirm, vary, or annul the decision made by the FOI Officer in relation to the matter as he/she considers appropriate.

8.4 Internal Review Timeframe

The Review Process is independent of the FOI Office and must be completed within a three-week period from the date of the request for an Internal Review being received at the FOI Office. The FOI Officer will co-operate fully with the Internal Reviewer to ensure these deadlines are met.

8.5 Transparency of Review Process

Where possible the Internal Reviewer will be from a different functional area (except in extraordinary circumstances) than the original LP and SPOC to ensure transparency of the Review Process. The Internal Reviewer should not, where possible, be directly associated with the information being reviewed.

8.6 Training

There is an onus on the Internal Reviewer to ensure that they have adequate training on the FOI Act and that they keep abreast of developments such as legislative changes, OIC decisions, case law etc.

9 TRAINING

9.1 Freedom of Information Act Training (FOI Training)

Training is essential for the successful implementation of the FOI Act in An Garda Síochána. While the FOI Act only partially includes An Garda Síochána, insofar as it relates to administrative records concerning human resources, finance and procurement, it is the responsibility of all FOI practitioners to have an awareness of the ethos of the FOI Act when conducting their duties.

FOI Training shall be provided to each member who will be actively participating in the implementation of the FOI Act. All newly nominated LPs, SPOCs and Internal Reviewers shall receive FOI Training on the FOI Act to a basic or advanced level as required for their role.

9.2 Basic FOI Training

Basic skills in the application of the FOI Act shall include the following:

- An overview of the legislation.
- Purpose and ethos of the FOI Act.
- Instructions for practitioners processing FOI Requests.
- How fees are applied.
- The matters to be considered before making a recommendation/decision.
- An understanding of how exemptions are to be considered and utilised.
- The obligation to meet deadlines.
- Internal Reviews process.
- OIC Appeals.
- Guidance for redacting.
- Awareness of the functions of the OIC.

9.3 Advanced FOI Training

Advanced skills in the application of the FOI Act shall include the following.

- The proper application of the Public Interest Test.
- The proper application of the Harm Test.
- Processing commercially sensitive/confidential requests.

- Processing personal information requests (deceased records, next of kin issues, amendment of records etc.).
- Processing requests seeking information/records in non-traditional format.
- Redacting procedures.
- Notification requirements & Third Party consultation.
- Interaction with the Data Protection Unit.
- European Communities (Access to Information on the Environment) Regulations 2007 – 2014 (AIE Requests)

9.4 Organisational Awareness

The FOI Office is responsible for ensuring all Garda staff are aware of the impact of the FOI Act and the practical implications of the FOI Act.

Further education for those areas currently not directly involved with the implementation of the FOI Act may be provided at;

- Senior Leadership Meetings.
- Regional Performance and Accountability Framework Meetings.
- Divisional Performance and Accountability Framework Meetings.
- Promotion and Development Programmes organised by the Garda College Management and Supervision Section.
- Upon request.

9.5 FOI Training Standards

In order to ensure high standards of FOI Training and quality assurance, FOI Training has been provided by an external agency specialising in the application and interpretation of the FOI Act.

This type of expertise is essential to ensure compliance with the legislative obligations and a better understanding of the purpose of the legislation with specific relevance to An Garda Síochána.

10 eFOI TRAINING

10.1 eFOI System

The eFOI system is an electronic system used to record actions taken in response to an FOI Request. The system allows for FOI Requests to be recorded and processed by a multiple of users including, staff of the FOI Office, SPOCs, LPs and Internal Reviewers. The system only allows certain FOI actions to be conducted by each member of staff based on their role within the eFOI framework.

10.2 eFOI Access

Only authorised personnel who have been assigned roles to process FOI Requests will have access to the system. Access to eFOI is restricted by the role a person is assigned on the system which indicates the confidentiality under which each FOI Request is processed.

10.3 eFOI Training

Training in the eFOI system is paramount for the successful processing of any FOI Request. Each member of staff shall receive training on the eFOI system. Training will be provided on a one-to-one basis or group basis depending on the needs and number requiring training.

10.4 eFOI Guidelines

A procedures document for eFOI is available to all users.

Note 5 - Requesting eFOI training

eFOI training can be requested through the FOI Office.

11 PUBLICATION SCHEME

11.1 Publication Scheme – Section 8 Freedom of Information Act 2014

An Garda Síochána has a publication scheme in accordance with the FOI Act available via the Garda website. A publication scheme known as the “*Model Scheme*” is provided for in the legislation and An Garda Síochána has elected to publish information in accordance with the Model Scheme.

The FOI Officer is a reference point for areas considering the publication of information and can be contacted for advice as to the suitability of publishing specific information routinely.

11.2 Purpose of the Publication Scheme

An Garda Síochána has a proactive approach to the publication of information. This will serve to inform the public of Garda activities and reduces the need to make an FOI Request to source information. By having a proactive approach to the routine publication of information in a formalised manner it will further promote open and transparent practices within An Garda Síochána.

The FOI Act allows for records to be published outside the confines of the FOI Act, provided that it is not prohibited by law. An Garda Síochána is engaging in identifying records which are suitable for publication outside of the remit of the FOI Act. This is in keeping with the principles of openness, transparency and accountability as set out in section 11 of the FOI Act.

11.3 Routine Publication of Records

Information will not be published if it is in contravention of any piece of legislation or could pose a risk to An Garda Síochána in carrying out its functions as set out in section 7 of the Garda Síochána Act 2005. However, a progressive approach to the routine publication of information is promoted throughout An Garda Síochána.

11.4 Access to the Publication Scheme - Electronically

The Publication Scheme is available on the Garda website and accessible through www.garda.ie. An extensive amount of information has been made available to the public via

the Garda website and the additional information contained in the FOI Publication Scheme will supplement and complement the information already published.

An Garda Síochána will continue its progress to exceed the minimum requirements for the publication of information as contained in the FOI Central Policy Unit Code of Practice for Freedom of Information Bodies (September 2015).

11.5 Access to the Publication Scheme - Hardcopy

Consistent with the provisions of the FOI Act, a written copy of the Publication Scheme shall be maintained in the reception area of An Garda Síochána Headquarters, Phoenix Park, Dublin 8, D08HN3X for members of the public to inspect. It will be updated in conjunction with any changes made to the electronic version.

11.6 Access to the Publication Scheme – Alternative Arrangements.

Alternative arrangements will be made for persons who cannot or who do not want to access the information either online or by inspection at Garda Headquarters. The method of access will be provided on a case-by-case basis.

11.7 Disclosure Logs

Replies issued to FOI Requests received will be published on the Garda website in a searchable format having regard to and allowing time for internal reviews to be lodged or appeals to be completed but in any case not more than 3 months after the review or appeal has been completed.

The disclosure log shall provide summary information of valid requests and will not disclose personal details of the person making the request. At no stage will privacy rights be infringed or persons subjected to commercial disadvantage through the release of records. Every effort will be made to ensure that exempted information is not published and that Requesters shall be treated equally.

Note 6 - OIC Review of compliance with publication scheme

The Information Commissioner may report in the OIC Annual Report as to whether An Garda Síochána is complying with the requirements of a publication scheme.

12 FOI STATISTICS

12.1 Collection of Statistics

The FOI Office will collate FOI statistical information on behalf of An Garda Síochána in accordance with the guidance issued on the statistical requirements for FOI bodies by the CPU. The statistical information gathered is provided to the Department of Public Expenditure and Reform. The statistics are published as part of the Publication Scheme.

12.2 Statistics required for the CPU

Monitoring FOI activities will be proportionate to the volume of requests handled by An Garda Síochána and may include collecting information about the following.

1. The number of requests received.
2. The proportion of requests answered within statutory timescales (there may also be value in monitoring the length of time it takes to respond to overdue requests);
3. The number of requests that have been refused and the reasons for the refusal.
4. The number of requests for which fees were charged and what the fee was.
5. The numbers of Internal Reviews and the outcome.
6. The number appeals to the OIC and the outcome.
7. The time required and cost involved in processing FOI Requests.

13 DATA PROTECTION ACTS 1988 - 2003

13.1 Data Protection Act 1988 and Data Protection (Amendment) Act 2003

The rights of individuals conferred under the Data Protection Acts shall work in tandem with the access rights under the provisions of the FOI Act. The differences between the Data Protection Acts and the FOI Act mean that a requester may receive different information depending on which access route is taken i.e. Data Protection Acts or FOI Act.

13.2 The Data Protection Commissioner

The Data Protection Commissioner aims to make sure that data controllers, such as the Garda Commissioner, maintain and protect data being collected in the course of Garda duties and ensures the data protection rules are adhered to. The Data Protection Commissioner may review decisions and investigate issues regarding unprofessional practices made by data controllers on behalf of individuals.

14 RECORDS MANAGEMENT

14.1 Chief Records Officer

The FOI Officer is also responsible for the introduction and oversight of record management policies and procedures within An Garda Síochána. This is a long term project whereby records are catalogued to allow retention, destruction and archive procedures be executed in a standardised manner.

14.2 Purpose of Record Management

A summation of the purpose of effective record management, as set out by the CPU, is described as follows.

- The range of activities from prescribing record formats and document/forms design, through the development and operation of record-keeping systems by:
 - analysis of organisational functions to determine where records should be captured;
 - developing records classification schema; and
 - monitoring records capture and record-keeping activities.
- The processes required for the systematic and efficient control of records creation/receipt, classification, maintenance/storage, destruction and transfer to registry. This should include the formulation and implementation of records retention and disposal schedules and the provision of a record retrieval service.
- The processes required for management of electronic information (including what must be stored as records in relation to emails) and its integration with hardcopy information.
- Where archival laws are in place, activities related to the transfer of records of permanent value to archival custody for release to the public (what records must be kept and in what state of preparedness for the archives).

14.3 Challenges of Record Management

The introduction of Records Management will pose significant and unique challenges to An Garda Síochána. The challenge of categorising electronic records will be especially challenging.

14.4 Corporate Responsibility

The development of record management procedures will supplement corporate procedures already in place to manage data effectively. This in turn will also meet the need for An Garda Síochána to be open and transparent in the management of information under its control. The incremental introduction of a structured bespoke policy will result in the development of best practices in the retrieval of records for both FOI and Data Protection requests.

14.5 Compliance with National Archives FOI Act 1986

An Garda Síochána is subject to the provisions of the National Archives Act 1986.

15 ACCESS TO INFORMATION ON THE ENVIRONMENT (AIE)

15.1 Aarhus Convention

Ireland ratified the United Nations Economic Commission for Europe (UNECE) Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters, commonly referred to as the Aarhus Convention, on 20th June 2012

Articles 4 and 5 of the Convention concern environmental information.

The Aarhus Convention provides rights to individuals and their associations with regard to the environment. Ireland is required to ensure that the public authorities at national, regional and local level are in a position to assist the public in exercising their rights.

15.2 AIE Access Rights

The three points below are provided by the Directorate General for the Environment which was established by the European Commission to be responsible for the EU Policy on the environment.

The Aarhus Convention provides for:

- *the right of everyone to receive environmental information that is held by public authorities ("access to environmental information"). This can include information on the state of the environment, but also on policies or measures taken, or on the state of human health and safety where this can be affected by the state of the environment. Applicants are entitled to obtain this information within one month of the request and without having to say why they require it. In addition, public authorities are obliged, under the Convention, to actively disseminate environmental information in their possession; “*
- *“the right to participate in environmental decision-making. Arrangements are to be made by public authorities to enable the public affected and environmental non-governmental organisations to comment on, for example, proposals for projects affecting the environment, or plans and programmes relating to the environment, these comments to be taken into due account in decision-making, and information to be provided on the final decisions and the reasons for it ("public participation in environmental decision-making");”*

- *the right to review procedures to challenge public decisions that have been made without respecting the two aforementioned rights or environmental law in general ("access to justice").*

15.3 Processing AIE Requests

Requests for information on the environment will be processed via the FOI Office.

16 ADDITIONAL READING

CPU Guidance Notes

www.foi.ie

Information on the Aarhus Convention

[www.viron.ie](http://www.environ.ie)

Office of the Information Commissioner

www.oic.gov.ie

Garda Freedom of Information

www.garda.ie

Data Protection Commissioner

www.dataprotection.ie

Freedom of Information Act 2014

www.irishstatutebook.ie

Data Protection Act 1988 and Data Protection (Amendment) Act 2003

www.irishstatutebook.ie

National Archives Act 1986

www.irishstatutebook.ie

Headquarters Directives

Headquarters Directive 87/2015

Headquarters Directive 98/2015

Contact Details for the Freedom of Information Office

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