

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

Bl linn/Join us  

Láithreán Gréasain/Website:
www.garda.ie

Ríomh-phoist:/Email: foi@garda.ie

Re: Freedom of Information Request FOI-000501-2017 Request Refused

Dear

I refer to your request, dated and received on the 2nd November 2017 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, finance or procurement matters*". Therefore, only administrative records that relate to human resources, finance or procurement shall be considered.

Your request is shown below: -

- 1. The number of sexual harassment claims made by Garda members in County Donegal from 2013 to 2017 and their outcomes.*
- 2. The number of bullying claims made by Garda members in County Donegal from 2013 to 2017 and their outcomes.*

I have now made a decision to refuse your request on 16th November, 2017.

The purpose of this letter is to explain my decision.

1. Findings, particulars and reasons for decision

The reporting of sexual harassment and bullying within An Garda Síochána is of a personal nature and is considered a confidential communication between the individual(s) and the

relevant manager. Due to the nature of this type of complaint consideration must be given to the impact it will have on the particular individuals involved (both the complainant and the person complained of) if the information was released and resulted in their identification. Due to the small number of complaints of this nature reported annually in each Garda Division I am of the opinion that providing the information requested on a Divisional level could result in the identification of the individuals concerned within the Garda Organisation or within the public domain itself.

I am conscious of my obligation to retain personal information in a confidential and secure manner and prevent personal information from being released into the public domain unnecessarily. Personal information is defined at section 2 of the FOI Act and includes the following.

Section 2 — Interpretation

2. (1) In this Act—

"personal information" means information about an identifiable individual that, either—

- (a) would, in the ordinary course of events, be known only to the individual or members of the family, or friends, of the individual, or*
- (b) is held by an FOI body on the understanding that it would be treated by that body as confidential, and, without prejudice to the generality of the foregoing, includes—*
 - (iii) information relating to the employment or employment history of the individual,*
 - (v) information relating to the individual in a record falling within section 11(6)(a),*

As referenced at section 2 above, section 11(6)(a) refers to access to records but does not include certain personal records. Section 11(6)(a) sets out the records that are not included for release.

(6) Subsection (4) shall not be construed as applying, in relation to an individual who is a member of the staff of an FOI body; the right of access to a record held by an FOI body that—

- (a) is a personnel record, that is to say, a record relating wholly or mainly to one or more of the following, that is to say, the competence or ability of the individual in his or her capacity as a member of the staff of an FOI body or his or her employment or employment history or an evaluation of the performance of his or her functions generally or a particular such function as such member,*

The individual records relating to a complaint of bullying or sexual harassment would not be freely accessible to the public or internally within An Garda Síochána and would only be available to the persons required to conduct inquiries/investigation.

I am of the opinion that the release of this information on a Divisional level will allow for a person to become more identifiable locally and within the Garda Organisation thus breaching my obligation to protect an individual's personal information.

Section 37(1) of the FOI Act is a mandatory exemption and states:

"Subject to this section, a head shall refuse to grant an FOI request if, in the opinion of the head, access to the record concerned would involve the disclosure of personal information (including personal information relating to a deceased individual)."

Therefore, I have decided to refuse your request for the records at Divisional level i.e. Donegal as per section 37(1) of the Freedom of Information Act 2014 on the basis that there is a significant risk of identifying the parties involved in either a bullying or sexual harassment case within the Garda Organisation or publically.

There is a Public Interest Test applicable to section 37 of the FOI Act.

Public Interest Test

As per section 37 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,
- That there is more than just a transitory interest by the public in this information,
- The right to privacy is outweighed by the needs of the public.

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

- Allowing a public body to hold personal information without undue access,
- The public interest is not best served by releasing these records,
- That the Organisation can conduct its business in a confidential manner,
- That there is a reasonable and implied expectation by employees that sensitive personal information will remain confidential.
- The information has been released at a national level and this satisfies the public interest.

Having balanced these factors I considered that the public interest in preserving the protection of the privacy of the individual(s) involved outweighs the public interest which would be served were the records released to you.

Furthermore, I have satisfied the public interest in this matter by releasing information, in previous FOI requests, on a national basis with regard to such complaints. The responses issued are freely available on our Disclosure Log under the headings Human Resource Management or Freedom of Information Office.

The following more recent decisions are relevant to your request:

2016 Requests	2017 Requests	2017 Requests
FOI-0000116-2016	FOI-000109-2017	FOI-000483-2017
FOI-0000211-2016	FOI-000136-2017	
FOI-0000337-2016	FOI-000431-2017	

There are two policies in place to deal with allegations of harassment, sexual harassment and bullying in the workplace within An Garda Síochána.

In relation to Civilian members 'The Dignity at Work — and anti-bullying, harassment and sexual harassment policy for the Irish Civil Service', issued by the Department Public Expenditure and Reform, is a Civil Service wide policy which is applied to civilian staff working within An Garda Síochána.

With regard to Garda members I can advise that a separate policy — '*Working Together to Create A Positive Working Environment*' applies. This booklet outlines the Policy and Procedures of the Garda Síochána for dealing with harassment, sexual harassment and bullying in the workplace. Both policies are available on the Garda website: www.garda.ie

3. Rights 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-000501-2017**.

**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: IE86B0F190001710026896
BIC: BOFIIIE2D

You must ensure that your FOI reference number (FOI-000501-2017) 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 will be removed to protect confidentiality where applicable.

Should you have any questions or concerns regarding the above, please contact me by telephone at (046) 9036350.

Yours sincerely,

 **SUPERINTENDENT**
HELEN DEELY
FREEDOM OF INFORMATION OFFICER

17th NOVEMBER, 2017