

An Garda Síochána

Oifig Saoráil Faisnéise
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



Láithreán Gréasain/Website: www.garda.ie

Ríomh-phoist:/Email: foi@garda.ie

Re: Freedom of Information Request FOI-000077-2016 Request Refusal

Dear [redacted]

I refer to the Freedom of Information Act 2014 (FOI Act) and to your submission to this body dated and received on the 16th February 2016. I further refer to my correspondence to you dated 14th March 2016.

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 is shown below:

- *The name of the State's 14 most senior gardaí and the total amount of expenses claimed by each garda in 2015, 2014 and 2013. Please provide receipts for the year 2015.*
- *The name of the State's 14 most senior gardaí and the total amount of special allowances claimed by each garda in 2015, 2014 and 2013 – please state the total per each allowance and the name/detail of each allowance.*
- *The salary of each of the State's most senior gardaí and their associated title/role.*
- *Documents which show what items senior / the State's most senior 14 gardaí can claim for*

I wish to inform you that your request has been refused.

The purpose of this letter is to explain my decision.

1. Findings, particulars and reasons for decision

The Sections of the FOI Act which can apply to deny access to documents are known as exemption provisions.

I refer to Part 1 of your request. Your request for *'the name of the State's 14 most senior Gardaí'* is being refused under Section 15(1)(d) of the FOI Act, on the basis that this information is already in the public domain. This information is available on the Garda website at the following URL: <http://www.garda.ie/Management/Default.aspx>

Refusal on administrative grounds to grant FOI requests

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,*

Your request for *'the total amount of expenses claimed by each garda in 2015, 2014 and 2013'* is being refused under Section 15(1)(f) of the FOI Act, on the basis that as An Garda Síochána intends to publish the total of expenses incurred by senior Gardaí on the Publication Scheme section of the Garda Síochána website at www.garda.ie.

Refusal on administrative grounds to grant FOI requests

15. (1) *A head to whom an FOI request is made may refuse to grant the request where—*

(f) *the FOI body intends to publish the record and such publication is intended to be effected not later than 6 weeks after the receipt of the request by the head,*

Section 32: Law Enforcement and Public Safety.

Section 32 is a harm based exemption. It applies where access to a record concerned could reasonably be expected to prejudice or impair the matters specified in the subsections. An Garda Síochána is obliged to identify the potential harm that may occur if the records are released and having identified that harm consider the reasonableness of any expectation that the harm will occur.

The provision of information which could result in a security risk cannot be provided for operational and security reasons. I believe that access to copies of the receipts in relation to the expenses claimed by *'the State's 14 most senior gardaí'* presents a risk to their ability to conduct security related functions confidentially. Receipts can identify the purpose and nature of the duties being conducted inclusive of dates, times and locations. The release of receipts presents an unnecessary and potentially harmful risk to these Gardaí personally and the success of their functions performed in ensuring the security of the State.

The release of records that could potentially identify the locations frequented by *'the State's 14 most senior gardaí'* presents a potentially harmful risk to their own safety if the information was to be used for criminal purposes.

It is for these reasons that the request is refused as follows:

Section 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 –

- (i) the prevention, detection or investigation of offences, the apprehension or prosecution of offenders or the effectiveness of lawful methods, systems, plans or procedures employed for the purposes of the matters aforesaid,*
- (ii) the enforcement of, compliance with or administration of any law,*
- (iii) lawful methods, systems, plans or procedures for ensuring the safety of the public and the safety or security of persons and property,*

(b) endanger the life or safety of any person,

I am of the opinion that the release of receipts relating to travel will unnecessarily expose the Garda capabilities in many areas of our operational duties and therefore it is reasonable to expect that it would impair or prejudice the Organisation's capability to enforce current legislation and investigate crime.

In addition certain records are exempted in accordance with Section 42 of the FOI Act, specifically Section 42(b)(i) to (x) and 42(c) refers as set out below;

Restriction 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;*

(c) a record held by

- (i) the Criminal Assets Bureau,*

I refer to Part 2 of your request. As stated above your request for 'the name of the State's 14 most senior Gardaí' is being refused under Section 15(1)(d) of the FOI Act, on the basis that this information is already in the public domain. This information is available on the Garda website at the following URL: <http://www.garda.ie/Management/Default.aspx>

Refusal on administrative grounds to grant FOI requests

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,

Your request for 'the total amount of special allowances claimed by each garda in 2015, 2014 and 2013 – please state the total per each allowance and the name/detail of each allowance' is being refused under Section 15(1)(f) of the FOI Act, on the basis that as An Garda Síochána intends to publish the total of expenses incurred by senior Gardaí on the Publication Scheme section of the Garda Síochána website at www.garda.ie. Please note there are no personal allowances payable to the ranks of Assistant Commissioner and above. A list of Garda Allowances is also available at <http://www.per.gov.ie/wp-content/uploads/garda-pay-and-allowances.pdf>

Refusal on administrative grounds to grant FOI requests

15. (1) A head to whom an FOI request is made may refuse to grant the request where—

- (f) the FOI body intends to publish the record and such publication is intended to be effected not later than 6 weeks after the receipt of the request by the head,

I refer to Part 3 of your request. Your request for 'the salary of each of the State's most senior Gardaí and their associated title/role' is being refused under Section 15(1)(d) of the FOI Act, on the basis that this information is already in the public domain. This information is available on the Garda website at the following URL:

<http://www.garda.ie/Documents/User/Garda%20Pay%20Scales%202015.pdf>

Refusal on administrative grounds to grant FOI requests

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,

I refer to Part 4 of your request. Your request for 'documents which show what items senior/the State's most senior 14 gardaí can claim for' is being refused under Section 15(1)(f) of the FOI Act, on the basis that as An Garda Síochána intends to publish this information within the total of expenses incurred by senior Gardaí on the Publication Scheme section of the Garda Síochána website at www.garda.ie.

Refusal on administrative grounds to grant FOI requests

15. (1) A head to whom an FOI request is made may refuse to grant the request where—

- (f) the FOI body intends to publish the record and such publication is intended to be effected not later than 6 weeks after the receipt of the request by the head,

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 **F01-000077-2016**.

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: BOFIE2D

You must ensure that your FOI reference number 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,

 **SUPERINTENDENT**
HELEN DEELY
FREEDOM OF INFORMATION OFFICER

2nd June 2016