

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

Bí linn/Join us  

Láithreán Gréasain/Website: www.garda.ie

Ríomh-phoist:/Email: foi@garda.ie

Re: Freedom of Information Request FOI-000116-2016 Partially Granted

Dear

I refer to the Freedom of Information Act 2014 and your submission to An Garda Síochána dated the 22nd March 2016 and received on the 23rd March 2016

Part 1(n) of Schedule I of the Freedom of Information Act 2014 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 number of official complaints made by both male and female employees over the following: 1 Alleged bullying, alleged criminality, alleged misconduct.

The information should include details of:

- *The number of complaints lodged in 2014 and 2015 to date*
- *Copies of every complaint and response to the complaint via email, letter and written notes of complaints made via telephone calls*
- *Details of the outcomes of these complaints*

I wish to inform you that your request **has been partially granted**.

The purpose of this letter is to explain my decision.

1. Findings, particulars and reasons for decisions to deny access

All complaints made under the Garda and Civilian policies on harassment, sexual harassment and bullying are treated seriously and are fully investigated.

Under the Garda policy where either party is not satisfied with the outcome of the formal investigation they may appeal within 42 days to have the decision reviewed by their local Assistant Commissioner who will be the final arbiter within An Garda Síochána. A request for an appeal must clearly and comprehensively state the grounds on which it is being sought.

Under the Civilian policy if either party is dissatisfied with the conduct and/or outcome of an investigation, they can apply in writing, within 10 working days of receipt of the decision, to the HR Manager to review the process, clearly indicating the specific grounds for review.

I advise that I am refusing the first and third parts of your request under Section 15(1) of the Freedom of Information Act, 2014 which states:

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

(c) the information is already in the public domain,

The records you sought in relation to the number of complaints and the outcomes have been published in An Garda Síochána's Annual Report for 2014 which is available on the Garda website (<http://garda.ie/Controller.aspx?Page=16448>). Furthermore, these records have been subject to a number of previous Freedom of Information requests and details up to October 2015 have been provided and the responses are available in our 2015 Human Resources Disclosure Log, which is available at <http://www.garda.ie/Controller.aspx?Page=15334>.

The following requests may be of interest to you - FOI-000035-2015, FOI-000082-2015 and FOI-000090-2015.

However, the figures for bullying (including harassment) provided in FOI-000090-2015 are not treated separately in the Annual Report. Therefore I am providing you with the final figures for 2015.

YEAR	NUMBER RECEIVED	OUTCOME
2015	5	2 not upheld on investigation – files closed; 1 investigation ongoing; 1 complaints upheld on investigation – file closed – No further action taken 1 not upheld on investigation – appealed – ongoing.

Garda Civilian Members:

In respect of civilian members of An Garda Síochána, the table below outlines the number of complaints dealt with under the Grievance Policy Document.

YEAR	NUMBER RECEIVED	OUTCOME
2014	1	1 investigation ongoing;
2015	1	1 complaint could not be substantiated – file closed

With regard to the second part of your request seeking copies of the complaints, I advise that I am refusing this request on the basis that these records are confidential and contain personal information and can only be released to the individual concerned.

Information obtained in confidence.

Section 35 (1) Subject to this section, a head shall refuse to grant an FOI request if -

- (a) the record concerned contains information given to an FOI body, in confidence and on the understanding that it would be treated by it as confidential (including such information as aforesaid that a person was required by law, or could have been required by the body pursuant to law to give to the body) and, in the opinion of the head, its disclosure would be likely to prejudice the giving to the body of further similar information from the same person or other persons and it is of importance to the body that such future similar information as aforesaid should continue to be given to the body, or*
- (b) disclosure of the information concerned would constitute a breach of a duty of confidence provided for by a provision of an agreement or enactment (other than a provision specified in column (3) in Part 1 or 2 of Schedule 3 of an enactment specified in that Schedule) or otherwise by law.*

There are 4 elements to section 35 (1) that must be met in order to refuse the release of a record. It is my opinion that the records being refused for release in accordance with section 35 (1) (a) of the Act reach all the criteria of that exemption in that;

- the records concerned contains information given to a public body in confidence, **and**
- on the understanding that it would be treated by the public body as confidential, **and**
- in the opinion of the head, its disclosure would be likely to prejudice the giving to the body of further similar information from the same person or other persons, **and**
- it is of importance to the body that such further similar information as aforesaid should continue to be given to the body.

An Garda Síochána have two policies in place to deal with allegations of harassment, sexual harassment and bullying in the workplace. These include:

- ***“Working Together To Create A Positive Working Environment”*** is a booklet which *“outlines the Policy and Procedures of the Garda Síochána for dealing with Harassment, Sexual Harassment and Bullying in the Workplace”*.
- ***“Dignity at Work 2015”*** is a booklet which outlines *“An Anti Bullying, Harassment and Sexual Harassment Policy for the Irish Civil Service”*.

These documents may be accessed on the Garda website by following the link below:

<http://www.garda.ie/Controller.aspx?Page=94&Lang=1>

Both of these documents emphasise the confidentiality of the information being provided.

Personal Information

Section 37 (1) 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).

Section 2 of the Act states that,

“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,*

Public Interest Test.

I have considered the public interest issues which arise in this case and have taken account of the following factors in favour of release:

- Maximum openness, transparency, accountability and value for money in the use of public funds.
- There is an interest in ensuring that An Garda Síochána is accountable to the public for the decisions that they make.
- The public interest in members of the public exercising their rights under the FOI Act.

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

- Ensuring that public bodies can carry out their duties without undue intrusion by the public.
- Protecting the right to privacy of individuals.
- It is reasonable to expect that the release of the records sought could prejudice the complaints system in that our members both Garda and civilian would be hesitant to make a complaint in confidence and without fear of disclosure in relation to personal or sensitive matters.
- The records provided are in accordance with the Garda organisational policies in dealing with complaints of harassment, sexual harassment and bullying in the workplace and to provide the records would be a breach of these policies.
- That the person concerned not be unduly impeded in the effective pursuit of their business.

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.

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-000116-2016**.

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: IE86BOFI90001710026896
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

 **May 2016**