

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

Teileafón/Tel: (046) 9036350

Bí linn/Join us



Freedom of Information Office
An Garda Síochána
Athlumney House
IDA Business Park
Johnstown
Navan
Co Meath
C15 DR90

Láithreán Gréasain/Website:

www.garda.ie

Ríomh-phoist/Email: foi@garda.ie

Re: Freedom of Information Request FOI-000317-2016 Partially Granted

Dear Mr.

I refer to your request, dated 28th August, 2016 and received on 29th August, 2016 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:

'I would like to know how many retired officers were rehired on a private basis last year and so far this year and the date of their rehiring. I would like this information broken down by division, duration and how much the rehiring cost. I would also like to know the reason for these rehiring.'

I am aware that a member of my staff was in contact with you on the 29th August 2016 with regard to your request in which you advised that you are seeking "details of members who had retired from the service and were re-employed for whatever reason."

I wish to inform you that I have decided to partially grant your request on the 22nd September, 2016.

The purpose of this letter is to explain my decision.

1. Findings, particulars and reasons for decision.

Please find attached at **Appendix 1**, records relating to the re-employment of retired members of An Garda Síochána (Garda College) in the period you have requested. This record has been partially granted as per attached Schedule of Records.

The '*Reasons for rehiring*' referred to in this particular record relate to the review and/or correction of both Sergeant's and Inspector's Promotion examinations.

In addition to the data provided in **Appendix 1**, two (2) retired members of An Garda Síochána have been re-employed by the Organisation in the period requested and are based at Garda Headquarters. Both members were re-employed for their specialist expertise which includes specific skills, knowledge and experience in a particular field of work or specialist area. Both members earn a salary paid on a pro-rata basis.

I wish to draw your attention to changes affecting existing public service pensions - *Commencement Orders - Chapter 4 of The Public Service Pensions (Single Scheme and Other Provisions) Act 2012 in so far as it relates to pre-existing public service pension schemes*. In particular No.8 Abatement and reckoning of pensionable service (section 52) - *'The Act enables the extension of pension abatement so that a retiree's public service pension is liable to abatement on re-entering public service employment, even where the new employment is in a different area of the public service. This change applies in those cases where a person with a public service pension in payment takes up a public service post on or after 1 November 2012; a person who took up an appointment in the public service before that date will not be affected by the change while he or she continues to hold that appointment.'*

The term "abatement" is used to describe a reduction in the pension of a public servant who becomes re-employed in the public service after his/her pension has commenced - he/she cannot receive more than the equivalent of a full-time salary from both sources combined. An Garda Síochána ensures that the terms of the of *The Public Service Pensions (Single Scheme and other Provisions) Act 2012* are complied with.

Due to the very small number of individuals who have been re-employed, I am withholding the names and cost of re-employment of the personnel concerned in relation to **Appendix 1**. The '*Reasons for rehiring*' in relation to No.4 on the 2016 record has also been withheld. The particular reason for re-employment, in this particular instance, would easily identify the individual if the record was to be released to you. With regard to same, I wish to draw your attention to the Office of the Information Commissioner decision titled: *Siobhán Maguire of The Sunday Times and the Health Products Regulatory Authority (FOI Act 2014) Case Number: 160089* wherein it states '*Secondly, it should be noted that the courts have taken the view that, under FOI, records are released without any restriction as to how they may be used and, thus, FOI release is regarded, in effect, as release to the world at large.*' I am also refusing to release the names, dates and cost of re-employment in relation to the two personnel based at Garda HQ.

However, in order to satisfy the public interest in relation to this request, I am providing the total cost of re-employing the personnel in relation to the Garda College as outlined below:

Year	No. of Personnel Re-employed	Total Cost of Employment	Division/Section
2015	15	€21,785.64	Garda College
2016	17	€29,005.53	Garda College

I am refusing to release the details as outlined above as I am conscious of my obligations 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—

- (ii) information relating to the financial affairs of the individual,*
- (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),*
- (xii) the name of the individual where it appears with other personal information relating to the individual or where the disclosure of the name would, or would be likely to, establish that any personal information held by the FOI body concerned relates to the individual,*

As referenced at section 2 above, section 11(6)(a) refers to access to records but does not include certain personal records. Section 11(4) sets out the right of access to records and the types of records that can be accessed. However in section 11 there are number records that are considered personal and are not automatically subject to release by an FOI body. Section 11(6)(a) sets out the records that are not included for release at section 11(4).

(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,*

I am refusing to provide such details as I believe that the individuals involved will become easily identifiable beyond their family and friends and it would be considered a breach of the confidentiality upon which the information is being held by the Garda Organisation. The release of information about such a small number of individuals, such as their name, financial earnings and in one instance the reason for re-employment, which is specific to each individual, will allow for a person to become more identifiable and possibly named in the public domain. Decision of the Office of the Information Commissioner *Case Number: 160089* again has reference. I am therefore applying Section 37(1) Personal Information which states:

Section 37 - Personal Information

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).

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 by members of the public,
- 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,
- That there is no overriding public interest that outweighs the individual's right to privacy.

A public interest test was carried out when considering the release of the personal information but having balanced the factors both for and against the release, I decided that the public interest in preserving the personal information and the reasonable expectation that information can be maintained in a confidential manner by An Garda Síochána in the context of the employment details and financial affairs of personnel outweighs the public interest which would be served were the records released to you in their entirety.

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 **F01-000317-2016**.

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 (FOI-000317-2016) 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

 **23rd SEPTEMBER, 2016**

APPENDIX 1

YEAR 2016						
Numbers	Names of Retired Officers	Division	From	To	Reasons for rehiring	Cost of Rehiring
1		Garda College	7th March 2016	8th July 2016	Exam review and corrections	
2		Garda College	7th March 2016	8th July 2016	Exam review and corrections	
3		Garda College	7th March 2016	8th July 2016	Exam review and corrections	
4		Garda College	13 April 2016	13 April 2016		
5		Garda College	17th June 2016	8th July 2016	Exam Corrections	
6		Garda College	17th June 2016	8th July 2016	Exam Corrections	
7		Garda College	17th June 2016	8th July 2016	Exam Corrections	
8		Garda College	17th June 2016	8th July 2016	Exam Corrections	
9		Garda College	17th June 2016	8th July 2016	Exam Corrections	
10		Garda College	17th June 2016	8th July 2016	Exam Corrections	
11		Garda College	17th June 2016	8th July 2016	Exam Corrections	
12		Garda College	17th June 2016	8th July 2016	Exam Corrections	
13		Garda College	17th June 2016	8th July 2016	Exam Corrections	
14		Garda College	17th June 2016	8th July 2016	Exam Corrections	
15		Garda College	17th June 2016	8th July 2016	Exam Corrections	
16		Garda College	17th June 2016	8th July 2016	Exam Corrections	
17		Garda College	17th June 2016	8th July 2016	Exam Corrections	
Year 2015						
1		Garda College	28th May 2015	2nd July 2015	Exam Corrections	
2		Garda College	28th May 2015	2nd July 2015	Exam Corrections	
3		Garda College	28th May 2015	2nd July 2015	Exam Corrections	
4		Garda College	28th May 2015	2nd July 2015	Exam Corrections	
5		Garda College	28th May 2015	2nd July 2015	Exam Corrections	
6		Garda College	28th May 2015	2nd July 2015	Exam Corrections	
7		Garda College	28th May 2015	2nd July 2015	Exam Corrections	
8		Garda College	28th May 2015	2nd July 2015	Exam Corrections	

APPENDIX 1

9			Garda College	28th May 2015	2nd July 2015	Exam Corrections		
10			Garda College	28th May 2015	2nd July 2015	Exam Corrections		
11			Garda College	28th May 2015	2nd July 2015	Exam Corrections		
12			Garda College	28th May 2015	2nd July 2015	Exam Corrections		
13			Garda College	28th May 2015	2nd July 2015	Exam Corrections		
14			Garda College	28th May 2015	2nd July 2015	Exam Corrections		
15			Garda College	28th May 2015	2nd July 2015	Exam Corrections		