

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

Láithreán Gréasain/Website:

www.garda.ie

Bí linn/Join us  

Ríomh-phoist:/Email: foi@garda.ie

Re: Freedom of Information Request FOI-000017-2018 Request Part Granted

Dear

I refer to your request, dated 8th January, 2018 and received on the 9th January, 2018 which you have made under the Freedom of Information Act 2014 (FOI Act) for records held by An Garda Síochána.

I am aware that members of staff of my Office attempted to contact you on the 9th, 11th, and 15th of January, 2018 in order to clarify your request. On the 22nd January, 2018 you clarified your request in response to correspondence from this Office. I am aware that a member of staff of my Office again attempted to make contact with you on the 5th February 2018 to advise on the status of your request.

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:

Initial Request:

- 1) *The total number of sick days taken by all staff working for An Garda Síochána in 2015, 2016 and 2017*
- 2) *the number of sick leave days that were taken with a medical certificate, and the total number of sick leave days which were uncertified in , 2015 , 2016 and 2017*

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- 3) A breakdown of sick leave days taken by staff i.e. rank and file gardai / detectives/ garda sergeants and the number of days taken by administrative and other staff employed by An Garda Síochána. Any reasons given for these absences
- 4) What if any sanctions were taken against staff for these absences, i.e. disciplinary action or dismissal if these absences were continuous and uncertified
- 5) Any estimate, if it exists, of the loss of productivity in days or in monetary terms due to sick days taken.
- i request this information for the years 2015, 2016 and 2017

Clarified Request 22.1.2018:

*‘...seeking sick leave information for **both** Garda and Civilian staff members of An Garda Síochána’*

I wish to inform you that I have decided to part grant your request on the 6th February, 2018.

The purpose of this letter is to explain that decision.

1. Findings, particulars and reasons for decision

Details of your FOI request were provided to the HR Directorate and Discipline Section of An Garda Síochána in order to identify the records relating to your request. The HR Directorate have provided records to this Office in response to your request. The Discipline Section have briefed this Office in respect of your request.

I have decided to grant Part 1 and Part 2 of your request and a copy of the records are outlined in the table below.

- 1) *The total number of sick days taken by all staff working for An Garda Síochána in 2015, 2016 and 2017*
- 2) *The number of sick leave days that were taken with a medical certificate and the total number of sick leave days which were uncertified in 2015, 2016 and 2017.*

The table below sets out the total number of days lost due to illness by Sworn and Civilian members of An Garda Síochána in 2015, 2016 and from 01.01.2017 – 20.12.2017 inclusive. These figures are broken down into two categories: Certified and Uncertified sick leave.

	2015 Days Taken	2016 Days Taken	*01.01.17 – 20.12.17 Days Taken
Certified Sick Leave	173,187.85	179,646.46	186,288.71
Uncertified Sick Leave	9,942.65	10,150.08	10,112.49
No. of Sick Days Taken by All Staff	183,130.50	189,796.54	196,401.2

* Please note that the 2017 figures are not yet finalised. These figures are operational and liable to change.

SAMS - Sickness Absence Management System (Sworn Members)

HRMS - Human Resource Management System (Sickness Management System for Civilian Members)

Sick Leave Statistics for 2015 as recorded on SAMS and reported @ 03.02.2016
Sick Leave Statistics for 2016 as recorded on SAMS and reported @ 01.02.2017
Sick Leave Statistics for 01.01.2017 to 20.12.2017 as recorded on SAMS and reported @ 20.12.2017

The total number of sick days recorded on SAMS are the number of calendar days that sworn members are absent, including those who are absent due to injury on duty and may also include weekends and rest days.

Sick Leave Statistics for 2015 as recorded on HRMS and reported @ 03.02.2016
Sick Leave Statistics for 2016 as recorded on HRMS and reported @ 01.02.2017
Sick Leave Statistics for 01.01.2017 to 20.12.2017 as recorded on HRMS and reported @ 19.01.2018

I have decided to grant Part 3 of your request and a copy of the records are outlined in the table below:

3) A breakdown of sick leave days taken by staff i.e. rank and file gardai / detectives / garda sergeants and the number of days taken by administrative and other staff employed by An Garda Siochana. Any reasons given for these absences.

Breakdown of Sick Leave Days taken	2015 Days Taken	2016 Days Taken	*2017 Days Taken 01.01-20.12.2017
Garda	144,246.5	147,685.5	154,618
Sergeant	11,981	14,992.5	14,590.5
Civilian Staff	25,266.51	25,716.04	25,254.2

* Please note that the 2017 figures are not yet finalised. These figures are operational and liable to change.

I wish to inform you that upon appointment of a member of Garda rank to Detective Duties, the member's rank remains the same. The first row of the table above includes Detective Gardaí (Garda rank) as requested.

Reasons for Absences

SAMS categorises sick leave absences into two categories for sworn members: Ordinary Illness and Injury on Duty.

HRMS, does not have a classification for occupational injury; therefore, occupational injury is classified as ordinary illness for the purpose of recording and reporting on HRMS.

The sections of the Act which deny access to information are known as its exemptions.

I have decided to refuse Part 4 of your request:

4) What if any sanctions were taken against staff for these absences? i.e. disciplinary action or dismissal if these absences were continuous and uncertified.

Civilian Staff

Due to the small number of disciplinary actions taken due to non-compliance with the sick leave regulations in 2015 I am of the opinion that providing the information, 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 disciplinary action 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/investigations.

I am of the opinion that the release of this information will allow for an individual(s) to become more identifiable locally and within the Garda Organisation thus breaching my obligation to protect 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)."

I have therefore decided to refuse Part 4 of your request for the year 2015 as per section 37(1) of the FOI Act on the basis that there is a significant risk of identifying the parties involved within the Garda Organisation or publicly.

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.

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.

Following a detailed search, I am to advise you that no records have been identified in respect of the years 2016 and 2017 of Part 4 of your request. I am refusing your request in accordance with Section 15(1)(a) of the Act, as the record does not exist:

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-*
- (a) *the record concerned does not exist or cannot be found after all reasonable steps to ascertain its whereabouts have been taken,*

Garda Members

I have decided to refuse Part 4 of your request in respect of Garda members on administrative grounds.

This specific part of your request refers to records that could be held in the Discipline Section of An Garda Síochána.

Due to the parameters and method of data entry used in the Discipline Section, an adequate search of all discipline files could only be conducted manually. Initial searches were carried out on the computer system which has demonstrated that a manual trawl of all files would be necessary to answer the specific question: *'What if any sanctions were taken against staff for these absences, i.e. disciplinary action or dismissal if these absences were continuous and uncertified'*.

Please note that there is no specific breach of discipline in the Garda Síochána (Discipline) Regulations 2007 which matches the question asked. Various types of breaches such as 'neglect of duty' or 'discreditable conduct' are regularly used in circumstances like this.

To conduct a manual trawl of the required files, most of which are retained offsite, would be to unreasonably disrupt the normal running of the Discipline Section. To endeavor to find an answer to this particular part of your request would cause a substantial and unreasonable interference with or disruption of work of a functional Section of An Garda Síochána by reason of the nature and volume of the records involved. I am therefore refusing this element of your request under Section 15(1)(c) of the FOI Act wherein it states:

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—
- (c) *in the opinion of the head, granting the request would, by reason of the number or nature of the records concerned or the nature of the information concerned, require the retrieval and examination of such number of records or an examination of such kind of the records concerned as to cause a substantial and unreasonable interference with or disruption of work (including disruption of work in a particular functional area) of the FOI body concerned,*

I have decided to refuse Part 5 of your request:

- 5) *Any estimate, if it exists, of the loss of productivity in days or in monetary terms due to sick days taken.*

The [Public Service Management \(Recruitment and Appointments\) \(Amendment\) Act 2013](#) was enacted in December 2013 and provides the Minister for Public Expenditure and Reform with the power to make regulations that will set out specific details of the new Sick Leave Scheme for the Public Service. The details of this Scheme are set out in [Public Service Management \(Sick Leave\) Regulations \(SI 124 of 2014\)](#) and [Public Service Management \(Sick Leave\) \(Amendment\) Regulations 2015 SI 384 of 2015](#). The new Public Service Sick Leave Scheme was introduced from 31st March 2014. The Public Service Management (Sick Leave) Regulations 2014 set out the terms of the new Public Service Sick Scheme.

The rationale for the new scheme is to increase productivity, and lower the cost of sick leave by reducing the periods during which paid sick leave will be available and capping the period

during which "temporary rehabilitation remuneration", formerly "pension rate of pay", may be paid.

The Department of Public Expenditure and Reform publishes Public Service Sick Leave Statistics and Trends including those of An Garda Síochána.

The annual cost of sick leave for members of An Garda Síochána including civilian staff for 2015 and 2016 is available on the Department of Public Expenditure and Reform website <http://hr.per.gov.ie/> which may be accessed by following the links below:

<http://hr.per.gov.ie/wp-content/uploads/Sectoral-Statistics-2015-and-Trends-2013-2015-1.pdf>

<http://hr.per.gov.ie/wp-content/uploads/Sectoral-Statistics-2016-and-Trends-2013-2016.pdf>

The Department of Public Expenditure and Reform decided not to report on sick leave as a result of Injury on Duty and reported on Ordinary Illness for all the Public Service. A methodology for the adjustment of the costs for sick leave to take into account periods of half pay, Temporary Rehabilitative Remuneration and unpaid sick leave was also introduced. This methodology has been applied to the 2015 and 2016 sick leave costs as outlined in the above links.

I am therefore refusing Part 5 of your request in accordance with Section 15(1)(d) of the Act, as the information is already in the public domain:

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,

The Public Service Sick Leave Statistics and Trends have not yet been published by the Department of Public Expenditure and Reform for year ending 31st December 2017.

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-000017-2018**.

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

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BIC: BOFIIIE2D

You must ensure that your FOI reference number (FOI-000017-2018) is included in the payment details.

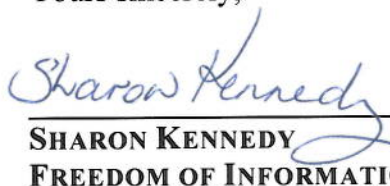
You should submit your request for an Internal Review within 4 weeks from the date of this notification. The review will involve a complete reconsideration of the matter by a more senior member of An Garda Síochána and the decision will be communicated to you within 3 weeks. The making of a late appeal 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**
SHARON KENNEDY
FREEDOM OF INFORMATION OFFICER

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