

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

Ríomh-phoist/Email: foi@garda.ie

Re: Freedom of Information Request FOI-000131-2018 Request Part Granted

Dear

I refer to your request, dated and received on the 23rd March, 2018 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:

The number of workplace harassment incidents reported annually by members of An Garda Síochána, dating back to 2015.

I would also like to receive a breakdown of the form of harassment (i.e sexual/verbal/physical/bullying) and a breakdown per county.

I wish to inform you that I have decided to part grant your request on the 19th April, 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 Human Resource Management (HRM) section of An Garda Síochána. HRM have provided records to this Office in response to your request.

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Upon review of the records, I have decided to part grant your request. I am refusing to provide the records from 2015-2017 inclusive on administrative grounds pursuant to Section 15(1)(d) of the FOI 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,

This information was provided under a previous FOI request **FOI-000008-2018**. This request can be viewed on the Freedom of Information Decision Log (Human Resource Management) on the Garda website and can be accessed at the following URL:

<https://www.garda.ie/en/information-centre/freedom-of-information/decision-log/human-resource-management/foi-000008-2018-decision.pdf>

I have decided to grant the record for 2018 and the information is outlined in the table below. The figures provided refer to complaints made by Garda members against Garda colleagues.

Year	Number of complaints received	Nature of complaints
2018*	1	Sexual harassment

*Figures as of 28.03.2018.

I wish to advise you that the jurisdiction of the Republic of Ireland is divided into 6 regions for policing purposes, each of which is commanded by an Assistant Commissioner. Each region is divided into divisions commanded by a Chief Superintendent. The six operational Regions contain 29 Divisions inclusive of DMR Traffic. The Garda Divisions do not necessarily align with county or city borders. For example, within Cork County there are 3 Garda Divisions while conversely other Garda Divisions may comprise of more than one county such as Sligo/Leitrim or Kilkenny/Carlow. Therefore, An Garda Síochána do not record complaints of harassment categorised by county rather they are categorised by Garda Division.

In view of the small numbers concerned, I am of the opinion that providing the Garda Division within which the complaint was made would result in the identification of the individuals concerned within the Garda Organisation or within the public domain itself. The reporting of harassment within An Garda Síochána is a confidential matter between the individuals and the relevant managers and serious 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 released were to result in their identification.

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),*
- (xi) *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 a number of 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,*

Therefore, I have decided to refuse your request in the manner requested as per section 37(1) of the FOI Act on the basis that there is a significant risk of inadvertently revealing the complainants' details. The release of this information broken down by county which is specific to an individual(s), will allow for a person to become more identifiable and possibly named in the public domain or within the Garda Organisation itself.

Section 37(1) of the FOI Act 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)."

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.

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

With regard to Garda members I can advise that the policy — *'Working Together to Create A Positive Working Environment'* applies. This booklet outlines the Policy and Procedures of the Garda Síochána for dealing with bullying, harassment and sexual harassment in the workplace.

In relation to Civilian members the *'Dignity at Work — an 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.

Both policies are available on the Garda website www.garda.ie

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-000131-2018**.

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

BIC: BOFIIIE2D

You must ensure that your FOI reference number (FOI-000131-2018) 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,



HELEN DEELY
FREEDOM OF INFORMATION OFFICER

19th APRIL, 2018