

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,
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FOI-GEN-285646/21

Re: Access to Information on the Environment (AIE) Regulations Request AIE-003-2021 Request Part-Granted

Dear

I refer to your request under the European Communities (Access to Information on the Environment) Regulations 2007 to 2014 (S.I. No. 133 of 2007, S.I. No. 662 of 2011 and S.I. No. 615 of 2014) (hereafter referred to as the AIE Regulations) which was dated 22nd June, 2021 and received on 23rd June, 2021.

Your request sought:

- 1. copies of inspection reports, service reports, and all other documentation including invoices provided by pest control companies in respect of services supplied to An Garda Síochána during 2020 and thus far in 2021 for the following properties: Garda HQ at the Phoenix Park, Harcourt Square.*
- 2. the total amount paid to pest control companies and contractors for goods and services supplied to AGS during same period.*

The AIE Regulations are based on Directive 2003/4/EC. The Regulations provide for the right of access to environmental information held by or for public authorities and set out the basic terms and conditions of, and practical arrangements for, the exercise of this right of access. In line with Article 2(1) of the Directive, Article 3(1) of the AIE Regulations defines "environmental information" as "*any information in written, visual, aural, electronic or any other material form on –*

- (a) The state of the elements of the environment, such as air and atmosphere, water, soil, land, landscape and natural sites... and the interaction among these elements,*

- (b) *Factors, such as substances, energy, noise, radiation or waste, including radioactive waste, emissions, discharges and other releases into the environment, affecting or likely to affect the elements of the environment,*
- (c) *Measures (including administrative measures), such as policies, legislation, plans, programmes, environmental agreements, and activities affecting or likely to affect the elements and factors referred to in paragraphs (a) and (b) as well as measures or activities designed to protect those elements,*
- (d) *Reports on the implementation of environmental legislation,*
- (e) *Cost benefit and other economic analyses and assumptions used within the framework of the measures and activities referred to in paragraph (c), and*
- (f) *The state of human health and safety... conditions of human life, cultural sites and built structures... affected by the state of the elements of the environment... or through those elements, by any of the matters referred to in paragraph (b) and (c)”.*

While the AIE Regulations provide a broad definition of the term “environmental information”, it is not intended to give a general and unlimited right of access to all information held by public authorities which has a connection, however minimal, with one of the environmental factors mentioned

I wish to inform you that I have decided to part-grant your request on 23rd July, 2021.

The purpose of this letter is to explain my decision.

1. Findings, particulars and reasons for decision

Upon receipt, your request was forwarded to Garda Estate Management Section and Finance Section and a number of records have been forwarded to this Office. In respect of part one of your request, a number of records have been provided in relation to Garda Headquarters, Phoenix Park and Harcourt Square. These records are attached herewith. In accordance with the AIE Regulations, a number of redactions have been applied to these records and the redactions are detailed in the attached Schedule of Records.

A number of redactions have been made in accordance with **Article 8(a)(i)** of the AIE Regulations which states that:

8. A public authority shall not make available environmental information in accordance with article 7 where disclosure of the information—

(a) would adversely affect—

(i) the confidentiality of personal information relating to a natural person who has not consented to the disclosure of the information, and where that confidentiality is otherwise protected by law,

The attached records contain the personal information of third parties and this personal information is accordingly redacted. Articles 10(3) and (4) of the AIE Regulations requires that I weight the public interest served by the disclosure of this personal information against the interest served by refusal.

I have considered a number of factors in favour of the release of these parts of the records, namely the right of the public to access to information on the environment, ensuring openness and transparency of organisational functions to the greatest possible extent, the ability of the public to hold the decisions of public bodies to scrutiny, the public interest in members of the public exercising their rights under the AIE Regulations, and the need for the public to be better informed on environmental affairs.

In considering the public interest factors which favour withholding these parts of the attached records I have taken account of the public interest in allowing An Garda Síochána to hold personal information without undue access by members of the public, the reasonable and implied expectation by service providers that sensitive personal information will remain confidential, that An Garda Síochána can conduct its business in a confidential manner, and that there is no overriding public interest that outweighs the individual's right to privacy. In particular in considering the release of the personal information of third parties, I am conscious that a release of records under the AIE Regulations is in essence a release to the world at large.

Having balanced the factors both for and against the release, I have decided that the significant public interest in preserving the confidentiality of personal information and the reasonable expectation that such information can be maintained in a confidential manner by An Garda Síochána in respect of third parties outweighs the public interest which would be served were the redacted elements of the records be released to you in their entirety.

In addition, a number of redactions have been made in accordance with the provisions of **Article 9(1)(c)** of the AIE Regulations wherein

9. (1) A public authority may refuse to make available environmental information where disclosure of the information requested would adversely affect—

(c) commercial or industrial confidentiality, where such confidentiality is provided for in national or Community law to protect a legitimate economic interest, or

I am satisfied that the release of the unit cost charged by the supplier for individual pieces of work amounts to the release of commercially or industrially confidential information and that the release of such information would adversely affect the service provider by prejudicing their competitive position.

I am cognisant of the fact that the release of information under the AIE Regulations is, in essence, a release to the public at large. The pricing structure of the supplier with regard to services provided to An Garda Síochána is not known to competitors or the public in general. If this information were made publically available it is reasonable to expect that it would prejudice the ability of the supplier to compete in other contracts or negotiations in the future as competitors would be aware of their pricing structure.

In addition, I consider that there is a public interest in allowing An Garda Síochána conduct its business with external contractors in a confidential manner and having the ability to hold commercial information in respect of supplier without undue access by members of the public. Furthermore there is a reasonable and implied expectation by contractors that financial information pertaining to services provided will be held in a confidential manner.

In accordance with Articles 10(3) and (4) of the AIE Regulations, I have considered the above factors as supporting the public interest in refusing the release of commercially confidential information contained in the attached records.

I have also considered a number of public interest issues which favour of release of the sections of the records in question, namely the requirement to provide to the greatest extent possible for access by the public to information on the environment, ensuring openness and transparency of An Garda Síochána's functions, the public interest in members of the public exercising their rights under the AIE Regulations, the need for the public to be better informed on environmental affairs and the importance of scrutiny in respect of the expenditure of public funds.

Having balanced the public interest factors both for and against the release, I have decided that the public interest in preserving the information and the reasonable expectation that information can be maintained by An Garda Síochána without prejudicing future financial endeavors by external service providers outweighs the public interest which would be served were the records released to you.

Article 10(1)

In making redactions in accordance with Article 8(a)(i) and Article 9(1)(c), I have in accordance with Article 10(1), examined whether the redacted information relates to information on emissions into the environment and have determined that it does not.

In respect of part two of your request seeking "*the total amount paid to pest control companies and contractors for goods and services supplied to AGS during same period*", I have been advised by Garda Finance Section that no specific subhead in respect of pest control alone exists within the Garda Financial Management System. Pest control expenditure is captured within general cleaning expenditure. To isolate pest control expenditure from general cleaning expenditure, would involve a manual trawl through a very large number of individual invoices both at Finance Section Garda Headquarters and at each District Finance Office. Given the volume of material to be examined such an undertaking would be manifestly unreasonable and as such, I am refusing part two of your request pursuant to Article 9(2)(a) of the AIE Regulations. Article 9(2)(a) states that:

(2) A public authority may refuse to make environmental information available where the request—

(a) is manifestly unreasonable having regard to the volume or range of information sought

2. Right of Appeal

Under Article 11 of the AIE Regulations you have a right to seek an internal review of this decision. An internal review involves a complete reconsideration of the matter by a member of the staff of this Organisation, of the same or higher rank than the original decision-maker, who may affirm, vary or annul the original decision made. The decision of this review will be communicated to you within one month of receipt of your application for an internal review.

In the event that you wish to make such an appeal, you can do so by writing to, *Freedom of Information Office, An Garda Síochána, Athlumney House, IDA Business Park,*

Johnstown, Navan, Co. Meath C15 DR90 referring to this decision and quoting your AIE reference number. You must make this request within one month of the date of this notification, (the making of a late appeal may be permitted in appropriate circumstances).

Should you have any questions or concerns regarding the above, please contact me by telephone at (046) 9036350.

Yours sincerely,



ASSISTANT PRINCIPAL

PAUL BASSETT

FREEDOM OF INFORMATION OFFICER

25th JULY 2021