

# 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 ND62



Freedom of Information Office,  
An Garda Síochána, Athlumney House,  
IDA Business Park,  
Johnstown, Navan,  
Co Meath.  
C15 ND62

Teileafón/Tel: (046) 9036350

Bí linn/Join us



Láithreán Gréasain/Website:

[www.garda.ie](http://www.garda.ie)

Ríomh-phoist:/Email: [foi@garda.ie](mailto:foi@garda.ie)

## Re: Freedom of Information Request FOI-000064-2023 Request Part-Grant

*Dear*

I refer to your request, dated and received on **8<sup>th</sup> February, 2023** 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 request the following information under the Freedom of Information Act.*

- 1. The number of Garda Síochána staff accused of sexual assault AND/OR rape since January 2019, to now (08/02/2023), including their job title and rank.*
- 2. The number of police staff accused of sexual harassment since January 2019, to now (08/02/2023), including their job title and rank.*
- 3. How many faced subsequent proceedings, and what were these proceedings?*
- 4. A breakdown of what exactly the offence was (e.g. sexual harassment, indecent exposure, rape).*

Clarified Request:

*The request is in relation to Garda members, i.e those that actively serve in the Irish police force, as opposed to members of Garda staff like those in administration.*

I wish to inform you that I have decided to **part grant** your request on the 6<sup>th</sup> March 2023.

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The purpose of this letter is to explain that decision.

## 1. Findings, particulars and reasons for decision

Upon receipt, your request was forwarded to the Human Resource Management (HRM) Section of An Garda Síochána who have provided records to this Office.

Firstly, I wish to advise that allegations of sexual assault and rape are criminal matters and as such are outside the scope of the FOI Act as it relates to An Garda Síochána. As outlined above, An Garda Síochána is a partially included agency for the purposes of the FOI Act and only matters relating to finance, procurement, or human resource matters may be considered for releases. Matters relating to allegations of criminal conduct are outside the scope of the Act and therefore not subject to release.

Your request also sought records in respect of complaints of sexual harassment for the years 2019 to date and these details are contained in the table below.

Year	Number
2019	0
2020	1
2021	0
2022	1

*Please be advised that the records provided may differ from previous requests due to the reclassification of a complaint or the resolution of a complaint through mediation.*

I wish to advise that all personal information in relation to members of An Garda Síochána is only available to the individual that the records relates to, therefore and in accordance with Section 37 of the FOI Act I am refusing the release of member's personal information.

The reporting of sexual harassment within An Garda Síochána is of a personal nature and is considered a confidential communication between the individual(s) and the relevant manager. Due to the nature of this type of complaint 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 was released and resulted in their identification. Due to the small number of complaints of this nature reported annually I am of the opinion that providing the information broken down by rank, offence type and subsequent proceedings 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 complaint of sexual harassment 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 broken down by rank could allow for a person to become more identifiable locally and within the Garda Organisation thus breaching my obligation to protect an 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 the part of your request for the records broken down by rank as per section 37(1) of the FOI Act on the basis that there is a significant risk of identifying the parties involved in sexual harassment case 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.
- The information has been released at a national level and this satisfies the public interest.

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-000064-2023**.

***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:** An Garda Síochána Imprest Account

**Account Number:** 30000302

**Sort Code:** 951599

**IBAN:** IE28DABA95159930000302

**BIC:** DABAIE2D

**You must ensure that your FOI reference number (FOI-000064-2023) 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](http://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 the FOI Office

Yours sincerely,



ASSISTANT PRINCIPAL

**PAUL BASSETT**

**FREEDOM OF INFORMATION OFFICER**

6 MARCH, 2023.