

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

Bí linn/Join us  

Láithreán Gréasain/Website:

www.garda.ie

Riomh-phoist/Email: foi@garda.ie

Re: Freedom of Information Request FOI-000159-2019 Request Part-Grant

Dear

I refer to your request, dated 23rd April 2019 and received on 24th April 2019 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 am seeking the release of any transcripts from members of the public to Gardai about the ad, as well as minutes of internal AGS meetings or memos, and any transcripts between AGS and the Department of Justice regarding the production of the ad.

I am also seeking details about costs related to the ad, including how much it cost to produce, any costs incurred by the production company during shooting, and the cost incurred by AGS on advertisements on television and in cinemas.

I wish to inform you that I have decided to part-grant your request on the 10th June 2019.

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 Press Office and the Human Resource Management Section where a number of records have been identified in relation to same.

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.

HR records refer to personal records of staff working within An Garda Síochána. They also relate to statistical information in respect of the organisation, e.g sick leave, discipline, retirements, etc. Financial records relate to the financial expenditure of the organisation and procurement records relate to the contracting of services and the tendering process associated with same.

The first part of your request is seeking *'the release of any transcripts from members of the public to Gardai about the ad'*. I am to advise you that this part of your request does not come within the ambit of this partially included agency as set out in Part 1(n) of Schedule 1 of the FOI Act. I am therefore refusing to release this information as it falls outside the scope of the FOI Act insofar as it pertains to An Garda Síochána.

The first part of your request also sought *'minutes of internal AGS meetings or memos, and any transcripts between AGS and the Department of Justice regarding the production of the ad'*.

As previously advised, a large number of records were provided to this office in this regard, mainly in the form of email correspondence. Having reviewed these records, I am to advise you that I am part-granting this information. A number of redactions have been applied to the records supplied to this office by both Human Resource Management Section and the Press Office and these redactions are outlined in the two (2) schedule of records for each area, both of which are herewith attached.

Section 36 – Commercially Sensitive Information

Section 36 of the Freedom of Information Act, 2014 refers to Commercially Sensitive Information. With regard to the information sought by you, I am to advise that I am applying Section 36(1)(a), (b) and (c) of the FOI Act to a number of the records provided. Section 36 (1) (a), (b) and (c) states the following:

- (1) Subject to subsection (2), a head shall refuse to grant an FOI request if the records concerned contains –
 - (a) trade secrets of a person other than the requester concerned,
 - (b) financial, commercial, scientific or technical or other information whose disclosure could reasonably be expected to result in a material financial loss or gain to the person to whom the information relates, or could prejudice the competitive position of that person in the conduct of his or her profession or business or otherwise in his or her occupation,
 - (c) information whose disclosure could prejudice the conduct or outcome of contractual or other negotiations of the person to whom the information relates

I am satisfied that some of the information contained herein contains sensitive commercial information and could prejudice the competitive position of the companies who provided proposals as to how the advertisement would be conducted and I deem these proposals as commercially sensitive in accordance with the provisions of Section 36 of the FOI Act. The pitches presented to An Garda Síochána detail the context, objectives and the methodology of their proposal which is not known to other competitors or to the public in general and if the records were made available to you, it is reasonable to expect that it would prejudice the ability of these companies to compete in other contracts or negotiations in the future.

I am of the view that the release of the presentations could reasonably be expected to result in a material financial loss as it could prejudice the various companies competitive position in the conduct of their business's. The release of details pertaining to the proposals and/or specific technical specifications, storyboards, etc. into the public domain could also reasonably be expected to give a competitive advantage to other companies seeking similar contracts with public bodies. The redacted information as set in pages of the enclosed schedule of records relates to the commercial, technical and other information. The release of this information into the public domain could reasonably be expected to result in a material financial loss or gain to the person to whom the information relates.

With regard to your request, I draw your attention to a recent Office of Information Commissioner decision titled: *Mr X and University College Cork (UCC) (FOI Act 2014) case number: 150444*. This particular case is relevant as the competitive position of a commercial entity was considered under section 36(1)(b) of the FOI Act.

Therefore, I am also refusing these records as outlined above under the provisions of section 36(1)(a), (b) and (c) as they contain commercially sensitive information.

Public Interest Test

There is a Public Interest Test associated with Section 36 of the FOI Act whereby my decision must be made having fully considered the public interest relevant to this request.

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 being released.
- The right to commercial confidentiality is outweighed by the needs of the public regarding the expenditure of public funds by a public body.

In considering the public interest factors which favour withholding the records I have taken account of the following:

- Allowing a public body to hold commercial information without undue access by members of the public.
- The best course of action which is in the public interest with regard to these records.
- That An Garda Síochána can conduct its business with external contractors in a confidential manner.

- That there is a reasonable and implied expectation by contractors that financial information pertaining to services provided will be held in a confidential manner.
- That there is no overriding public interest that outweighs the right to privacy by an individual or in this case the financial activities of a service provider.

Having balanced the public interest factors both for and against the release, I 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 endeavors by external service providers outweighs the public interest which would be served were the records released to you.

I have considered the provisions of section 36(2) and decided that they do not have any bearing on the decision as the overriding interest is to protect the sensitive commercial and financial information in this case.

In addition to Section 36, I am also applying Section 37 of the FOI Act to records as the information contained therein relates to Personal Information. 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

(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,

Under the FOI Act, records are released without any restriction as to how they may be used and thus, release under the Act, is in effect, regarded as being released to the world at large. As a result, I am conscious of my obligations to retain personal information in a confidential and secure manner and prevent personal information from being released in to the public domain unnecessarily.

Under Section 37 of the FOI Act, I have applied redactions to the records enclosed as I am satisfied that certain parts of the records consist of third party personal information. Accordingly, I find that Section 37 (1) and (7) of the Act applies to the records at issue.

Section 37 – Personal Information

Section 37(1) and (7) of the FOI Act are as follows:

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)*

(7) *Notwithstanding paragraph (a) of subsection (2), a head shall, subject to paragraphs (b) to (e) of that subsection and subsections (5) and (8), refuse to grant an FOI request if, in the opinion of the head, access to the record concerned would, in addition to involving the disclosure of personal information relating to the requester, also involve the disclosure of personal information relating to an individual or individuals other than the requester.*

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 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 be maintained in a confidential manner by An Garda Síochána outweighs the public interest which would be served were the records released to you.

Part 2 of your request is seeking *'details about costs related to the ad, including how much it cost to produce, any costs incurred by the production company during shooting, and the cost incurred by AGS on advertisements on television and in cinemas'*.

I can now advise you that the overall costs of the production of the ad, including the cost of Garda personnel appearing in the ad as well as in online, newspaper and poster elements of the campaign amounted to €194,856.16.

The recruitment campaign saw over 5,000 applicants to An Garda Síochána. This exceeded Garda expectations, particularly as the last Garda recruitment competition was less than a year ago.

Furthermore, I am also applying Part 1(n) of Schedule 1 of the FOI Act in respect of the redacted records in Schedule of Records for both Human Resource Management Section and the Press Office. As previously advised, this 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.

Having reviewed the information provided in respect of this request, I am satisfied that a number of the records do not come within the ambit of this partially included agency as set out in Part 1(n) of Schedule 1 of the FOI Act. I am therefore refusing to release this information as it falls outside the scope of the FOI Act insofar as it pertains to An Garda Síochána.

I wish to advise that further information in respect of the competition for selection of Garda Trainees 2019 is available on the Garda website and may be accessed by following the link below:

<https://www.garda.ie/en/about-us/our-departments/office-of-corporate-communications/news-media/garda-trainee-2019-notes-for-applicants.pdf>

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-000159-2019**.

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: BOFIE2D

You must ensure that your FOI reference number (FOI-000159-2019) 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,

Maria Brodigan **ACING ASSISTANT PRINCIPAL OFFICER**
MARIA BRODIGAN
FREEDOM OF INFORMATION OFFICER

11th **JUNE 2019**