

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-000475-2018 Request Part-Granted

Dear

I refer to your request, dated and received on 3rd December, 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:

- 1) The number of each of the following Audi A7, BMW X5, Audi Q7, Volvo 60 and Lexus GS vehicles were purchased for An Garda Síochána in the years 2016, 2017 and to-date in 2018 in tabular form. Please indicate if AGS have purchased any of those vehicles but won't receive the vehicles until early in the new year*
- 2) The amount AGS spent on purchasing those vehicles referred above in the years 2016, 2017 and to-date in 2018 in tabular form*

I wish to inform you that I have decided to part-grant your request on 24th December, 2018.

The purpose of this letter is to explain my decision.

1. Findings, particulars and reasons for decision

Upon receipt, details of your request were forwarded to the relevant section within An Garda Síochána who conducted a search for records containing the information you have requested.

Part 1 of your request is seeking 'The number of each of the following Audi A7, BMW X5, Audi Q7, Volvo 60 and Lexus GS vehicles were purchased for An Garda Síochána in the years 2016, 2017 and to-date in 2018 in tabular form. Please indicate if AGS have purchased any of those vehicles but won't receive the vehicles until early in the new year'

The table below outlines the number of vehicles purchased in 2016 and 2017.

Vehicles Purchased as at 03.12.2018:

Vehicle Purchased	2016	2017
Audi A7	0	0
Audi Q7		0
BMW X5	0	9
Volvo 60		0
Lexus GS	0	0

Restriction of the Act.

I am to advise you that Section 42 refers to the restrictions included in the FOI Act with regard to records that are exempt for release by An Garda Síochána.

In this regard, a number of records are refused under Section 42 (b) wherein it states that:

Restriction of Act

42. This Act does not apply to—

(b) a record held or created by the Garda Síochána that relates to any of the following:

- (i) the Emergency Response Unit;
- (ii) the Secret Service Fund maintained by it;
- (iii) The Special Detective Unit (SDU);
- (iv) the witness protection programme sponsored by it;
- (v) the Security and Intelligence Section;
- (vi) the management and use of covert intelligence operations;
- (vii) the Interception of Postal Packets and Telecommunications Messages (Regulation) Act 1993;
- (viii) the Criminal Justice (Terrorist Offences) Act 2005 ;
- (ix) the Criminal Justice (Surveillance) Act 2009;
- (x) the Communications (Retention of Data) Act 2011;

With regard to records sought by you for 2018, I wish to advise that I am applying Section 15(1)(a) of the Freedom of Information Act 2014 which 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 –*
- (a) *The record concerned does not exist or cannot be found after all reasonable steps to ascertain its whereabouts have been taken*

No vehicles have been purchased to date in 2018 and therefore, no records are available.

Part 2 of your request has sought ‘*The amount AGS spent on purchasing those vehicles referred above in the years 2016, 2017 and to-date in 2018 in tabular form*’

I am refusing to provide the amount spent by An Garda Síochána on purchasing the remainder of the vehicles in 2016 and 2017 in accordance with Section 36(1)(b) of the Freedom of Information Act 2014 which states:

Commercially sensitive information

36. (1) *Subject to subsection (2), a head shall refuse to grant an FOI request if the record concerned contains—*

- (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, or*

The contract for the BMW vehicles is still live and therefore the information falls under commercially sensitive. By releasing the number of vehicles purchased, the cost may be easily identified if the amount it cost to purchase the vehicles was also released. This information would be considered to be commercially sensitive and could prejudice the tenderer’s positions in current and future competitions while proving unfairly advantageous to competitors who seek to secure contracts in the same commercial field and competitions. The prospect of prejudicing the commercial and competitive position of a commercial body providing a service to the Garda organisation is not the purpose of the FOI Act and Section 36 of the Act provides safeguards in that respect.

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 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 financial endeavors by the 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.

Harm Test

Section 36 also requires a harm test to be carried out as part of the decision making process. I am of the view that by releasing the cost incurred by An Garda Síochána for the purchasing of vehicles could reasonably be expected to result in a material financial loss by the companies as it could prejudice their competitive position in the conduct of their business. The company's present customers may become aware of a difference in pricing structures being offered to An Garda Síochána, if applicable, which could in turn prejudice any current or future negotiations with these customers.

Restriction of the Act.

In addition to Section 36, I am to advise you that Section 42 refers to the restrictions included in the FOI Act with regard to records that are exempt for release by An Garda Síochána.

In this regard, a number of records are refused under Section 42 (b) wherein it states that:

Restriction of Act

42. *This Act does not apply to—*

(b) a record held or created by the Garda Síochána that relates to any of the following:

- (i) the Emergency Response Unit;*
- (ii) the Secret Service Fund maintained by it;*
- (iii) The Special Detective Unit (SDU);*
- (iv) the witness protection programme sponsored by it;*
- (v) the Security and Intelligence Section;*
- (vi) the management and use of covert intelligence operations;*

- (vii) *the Interception of Postal Packets and Telecommunications Messages (Regulation) Act 1993;*
- (viii) *the Criminal Justice (Terrorist Offences) Act 2005 ;*
- (ix) *the Criminal Justice (Surveillance) Act 2009;*
- (x) *the Communications (Retention of Data) Act 2011;*

I am in a position however, to advise that details concerning the current large executive car contract are available on the Office of Government Procurement website and this may be accessed by following the link below:

https://irl.eu-supply.com/app/rfq/publicpurchase frameset.asp?PID=102859&B=ETENDERS_SIMPLE&P S=2&PP=ctm/Supplier/PublicTenders

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-000475-2018**.

Freedom of Information Office, An Garda Síochána, Athlumney House, IDA Business Park, 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-000475-2018 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,


SHARON KENNEDY SUPERINTENDENT
FREEDOM OF INFORMATION OFFICER

24 DECEMBER, 2018.