

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

Ríomh-phoist/Email: foi@garda.ie

Re: Freedom of Information Request FOI-000008-2019 Decision Part Granted

Dear Mr.

I refer to your request, dated 1st January, 2019 and received on 2nd January, 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 would like to make a request under the Freedom of Information Act 2014.

I would like to ask how many complaints of bullying, harassment and sexual harassment the Garda Human Resources department has received regarding issues between members of the force. (i.e. complaints made by one garda against another.)

I would like the information for the years 2012 to 2018 inclusive.

I would like the information to be broken down under each heading (bullying, harassment and sexual harassment), and to state in what county each complaint was made.

I wish to inform you that I have decided to part grant your request on the 24th January, 2019.

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. Your request seeks the information from 2012 to 2018 as this request has been previously answered in a previous FOI request I am refusing under Section 15 (1)(d) to supply you the records for 2012 to 2017 as they are already in the public domain.

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.

You may access the previous request by following the attached link where the FOI decision letter for FOI-00008-2018 is published;

<https://www.garda.ie/en/information-centre/freedom-of-information/decision-log/human-resource-management/human-resources-general-decision-logs-2018.html>

The table below details the figures for 2018.

Year	No. of bullying complaints received	No. of sexual harassment complaints received	No. of harassment complaints received
2018	14	1	0

The reporting of bullying, harassment and 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 county as requested, 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 bullying or 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 to county level will 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 third part of your request for the records broken down by county as per section 37(1) of the FOI Act on the basis that there is a significant risk of identifying the parties involved in either a bullying or 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.

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

In relation to Civilian members *The Dignity at Work — and 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.

With regard to Garda members I can advise that a separate 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. 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-000008-2019**.

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 fee 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-000008-2019) 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 the FOI Office by telephone at (046) 9036350.

Yours sincerely,

 **SUPERINTENDENT**
SHARON KENNEDY
FREEDOM OF INFORMATION OFFICER

24 JANUARY, 2019.