

An Garda Síochána

Oifig Saoráil Faisnéise
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



Ríomh-phoist/Email: foi@garda.ie

Re: Freedom of Information Request FOI-000136-2016 Request Refused

Dear

I refer to the Freedom of Information Act 2014 (FOI Act) and your submission to this body dated and received on the 7th April 2016.

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 the following:

- *Copies of all expenses filed by Ms Noirin O'Sullivan between March 2014 to date October 14 2015.*

I have now made a final decision to refuse your request.

The purpose of this letter is to explain that decision.

1. Findings, particulars and reasons for decisions

The sections of the FOI Act which can apply to deny access to documents are known as exemption provisions.

Section 15: Refusal on administrative grounds to grant FOI requests

Section 15(1)(f) states:

- (1) *“A head to whom an FOI request is made may refuse the grant the request where-*
(f) *“the FOI body intends to publish the record and such publication is intended to be effected not later than 6 weeks after the receipt of the request held by the head”*

Your request for the *“Copies of all expenses filed by Ms Noirin O’Sullivan”* is being refused under section 15(1)(f) of the FOI Act, as An Garda Síochána intends to publish the total of expenses incurred by the Commissioner on the Publication Scheme section of the Garda Síochána web site at www.garda.ie.

Section 32: Law Enforcement and Public Safety.

Section 32 is a harm based exemption. It applies where access to a record concerned could reasonably be expected to prejudice or impair the matters specified in the subsections. An Garda Síochána is obliged to identify the potential harm that may occur if the records are released and having identified that harm consider the reasonableness of any expectation that the harm will occur.

The Commissioner in conjunction with being the Head of Policing Services is also the Head of the Security Service of the State. Therefore the provision of information which could result in a security risk cannot be provided for operational and security reasons. I believe that access to copies of the claims made by the Commissioner presents a risk to her ability to conduct her security related functions confidentially. Claim forms can identify the purpose and nature of the duties being conducted inclusive of dates, times and locations. The release of *“Copies of all expenses filed”* presents an unnecessary and potentially harmful risk to the Commissioner personally and the success of her functions performed as Head of the Security Service of the State.

The release of records that could potentially identify the locations frequented by the Commissioner presents a potentially harmful risk to her own safety if the information was to be used for criminal purposes.

It is for these reasons that the request is refused as follows:

Section 32. (1) A head may refuse to grant an FOI request if access to the record concerned could, in the opinion of the head, reasonably be expected to –

(a) Prejudice or impair –

- (i) the prevention, detection or investigation of offences, the apprehension or prosecution of offenders or the effectiveness of lawful methods, systems, plans or procedures employed for the purposes of the matters aforesaid,*
- (ii) the enforcement of, compliance with or administration of any law,*

(iii) *lawful methods, systems, plans or procedures for ensuring the safety of the public and the safety or security of persons and property,*

(b) *endanger the life or safety of any person,*

I am of the opinion that the release of claims relating to travel will unnecessarily expose the Garda capabilities in many areas of our operational duties and therefore it is reasonable to expect that it would impair or prejudice the Organisations capability to enforce current legislation and investigate crime.

In addition certain records are exempted in accordance with section 42 of the FOI Act, specifically section 42(b)(i) to (x) and 42(c) refers as set out below;

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;*

(c) *a record held by*

- (i) *the Criminal Assets Bureau,*

However, notwithstanding the aforementioned exemptions, I am in a position to provide you with the proposed publication scheme referring to the Commissioners expenses at Appendix A.

The information supplied at Appendix A is up to and including the 31st December, 2015. The Commissioners expenses are shown for 2015 and Deputy Commissioner Operations expenses is shown for 2014. Both of these positions were held by Commissioner O’Sullivan in 2014 and 2015. Nóirín O’Sullivan was appointed Commissioner on the 25th November 2014.

Allowable expenses are categorised as follows:

Domestic Subsistence & Travel

Domestic travel & subsistence can be driven by operational demands at any given time at Regional & National level. In addition Senior Management is frequently required to attend various governance boards, management meetings and public forums.

Foreign Travel

Out of State travel is undertaken by Senior Management for the purposes for crime investigation, immigration matters, exchange of information with external police forces and agencies abroad, conferences and training courses connected with advancement in policing methods & techniques, safe guarding state security and other security based purposes.

Official Entertainment

This expenditure relates to refunds for refreshments and out of pocket expenses incurred. These expenses are payable in respect of fully vouched claims subject to annual limits. These expenses can arise from the requirement of Senior Management to undertake official business meetings often at short notice where refreshments are provided to attendees.

Training

Expenditure under training for Senior Management includes refund of fees for courses undertaken, conference fees and refunds of membership fees of professional and policing bodies.

Purchase of Publications

This expenditure includes refunds for publications associated with training courses undertaken by Senior Management, legislative material and other publications associated with operational policing.

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 **F01-000136-2016**.

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: IE86B0F190001710026896
BIC: BOFIE2D

Your must ensure that your FOI reference number 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,

 SUPERINTENDENT
HELEN DEELY
FREEDOM OF INFORMATION OFFICER

30th May 2016

Appendix A

Commissioner Annual Expenses

2015

Home Travel & Subsistence €	Foreign Travel & Subsistence €	Official Entertainment €	Training €	Incidental €	Purchase of Publications €	Total
0	7,474	64	0	0	0	7,537

2014

Home Travel & Subsistence €	Foreign Travel & Subsistence €	Official Entertainment €	Training €	Incidental €	Purchase of Publications €	Total
Please see Deputy Commissioner Operations who was Acting Commissioner.						

Deputy Commissioner Operations

2015

Home Travel & Subsistence €	Foreign Travel & Subsistence €	Official Entertainment €	Training €	Incidental €	Purchase of Publications €	Total
Please see Assistant Commissioner Dublin Metropolitan Region who also has responsibility for Operations.						

2014

Home Travel & Subsistence €	Foreign Travel & Subsistence €	Official Entertainment €	Training €	Incidental €	Purchase of Publications €	Total
0	4,075	296	0	444	584	5,399