

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

Bí linn/Join us  

Láithreán Gréasain/Website: www.garda.ie

Riomh-phoist/Email: foi@garda.ie

Re: Freedom of Information Request FOI-000146-2016 Request Refused

Dear

I refer to your request, dated 15th April 2016 and received on the 18th April 2016 which you have made under the Freedom of Information Act (FOI Act) 2014 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:

- *The contract of employment of former Garda Commissioner Martin Callinan.*

I have now made a final decision on 16th May 2016 to refuse your request.

The purpose of this letter is to explain that decision.

1. Findings, particulars and reasons for decisions to deny access

Members of An Garda Síochána do not sign a contract of employment. Former Commissioner Callinan, upon entry to An Garda Síochána at the rank of Garda signed a document known as a "Form of Declaration". The Form of Declaration is a declaration by the signatory that he/she will carry out the functions of a member of An Garda Síochána in accordance with certain conditions such as: according to the Constitution, legislation and with regard to human rights. A new Form of

Declaration is signed each time a Garda member is promoted to another rank. A template of the Form of Declaration is provided. In conjunction with the Form of Declaration a Garda member must also undertake to comply with the provisions of the Official Secrets Act, 1963 which places obligations upon each person in relation to secrecy and integrity whilst conducting official business.

Therefore the record you seek does not exist and I am refusing your request as per section 15(1)(a) of the FOI Act.

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,

Further to the above any records created prior to 21st April 2008 are excluded from the provisions of the FOI Act, insofar as An Garda Síochána is concerned, as per section 2 under “*effective date*”. The interpretation of “*effective date*” is shown below.

(a) in the case of an entity that immediately prior to enactment of this Act, was not a public body within the meaning of the Act of 1997, but is a public body within the meaning of this Act, 21 April 2008, unless provision is made to the contrary by order under section 6;

Upon taking Office as Garda Commissioner a Form of Declaration was signed by Martin Callinan. A Cruinniú Rialtais which appointed Martin Callinan as Commissioner was issued by the Department of Justice and Law Reform (as it was known as in 2010). This is provided for your information.

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 **F01-000146-2016**.

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

You 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.

 _____ SUPERINTENDENT
HELEN DEELY
FREEDOM OF INFORMATION OFFICER

16TH MAY 2016

AN GARDA SÍOCHÁNA

FORM OF DECLARATION.

I, _____, hereby solemnly and sincerely declare before God that—

- I will faithfully discharge the duties of a **INSERT RANK** of the Garda Síochána with fairness, integrity, regard for human rights, diligence and impartiality, upholding the Constitution and the laws and according equal respect to all people,
- while I continue to be a member, I will to the best of my skill and knowledge discharge all my duties according to law, and
- I do not belong to, and will not while I remain a member form, belong to or subscribe to, any political party or secret society whatsoever.

Signature.....
(Name, Rank, Reg.No)

Signed in my presence, on the _____ day of _____, 20xx.

.....
Peace Commissioner for the County of