

# 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 ND62



Freedom of Information Office,  
An Garda Síochána, Athlumney House,  
IDA Business Park,  
Johnstown, Navan,  
Co Meath.  
C15 ND62

Teileafón/Tel: (046) 9036350



Láithreán Gréasain/Website:  
[www.garda.ie](http://www.garda.ie)

Ríomh-phoist:/Email: [foi@garda.ie](mailto:foi@garda.ie)

## Re: Freedom of Information Request FOI-000178-2023 Request Part-Granted

*Dear*

I refer to your request, dated and received on 9<sup>th</sup> May, 2023 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:

*Under Freedom of Information legislation please may I have a copy of all internal correspondence relating to the creation of the directive to members of the gardai on gender identity in the workplace and its subsequent withdrawal?*

I wish to inform you that I have decided to part-grant your request on the 16<sup>th</sup> June 2023. The purpose of this letter is to explain my decision.

### 1. Findings, particulars and reasons for decision.

Upon receipt, your request was forwarded to the relevant sections of An Garda Síochána where a search was conducted in respect of the records you sought. A number of records were located. These records are now herewith attached. A number of the records have been redacted in accordance with the FOI Act.

Where applicable duplicate records have been removed. In addition, a number of the records include matters outside the scope of your request, and these matters outside the scope of your request have been redacted. The attached Schedules of Records include details of all redactions applied.

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### **Part 1(n) of Schedule 1**

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 for release under the Act.

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.

Records, or part thereof, which relate to matters other than finance, procurement or human resources are outside the scope of the Act insofar as it relates to An Garda Síochána and cannot be released. The provisions of Part 1(n) of Schedule 1 have therefore been applied to a number of the attached records.

### **Section 37 – Personal Information**

Under the FOI Act, records are released without any restriction as to how they may be used and thus, release under the FOI Act, is in effect, and 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. Section 2 of the FOI Act defines personal information as follows:

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,*

Section 37 provides that a public body shall refuse to grant a request if access to the record concerned would involve the disclosure of personal information. Furthermore, Section 37(7) provides that a public body shall refuse to grant a request if 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, commonly referred to as joint personal information.

I am satisfied that parts of certain records relate to a third party, as well as information relating to other individuals who are named in the records. As such, I am satisfied that the records consist of the personal information of these third parties. Accordingly, I find that Section 37(1) and (7) of the Act applies to the records at issue.

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 section 37 requires a public interest test be carried out, 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:

- 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.
- Allowing a public body to hold personal information without undue access by members of the public,

A public interest test was carried out when considering the release of the records but, having balanced the factors both for and against the release, I have decided that the public interest in preserving personal information would best be served by particular parts of the records provided.

## **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-000178-2023**.

***Freedom of Information Office, An Garda Síochána, Athlumney House, IDA Business Park, Navan, Co. Meath. C15 ND62.***

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:** An Garda Síochána Imprest Account  
**Account Number:** 30000302  
**Sort Code:** 951599  
**IBAN:** IE28DABA95159930000302  
**BIC:** DABAIE2D

**You must ensure that your FOI reference number (FOI-000178-2023) 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](http://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,



**ASSISTANT PRINCIPAL**

**PAUL BASSETT**  
**FREEDOM OF INFORMATION OFFICER**

16 JUNE, 2023.