

# 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



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## Re: Freedom of Information Request 000059-2016 Internal review

Dear

I refer to the appeal which you made under the Freedom of Information Act 2014 (FOI Act) dated and received on the 13<sup>th</sup> April 2016. This letter only refers to your request for “*The audit of the Fixed Charge Processing Office - Non-discretionary Cancellations from January 2014 and the Report of the Fixed Charge Penalty System from September 2014.*”.

Chief Superintendent, Peter Kirwan, Garda Headquarters, who is a more senior member of staff of this Organisation, has conducted an Internal Review of your Freedom of Information request. His decision on review is an entirely new and separate decision on your request and is explained as such below.

Your request is shown below:

- 1. The Garda internal audit of the Serious Crime Review Team following Allegations of Financial Irregularities from 2013 and the 2014 Joint Audit with GPSU of the Serious Crime Review Team.*
- 2. The audit of the Fixed Charge Processing Office - Non-discretionary Cancellations from January 2014 and the Report of the Fixed Charge Penalty System from September 2014.*
- 3. The Audit of DMR South Central from 2014 and the Joint Audit with GPSU of DMR South Division, also from 2014*
- 4. The Report to the Commissioner in relation to Financial Controls in 2014.*
- 5. The 2013 Audit of Salary and Pension Overpayments.*

In arriving at his decision, Chief Superintendent Kirwan had regard to the original request, the records which were located as part of that request and the appeal which you submitted in this regard. In reviewing the records in this particular case Chief Superintendent Kirwan gave particular consideration to the provisions of the FOI Act and also the legislative obligations placed upon An Garda Síochána under various Acts. In particular the definitions of functions and responsibility were considered as set out under section 7 of the Garda Síochána Act 2005 and the unique position the Garda Organisation holds within Irish Society, in providing policing and security services for the State with the objective of:

- (a) preserving peace and public order,
- (b) protecting life and property,
- (c) vindicating the human rights of each individual,
- (d) protecting the security of the State,
- (e) preventing crime,
- (f) bringing criminals to justice, including by detecting and investigating crime, and
- (g) regulating and controlling road traffic and improving road safety.

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 the only Garda records falling within the scope of the provisions of the FOI Act are administrative records relating to human resources, finance or procurement.

Having considered the nature and scope of the contents of "*The audit of the Fixed Charge Processing Office - Non-discretionary Cancellations from January 2014 and the Report of the Fixed Charge Penalty System from September 2014*" Chief Superintendent Kirwan does not consider the document to be akin to an administrative record or related to the administrative functions as set out in the FOI Act for An Garda Síochána as a partially included public body (Part I (n) of Schedule 1).

In his considered opinion, auditing of the functions that are carried out in the process of applying the above mentioned objectives and primary function using numerous pieces of legislation does not fall within the definition of an administrative record. The audit of operational activities, application of legislation, seizure of property, investigations and oversight process is not in itself an administrative record for the purpose of human resources, finance or procurement as set out in Part 1(n) of Schedule 1 of the FOI Act.

Therefore Chief Superintendent Kirwan has deemed your request out of the scope of the FOI Act insofar as An Garda Síochána is concerned. As a result the relevant audit report will not be provided and your request for this record after an Internal Review has been refused.

You may appeal this decision by writing to the Information Commissioner at 18 Lower Leeson Street, Dublin 2. There is a fee of €50 (€15 for medical card holder) for such appeals, other than appeals against a decision to impose a fee.

If you wish to appeal, you must usually do so not later than 6 months from the date of this notification. Should you write to the Information Commissioner making an appeal, please refer to this letter.

Yours sincerely,

 SUPERINTENDENT  
**HELEN DEELY**  
**FREEDOM OF INFORMATION OFFICER**

 **May 2016**