LAWFULNESS, FAIRNESS AND TRANSPARENCY TEST

Application of FOI exemption Section 40(2) and EIR exception 12(3) 13(1)

DOF/2025-0634

A Lawfulness, Fairness and Transparency Test must be carried out by the Department of Finance when considering disclosure of third-party personal data which falls within the scope of an FOI or EIR request.

FOI / EIR request

Can I ask if the change in the policy, relating to expenses/mileage, was subject to a rural needs impact assessment and an equality impact assessment?

If so, can these assessments be provided to me?

Consideration of the personal data falling within the scope of the request

Guidance from the Information Commissioner's office states that personal data only includes information relating to natural persons who:

- can be identified or who are identifiable, directly from the information in question; or
- who can be indirectly identified from that information in combination with other information.

Description of personal data/issue(s) under consideration:

The data held is in relation to the names and contact details of junior members of staff and a third party contained in attached Annexes. Release of the requested information could risk the individuals being identified.

In order to process and release the personal data (i.e. name) of the individuals would require their consent. The department does not consider it appropriate to approach the individual third party to seek their consent for release of their name.

Lawfulness

Do either of the two lawful basis below, which allow for the disclosure of personal data, apply? **No**

☐ **Consent:** This applies when the data subject(s) clear consent exists, allowing the department to disclose personal data falling within the scope of this request.

- ☐ **Legitimate interests:** This applies when disclosure is necessary for the department's legitimate interests or the legitimate interests of a third party that overrides the data subject(s) rights and freedoms, particularly their right to privacy.

Conclusion

Having considered all the information contained within the Lawfulness, Fairness and Transparency Test, the department has established that, on balance, there is no lawful basis for the disclosure of third-party personal data falling within the scope of the request (of which the requester is not the data subject).