LAWFULNESS, FAIRNESS AND TRANSPARENCY TEST

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

DOF/2026-0054 ANNEX D

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

Further to my previous request, may I please submit a new FOI request.

Please provide the average number of days sickness broken down by reason for sickness, for each of the directorates and sub units.

Following clarification the following was received:

Thank you for the clarification request.

I am seeking the specific number of days lost for each of the sickness reasons provided in each of the units/divisions.

E.g. Criminal Policy and Legislation Division -
x days lost to Cold, cough, x days lost to Ear Nose Throat, x days to anxiety, stress etc.

At present, you have provided a list of sick reasons given for each year, I am requesting how many days are attributed for each reason and in each sub unit over the previous three years of data held.

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:

In some areas the number of cases on which the analysis is based is too small to publish due to risk of identifying individuals (e.g. fewer than five members of staff were recorded as having a sickness absence for that reason).

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).