LAWFULNESS, FAIRNESS AND TRANSPARENCY TEST

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

DOF/2026-0122 ANNEX C

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

Follow on from DOF/2025-0031

I'm hoping to ask the following FOI, in addition to my request from last year, I just need the most recent data for the following:

1. A breakdown of the different reasons for these dismissals?
2. How long were each of the dismissed employees working for the NICS?
3. How many were industrial vs non-industrial?
4. How many were outside their probation?
5. Breakdown of the grades of the dismissed staff?

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 ten members of staff with a sickness absence).

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).

Making an unrestricted disclosure of personal data for private interests could constitute a disproportionate and unwarranted level of interference with the individuals' rights and freedoms – particularly their right to privacy and family life under the Human Rights Act 1998