

FOI SECTION 40(2)

DOF/2026-0175

The lawfulness, fairness and transparency test

Business areas are required to carry out a “lawfulness, fairness and transparency test” when considering the disclosure of third party personal data falling within the scope of a FOI or EIR request. **In most cases**, neither of the lawful basis outlined below will apply, however the business area must complete the test as evidence as having considered.

The steps are as follows:-

1. Consider the Personal Data falling within the scope of the request

ICO guidance 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.

The request is for:

1. *How long has the current Governor in Charge of Hydebank Wood Prison been in post; and if he has been Governor for more than one period of time to detail the dates of those periods in charge also; and*
2. *During his time in charge of Hydebank Wood prison has the Governor in Charge ever been accused by any member of prison staff or civilian staff member of inappropriate behaviour or bullying; and if yes how many and what were the outcomes of the follow up investigation(s).*
6. *How many temporary promotions has the Governor in Charge made in Hydebank Wood prison since his arrival there (this current stint).*
9. *How many of the current Senior Management Team and Senior Officer team in Hydebank Wood prison are temporary posts and how many of them have sat Boards or interviews for those positions.*
12. *How many temporary promotions have been made from a list of those that passed interviews and what dates were they promoted; and have others been promoted without referring to any list.*

Brief description:

The data held is in relation to a staff member's service history and formal investigations, which constitutes their personal information and is not considered in the public interest to release to the world at large.

To process and release the personal data of the individual would require their consent. The department does not consider it appropriate to approach the individuals to seek

their consent for release of their service history and any formal investigations or complaints they may have been party to within their service and/or any subsequent outcomes – there is an expectation this type of information is withheld.

The data held is considered personal, third party data but does not constitute special category data.

Release of the requested information could risk individuals being identified due to the small numbers involved. As Data Controller, The Department cannot not assume that the requester or the wider public does not hold other information which could be used in conjunction with this to identify individuals.

1. Lawfulness

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

- Consent:** We do not have the consent of individual(s) to share their information. Therefore, to release the requested information would risk identifying the individuals and would therefore contravene the data protection principles.
- Legitimate interests:** Disclosure is not 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. The data subjects involved would have a reasonable expectation that this information would not be shared with the public at large.

The DoF Privacy notice states that we may process personal information for the purposes of detection and investigation of suspected or actual fraud, loss or crime, data matching under the National Fraud Initiative, staff monitoring and as required by other legislation. This request is based solely on the requester's private concerns as opposed to a pressing public interest that would necessitate transparency and disclosure of the information.

Consequently, if NICSHR was to comply with the request, it would, in effect, be making an unrestricted disclosure of personal data to the general public on the strength of the requester's private interests. This 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.

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).