ANNEX C

LAWFULNESS, FAIRNESS AND TRANSPARENCY TEST

Application of FOI exemption Section 40(2)

DOF/2026-0232

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

The total number of successful applicants, broken down by:

Department
Age category (above or below 35)

Sex/gender
Religious background/community background

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 other candidates' application outcomes, which constitutes their personal information.

Release of the requested information risks identification of individuals due to the low numbers. As Data Controller, the department cannot assume that the requester or the wider public does not hold other information which could be used in conjunction with this to further identify individuals.

Lawfulness

Do either of the two lawful bases 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).