

LAWFULNESS, FAIRNESS AND TRANSPARENCY TEST

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

DOF/2026-0375

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 following information was supplied under DOF/2026-0275 FOI Response, as attached:

1. There are 55 candidates who applied for this competition comprising:
 - a. 13 NICS applicants; 6 of whom are currently working in DFI.

For the 13 NICS applicants, excluding the six applicants who are currently working in DfI, please indicate the Department and Group/Branch in which each of the remaining seven applicants is currently employed.

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:

Providing the requestor with the Department, Group/Branch of the remaining seven applicants potentially could reveal their identities, by making them more traceable on the NICS directory.

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).