

TEMPLATE FOR APPLYING FOI SECTION 40(2) OR EIR 12(3) 13(1)

DOF/2022-0281

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

What is the nature of the data, are there references to a name, location, physical, genetic, economic, cultural identifiers, include how the information held is linked to the data subject, e.g. is it used to inform decisions affecting them.

Brief description:

NB If the information held is [special category](#) or [criminal offence](#) data, disclosure is only lawful if explicit consent exists or the data subject(s) has placed the information in the public domain.

2. Lawfulness

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