

TEMPLATE FOR APPLYING FOI SECTION 40(2)

DOF/2023-0263

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.

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.

Brief description:

The request is in relation to the recruitment competition for Alternative Working Pattern Staff Officer (AWP SO):

2. Can you please break down the total of existing civil servants that were successful into each location above please. EG. 4 existing civil servants from Great North Tower, 2 existing civil servants from Ballymena Service Centre, 1 existing civil servant from Lisahally Service Centre etc.?

The data being requested is the personal information of the individuals that were successful from each of these business areas. Release of the information could risk individuals being identified due to the low numbers involved.

As Data Controller, The Department cannot not assume that the requester does not hold other information which could be used in conjunction with this to re-identify individuals.

ICO Guidance advises The DPA does not require anonymisation to be completely risk free – but the authority must be able to mitigate the risk of identification until it is remote, which it is not in this case. The risk of identification is reasonably likely therefore this information is being regarded as personal data

The Information Commissioner’s Office has also previously agreed to this decision not to release personal information, which has the possibility of identifying individuals given the small scale of Northern Ireland and because the individuals concerned are internal applicants.

2. Lawfulness

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

☒ **Consent:** We do not have the consent of the individuals to share information regarding their application/progress through this competition. 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 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 interest as opposed to a pressing public interest that would necessitate transparency and disclosure of the information.

Consequently, if we were 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.

Having considered all of the information contained within the lawful, 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.