

## LAWFULNESS, FAIRNESS AND TRANSPARENCY TEST

### Application of FOI exemption Section 40(2)

DOF/2024-0076

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

3. The composition of the panellists who conducted the application sift for recruitment exercise IRC 298255 in terms of both religious background and gender.

#### 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 in relation to religious background is special category personal data which requires explicit consent from individuals to process this information. Release of the requested information could risk individuals being identified due to the small numbers involved.

As Data Controller, the department cannot disregard that the requester or the wider public does not hold other information which could be used in conjunction with this to identify individuals.

#### Lawfulness

Do either of the two lawful basis 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).