

LAWFULNESS, FAIRNESS AND TRANSPARENCY TEST

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

DOF/2024-0244

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.

Part 1

FOI / EIR request

2.

- e) Can you advise the names of the selection panel who considered the candidates in this current tranche?
- f) Can you advise the names of the selection panel(s) for each of the previous tranches?

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 requester is asking for names of panel members who are of Deputy Principal grade.

DoF Policy is to withhold colleagues' names who are of grades lower than G7. ICO guidance states, "even in relation to their public life there will be times where there will still be a reasonable expectation of privacy. An individual's reasonable expectation will depend on a number of factors:

- how senior is their role;
- is their role public facing – in the sense that they have responsibility for explaining the policies or actions of their organisation to the outside world;
- do they have responsibility for making decisions on how public money is spent; and
- what is the nature of the information."

In this instance the colleagues names that have been withheld are below G7 and would therefore have a reasonable expectation that their privacy is maintained in relation to the work being completed.

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).