

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

DOF/2022-0310

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

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.

The request is for:

1. *It stated in the Applicant information booklet that there were currently 3 permanent, full time vacancies. Can you please tell me, in age ranges of 5 years i.e. 20-24, 25-30, etc. The ages of the three successful candidates. How many were existing NICS staff on transfer and how many were external?*

2. *How many applied for the IRC276623 : Technical Grade 1 - Trading Standards Service jobs, split into current NICS staff and external staff, also in age ranges of 5 years?*

3. *How many attended interview for the IRC276623 : Technical Grade 1 - Trading Standards Service jobs, split into current NICS staff and external staff, also in age ranges of 5 years?*

The eligibility criteria for the post asked for An NVQ (Level 3) or equivalent in a mechanical, construction, manufacturing, engineering or industrial related subject AND (a) Have a minimum of 1 years post apprenticeship experience working in a mechanical, construction, manufacturing, engineering or industrial setting OR (b) Have a minimum of 1 years' experience working in a UKAS accredited laboratory AND possess a full current category B driving license which enables them to drive in the UK. Therefore, there would be a small volume of eligible AAs within NICS that could apply for this role.

To release the information requested for part 1 would be a release of numbers less than 5. There were 3 successful candidates for this competition, 1 external and 2 internal, the requester has asked for the successful candidates to be broken down by age group. To release these figures broken down by age group could risk identifying

the individuals involved, given the specific eligibility required to apply for this competition.

Similarly for part 3, releasing the number of candidates broken down by age group and internal/external could lead to the identification of individuals and disclosure of their personal information.

Brief description:

The data held is personal, third party data but does not constitute special category data.

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 candidates to share their personal information. Releasing 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 data subjects involved would have a reasonable expectation that this information would not be shared with the public at large.

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 concerns as opposed to a pressing public interest that would necessitate transparency and disclosure of the information.

Consequently, if NICSHR were to comply with the request, we would, in effect, be making an unrestricted disclosure of personal data to the general public on the strength of the requester's private interests. This could constitute a disproportionate and unwarranted level of interference with the individuals' rights and freedoms – particularly their right to privacy and family life under the Human Rights Act 1998.