

LAWFULNESS, FAIRNESS AND TRANSPARENCY TEST

DAERA/24-91 Freedom of Information Act 2000

Correspondence and minutes of any meetings between DAERA Capacity, Capability, Equality & Diversity Branch & Business Management Branch, VSAHG pertinent to the content & release of this temporary promotion /development opportunity notice

I am particularly interested in this clause in the covering email:

Please be aware that the reason for this approach is because DAERA Capacity, Capability, Equality & Diversity Branch advised that given that the DAERA specific TPO process does not cover an amalgamated temporary promotion /development opportunity it was preferable to issue separate notices.

I also want to establish why the Eols are invited only from “substantive Vos” at this time and how a substantive VO is being defined by Business Management Branch, VSAHG.

Brief description of the Personal Data falling within the scope of the request

Third party details staff names

LAWFULNESS

Please identify the lawful bases for processing

Personal data is processed when it is lawfully disclosed in response to an FOI request.

The lawful bases for processing are set out in Article 6 of the GDPR and the ICO expects at least one of two lawful bases (Consent / Legitimate Interest) to apply before the personal data held can be disclosed.

- Consent:** This will apply when the data subject(s) clear consent exists that allows you to disclose the personal data falling within the scope of this request.
- Legitimate interests:** the processing 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.

Consideration of Legitimate Interests

1. PURPOSE

As the disclosure of personal data under FOI is to the world at large doing so on the strength of a requester’s private interests alone could constitute a disproportionate and unwarranted level of interference with the data subject(s) rights and freedoms, particularly their right to privacy and family life under the Human Rights Act 1998.

2. NECESSITY

The right of access under FOI does not in itself constitute a **pressing social need**. The Department has considered and not identified any such need for the data subject's right to privacy to be interfered with.

CONCLUSION

Having considered all of the information contained within this 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.

Business Management Branch