

APPENDIX B - LAWFULNESS, FAIRNESS AND TRANSPARENCY TEST

DAERA/24-206

Environmental Information Regulations 2004

Request Details:

Provide details of the dates on which the W&J Chamber site was inspected and copies of the officer reports of those site visits.

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

The Internal Incident Report identifies business type(s) / address; members of the public and private dwelling details.

LAWFULNESS

Please identify the lawful basis for processing

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

The lawful basis 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:** The data subjects clear consent does not exist.
- 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 FOIA or EIR is a disclosure 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 or EIR 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.

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