

REVISED LAWFULNESS, FAIRNESS AND TRANSPARENCY TEST

AE6-26-399 Environmental Information Regulations 2004

Request Details:

Requested information in relation to FSN 4/34/91 fields 1 & 2.

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

The personal data is requesting to know the identity of any claimants who may have submitted a scheme application for above land for the years 2009 to 2012.

LAWFULNESS

Please identify the lawful bases for processing

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

PURPOSE

As the disclosure of personal data under EIR 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 or EIR does not in itself constitute a **pressing social need**. Decision makers should consider if there a pressing social 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 there is no lawful basis for the disclosure of third party personal data falling within the scope of the request.


AESD Information Management Team