

ANNEX C

LAWFULNESS, FAIRNESS AND TRANSPARENCY TEST

DAERA/26-564 - Freedom of Information Act 2000 (FOIA)

Request Details:

Any guidance or instructions issued to managers, HR staff, payroll staff or decision-makers concerning the calculation or application of salary deductions arising from action short of strike

Any internal discussions, assessments, reports, business cases, governance papers, recommendations, briefing papers or decision-making records supporting the adoption of a 25% deduction;

Any centrally issued correspondence, instructions or guidance concerning the implementation of salary deductions in connection with the current industrial action.

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

Documents contain information that includes third party personal information such as names and email addresses.

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

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 not a 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.

Veterinary Service Animal Health Group