

## ANNEX C

### LAWFULNESS, FAIRNESS AND TRANSPARENCY TEST

**DAERA/26-562** - 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**