

Please read the Introduction – See [Introduction](#).

### Section 37: Personal Information

Section	Information Required
37(2)	<p>Please satisfy yourself that the answer to all the questions (a) to (e) below is <b>NO</b> before proceeding to consider section 37(1).</p> <p>(a) Does the information relate <u>solely</u> to the requester in this case? If so, has the identity of the requester been established to your satisfaction? [Note : If the information relates to the requester but also relates to one or more other individuals, please answer the question at section 37(7) below and also provide the information sought at paragraphs (b) to (e) and sections 37(5) and 37(8) below in relation to the other individual(s) concerned.]</p> <p>(b) Has any individual to whom the information relates consented to the disclosure of the information to the requester in this case? If so, has the identity of the requester and the consent of the person to whom the information relates been established to your satisfaction?</p> <p>(c) Is information of the same kind as the information in the record in respect of individuals generally (or in respect of a class of individuals of significant size) available to the general public?</p> <p>(d) Was the information given to you by the individual to whom it relates? If so, was the individual informed on your behalf before giving the information that it belongs to a class of information that would, or might be, made available to the general public? (Where the individual was so informed, please provide the relevant details)</p> <p>(e) Is disclosure of the information necessary in order to avoid a serious and imminent danger to the life or health of an individual? If so, please provide details.</p>
37(1)	<ul style="list-style-type: none"> <li>• Specify the information in the record which, in your view, is personal information and identify the individual(s) to whom it relates</li> <li>• Explain why you concluded that the information is personal information (In doing so, please have regard to the definition of personal information in section 2 of the Act).</li> </ul>

<p>37(3)/ 37(4)</p>	<p><u>This question is only to be asked where section 37(3) has been relied on:</u></p> <ul style="list-style-type: none"> <li>• If it is not apparent from the record itself, explain the basis on which you have concluded that the record is of a medical or psychiatric nature or is a social work record relating to the requester</li> <li>• Explain the basis on which you have concluded that disclosure of the information to the requester might be prejudicial to his/her physical or mental health, well-being or emotional condition</li> <li>• Does the decision which issued to the requester offer access to the record to such health professional having the relevant expertise as the requester may specify as required by subsection (4)?</li> <li>• Has the requester asked that access be given to such a health professional and, if so, has such access been offered? Please provide copies of the relevant communications in this regard.</li> </ul>
<p>37(5)(a)</p>	<ul style="list-style-type: none"> <li>• Please provide details of the public interest factors in favour of release and the public interest factors against release considered in this case</li> <li>• Explain the basis on which you decided that the public interest that the request should be granted does not outweigh the public interest that the right to privacy of the individual to whom the information relates should be upheld</li> </ul>
<p>37(5)(b)</p>	<ul style="list-style-type: none"> <li>• Please explain why, in your opinion, granting access to the record would not benefit the individual to whom the record relates.</li> </ul>
<p>37(6)</p>	<p><u>To be asked only where section 37(6) has been relied on :</u></p> <ul style="list-style-type: none"> <li>• Explain the basis on which it was concluded that the record sought is of a type which discloses personal information of a third party and which, on the face of it, is exempt from release by virtue of section 37(1)</li> <li>• Please ensure that you have answered the questions concerning s37(2) and s37(5) above in relation to the record or, where the relevant records do not exist, show that none of the exceptions to section 37(1), contained in section 37(2) or (5) of section 37, would apply if such a record did exist.</li> <li>• Explain how disclosure of the existence or non-existence of the record (as opposed to disclosure of the actual contents of the record) would involve the disclosure of personal information</li> </ul>

37(7)	<p><u>To be asked only where the record discloses joint personal information.</u></p> <ul style="list-style-type: none"> <li>• Please ensure that questions relating to section 37(2)(b) to (e) and 37(5) above and, where relevant, section 37(8) below are also addressed in relation to the information which relates to individual(s) other than the requester.</li> <li>• Specify the information in the record which, in your view, is personal information about an individual or individuals other than the requester and identify, in so far as possible, the individual(s) concerned</li> <li>• Explain why you concluded that such information is personal information (In doing so, please have regard to the definition of personal information in section 2 of the Act).</li> </ul>
<p><u>The following questions are to be asked <b>only</b> where the record discloses personal information relating to a minor or an incapacitated or deceased person (Section 37(8)).</u></p>	
37(8)(a)	<p>[To be asked <u>only</u> where the request has been made by the parent/ guardian of the individual and only where relevant / appropriate].</p> <ul style="list-style-type: none"> <li>• Provide the information at either A) <b>or</b> B) below, as appropriate: A) If the individual to whom the information relates has not attained full age, please confirm his/her date of birth. OR B) If the individual to whom the record relates is an individual of full age who is incapable of exercising his/her rights under the FOI Act as specified in the Regulations*, please show that the individual falls within the class specified at Regulation 5(b)* (i.e. that s/he has, or is subject to, a psychiatric condition, mental incapacity or severe physical disability, the incidence and nature of which are certified by a registered medical practitioner and that, by reason of that condition, incapacity or disability, the individual is incapable of exercising his/her rights under the Act).</li> <li>• Please explain the basis on which you concluded that the requester is the parent or guardian of the individual to whom the record relates.</li> <li>• Explain the reason for your decision by reference to the relevant Regulations* and furnish any information provided by the requester in connection with this request.</li> <li>• If you concluded that granting the request would not be in the best interests of the minor / individual concerned, please explain the reasons for this conclusion and provide details of</li> </ul>

	<p>any circumstances and any other matters which were considered relevant in making your decision in this regard.</p> <ul style="list-style-type: none"> <li>• Confirm whether, during the course of your decision-making in this case, it was considered appropriate to consult with any person regarding the release of the record and explain the reasons for your view in this regard. If any consultations took place, please provide details of the consultations and provide copies of any relevant communication.</li> </ul> <p>*(Freedom of Information Act 2014 (Section 37(8)) Regulations 2016, S.I. 218 of 2016.)</p>
37(8)(b)	<p><u>[To be asked <b>only</b> where the individual to whom the record relates is dead and only where relevant / appropriate.]</u></p> <ul style="list-style-type: none"> <li>• If not apparent from the records, please show the basis on which it was claimed or you concluded that the individual is dead</li> <li>• Furnish any information provided by the applicant in connection with this request.</li> <li>• Please provide the information sought at (a) or (b) or (c) below, as appropriate to the circumstances of this case. <ul style="list-style-type: none"> <li>(a) Is the requester a personal representative of the individual (or someone acting with the consent of a personal representative)? <ul style="list-style-type: none"> <li>- If so, is the personal representative acting in due course of administration of the estate?</li> <li>- Please explain the basis for your conclusions in this regard and provide any relevant information.</li> </ul> </li> </ul> <p>OR</p> <ul style="list-style-type: none"> <li>(b) Is the requester a person on whom a function is conferred by law in relation to the deceased individual or his/her estate? <ul style="list-style-type: none"> <li>- If so, is s/he acting in the course of the performance of that function?</li> <li>- Please explain the basis for your conclusions in this regard and provide any relevant information.</li> </ul> </li> </ul> <p>OR</p> <ul style="list-style-type: none"> <li>(c) Is the requester the spouse or the next of kin of the individual as defined in the Regulations*? <ul style="list-style-type: none"> <li>- If so, please explain the basis for your conclusion in this regard.</li> </ul> </li> </ul> <p style="text-align: right;">Section 37(8)(b) contd. see over/</p> </li> </ul>

	<ul style="list-style-type: none"> <li>- If relevant, explain why you concluded that the public interest (including the public interest in the confidentiality of personal information) would not, on balance, be better served by granting the request than by refusing it. Provide details of the public interest factors taken into account in making your decision and provide details of any circumstances and/or any other matters to which you had regard in this respect.</li>   <li>- If relevant, provide details of any consultations which took place in relation to the release of the record(s) and provide copies of any relevant communications in this regard.</li> </ul> <p>*(Freedom of Information Act 2014 (Section 37(8)) Regulations 2016, S.I. 218 of 2016 as amended by the Freedom of Information Act 2014 (Sections 9(6), 10(6) and 37(8)) Regulations 2016, S.I. 558 of 2016.)</p>