January 2015

**FOI Central Policy Unit**

**Department of Public Expenditure and Reform**

**Notice No. 1**

**Access to Personnel Records**

1. The Freedom of Information (FOI) Act, 2014 confers a statutory right on all members of the public to seek access to information held by FOI bodies (public bodies under section 6 of the Act or bodies prescribed under section 7 of the Act), including information relating to oneself. As a result, a member of staff in an FOI body will be entitled to seek access to personnel records relating to him/herself.

2. Personnel practices across FOI bodies should be developed in a manner which is open and access to personnel records should be provided as a matter of routine. An FOI request should not normally be required in order to access personnel records relating to oneself.

3. Accordingly, the CPU recommends that all personnel records created, including assessments of performance, staff appraisals and promotions evaluations should be prepared on the basis of open access by staff. Following from this, staff should be routinely able to such access material on request.

4. Refusal of personnel records created by the FOI body concerned 3 years before the effective date (i.e. 3 years before the body became within the meaning of the Act) to the individual concerned, should arise only in exceptional and specific circumstances. Refusals should only arise where the adverse consequences of disclosure are both serious and clearly identifiable.

5. It is advisable that where information provided by a third party will be stored on the personnel file that the third party should be informed of the requirements of FOI prior to the provision of the information to the FOI body, and that this would be a normal part of the bodies practices.

6. It is acknowledged that the sensitivity of some personnel records created within the three year period before the body in question became within the meaning of the FOI Act, in such cases bodies may wish to consider the provisions of section 30(1)(b) of the FOI Act. However this should only be invoked where the likely damage to management functions can be shown to be adverse and significant.

**Personnel Records created by the FOI body concerned more than three years before its effective date.**

6. Section 11(6) refers to personnel records which were created by the FOI body concerned 3 years before the effective date of the FOI body concerned **and**  that are not be used in a manner that affects or may affect the interests of the person adversely. The FOI Act provides in this section that these records may not be accessed, unless the record[s] is being used, or proposed to be used, in a way which adversely affects the person involved, or may do so. Where such adverse effect arises or is in prospect, the staff member is entitled to access the record created 3 years prior to the effective date. However, FOI bodies may wish to note that this provision does not create an entitlement to access a record used in the past which adversely affected a staff member, where such a record is no longer in use, or is not proposed, or likely, for future use.

**Personnel Records held in relation to central competitions**

7. The formats for centrally organised interdepartmental competitions and mobility may change. Requests for records relating to these areas should be in the first instance directed to the individual department, who with the assistance of the personnel department should be able to facilitate the appropriate assigning of the request.