The Right of Access
Part 3 of the DPA 2018
Manifestly unfounded and excessive requests

The Information Commissioner’s Office (ICO) is seeking feedback on the draft right of access for competent authorities guidance and draft updated guidance on manifestly unfounded or excessive requests under Part 3 of the DPA 2018.

The right of access in Part 3 of the DPA 2018 is a fundamental right that applies to [competent authorities](https://ico.org.uk/for-organisations/guide-to-data-protection/guide-to-law-enforcement-processing/scope-and-key-definitions/). It is more commonly known as the right to make a subject access request.

Following on from our initial guidance on this right, the ICO has now drafted detailed guidance which explains in greater detail the rights that individuals have to access their personal data and the obligations on competent authorities. The draft guidance also explores situations involving joint controllers, how to deal with requests involving the personal data of others and the restrictions that are most likely to apply in practice when handling a request. We have also updated our guidance on how competent authorities should deal with manifestly unfounded or excessive requests.

Please submit responses by **Friday 11 March at 5pm**. Responses submitted after the deadline may not be considered.

**Privacy statement**
For this consultation we may publish the responses received from organisations or a summary of the responses. We will not publish responses from individuals. If we do publish any responses, we will remove email addresses and telephone numbers from these responses but apart from this we will publish them in full. Please be mindful not to share any information in your response which you would not be happy for us to make publicly available. For further information, see [responding to our consultation requests and surveys.](https://ico.org.uk/global/privacy-notice/responding-to-our-consultation-requests-and-surveys/)

Should we receive an FOI request for your response we will always seek to consult with you for your views on the disclosure of this information before any decision is made.

For more information about what we do with personal data please see our [privacy notice.](https://ico.org.uk/global/privacy-notice/)

Q1: Do you think the draft guidance will help you comply with your obligations under data protection law? If no, please explain why.

[ ]  Yes

[ ]  No

[ ]  Unsure

Comments:

Q2: On a scale of 1-5, to what extent do you think the guidance is clear and easy to understand? Please explain your reasoning for your choice.

[ ]  1 – Strongly disagree

[ ]  2 – Disagree

[ ]  3 – Neither agree nor disagree

[ ]  4 – Agree

[ ]  5 – Strongly agree

Comments:

Q3: We have published guidance on [the right of access under the UK GDPR](https://ico.org.uk/for-organisations/guide-to-data-protection/guide-to-the-general-data-protection-regulation-gdpr/right-of-access/). Do you understand how you need to use both pieces of guidance in responding to Part 3 SARs?

[ ]  Yes

[ ]  No

[ ]  Unsure

Comments:

Q4: Does the guidance help you determine which SARs regime to use when responding to a request, in circumstances where you are unsure? If no, please explain why.

[ ]  Yes

[ ]  No

[ ]  Unsure

Comments:

Q5: The criminal law enforcement purposes set out at section 31 of the DPA 2018 include “safeguarding against and the prevention of threats to public security”. How far do you agree or disagree with how we have defined this phrase in the draft guidance?

[ ]  1 – Strongly disagree

[ ]  2 – Disagree

[ ]  3 – Neither agree nor disagree

[ ]  4 – Agree

[ ]  5 – Strongly agree

Comments:

Q6: Does the guidance help you understand when manual information is likely to be ‘unstructured’?

[ ]  Yes

[ ]  No

[ ]  Unsure

Comments:

Q7: Does the guidance help you comply with your data protection obligations if you have a joint controllership arrangement with other controllers? Please give examples of your joint controllership arrangements and how you deal with SARs.

[ ]  Yes

[ ]  No

[ ]  Unsure

[ ]  Not applicable

Comments:

Q8: Please provide your comments on the chapter, ‘What do we need to consider if personal data is processed by a court for law enforcement purposes?’ In particular, you may wish to comment on whether or not you agree with the interpretation of the Section 43(3) and (4) exception set out in this chapter, or on your own experiences in seeking personal data through the courts system.

Q9: Does the guidance contain enough examples for Part 3 SARs? If no, please give details of further scenarios you would like us to consider.

[ ]  Yes

[ ]  No

[ ]  Unsure

Comments:

Q9b: Does the guidance contain enough examples of manifestly unfounded or excessive requests? If no, please give details of further scenarios you would like us to consider.

[ ]  Yes

[ ]  No

[ ]  Unsure

Comments:

Q10: Did you find the examples in the guidance useful or not useful? Please give details as to why/why not.

[ ]  Useful

[ ]  Not useful

[ ]  Unsure

Comments:

Q11: To what extent do you agree that the guidance gives a clear definition of a manifestly unfounded request?

[ ]  1 – Strongly disagree

[ ]  2 – Disagree

[ ]  3 – Neither agree nor disagree

[ ]  4 – Agree

[ ]  5 – Strongly agree

Q12: To what extent do you agree that the guidance gives a clear definition of a manifestly excessive request?

[ ]  1 – Strongly disagree

[ ]  2 – Disagree

[ ]  3 – Neither agree nor disagree

[ ]  4 – Agree

[ ]  5 – Strongly agree

Q13: Are there any factors that you use to determine that a request is manifestly excessive or unfounded which you expected to see in the guidance? If yes, please give details.

Q14: Is there anything that you think hasn’t been covered that should be? If yes, please give details.

[ ]  Yes

[ ]  No

[ ]  Unsure

Comments:

Q15: Please provide any further comments or suggestions you may have about the drafts.

About you

Q16: Are you answering as:

[ ]  An individual or professional acting in a private capacity

[ ]  A data protection professional acting in your professional capacity or on behalf of an organisation

[ ]  Other

If you state ‘Other’ please ensure that you specify here:

Q17: Please specify the name of your organisation:

Q18: Please provide a contact email address:

Q19: What sector are you from?

Q20: How did you find out about this consultation?

[ ]  ICO website

[ ]  ICO Twitter account

[ ]  ICO Facebook account

[ ]  ICO LinkedIn account

[ ]  ICO staff member

[ ]  Colleague from your organisation

[ ]  Person outside your organisation

[ ]  Other

Comments:

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