

## ICO consultation on the draft right of access guidance

The right of access (known as subject access) is a fundamental right of the General Data Protection Regulation (GDPR). It allows individuals to find out what personal data is held about them and to obtain a copy of that data. Following on from our initial GDPR guidance on this right (published in April 2018), the ICO has now drafted more detailed guidance which explains in greater detail the rights that individuals have to access their personal data and the obligations on controllers. The draft guidance also explores the special rules involving certain categories of personal data, how to deal with requests involving the personal data of others, and the exemptions that are most likely to apply in practice when handling a request.

We are running a consultation on the draft guidance to gather the views of stakeholders and the public. These views will inform the published version of the guidance by helping us to understand the areas where organisations are seeking further clarity, in particular taking into account their experiences in dealing with subject access requests since May 2018.

If you would like further information about the consultation, please email [SARguidance@ico.org.uk](mailto:SARguidance@ico.org.uk).

Please send us your response by 17:00 on **Wednesday 12 February 2020**.

### Privacy statement

For this consultation, we will publish all responses received from organisations but we will remove any personal data before publication. We will not publish responses received from respondents who have indicated that they are an individual acting in a private capacity (e.g. a member of the public). For more information about what we do with personal data [see our privacy notice](#).

Please note, your responses to this survey will be used to help us with our work on the right of access only. The information will not be used to

consider any regulatory action, and you may respond anonymously should you wish.

Please note that we are using the platform Snap Surveys to gather this information. Any data collected by Snap Surveys for ICO is stored on UK servers. [You can read their Privacy Policy.](#)

Q1 Does the draft guidance cover the relevant issues about the right of access?

Yes

No

Unsure / don't know

If no or unsure/don't know, what other issues would you like to be covered in it?

Q2 Does the draft guidance contain the right level of detail?

Yes

No

Unsure / don't know

If no or unsure/don't know, in what areas should there be more detail within the draft guidance?

Q3 Does the draft guidance contain enough examples?

Yes

No

Unsure / don't know

If no or unsure/don't know, please provide any examples that think should be included in the draft guidance.

Q4 We have found that data protection professionals often struggle with applying and defining 'manifestly unfounded or excessive' subject access requests. We would like to include a wide range of examples from a variety of sectors to help you. Please provide some examples of manifestly unfounded and excessive requests below (if applicable).

Would this be considered excessive?

We had a customer with whom we had an extensive and deteriorating relationship, who requested every piece of correspondence and the transcripts of all call recordings. We had initially provided the information on an encrypted USB stick but once having received this, the individual then requested transcripts and hard copies of everything – despite the original request coming in on email. The final tally amounted to hundreds of pages of information and took up 72 man hours.

Q5 On a scale of 1-5 how useful is the draft guidance?

1 - Not at all useful    2 – Slightly useful    3 – Moderately useful    4 – Very useful    5 – Extremely useful



Q6 Why have you given this score?

The document provides a certain clarity on issues that have concerned us, especially relating to requests from Third Party Online Providers which is an issue that has increasingly concerned us. From the start we have been uncomfortable about using them, both as to their motivation and to the security of their set-ups. We have been delighted to see this covered off unequivocally in the Third Party Online as previous advice from the ICO has been less clear.

Q7 To what extent do you agree that the draft guidance is clear and easy to understand?

Strongly disagree    Disagree    Neither agree nor disagree    Agree    Strongly agree



Q8 Please provide any further comments or suggestions you may have about the draft guidance.

On page 22 you discuss the idea that the purpose of a SAR request is irrelevant. We are concerned about Third party Online providers encouraging frivolous requests (possibly even vexatious) in return for "gifts". The sole reason for requesting the information is to receive a benefit not a need to receive the personal data. We feel without the incentives it is very unlikely the Data Subjects would have made the requests. The Third Party Online Providers have set up this service to make money and for no other reason. We feel that this is not within the spirit of the GDPR and wonder if this element could be addressed in the Third Party Online section?

The guidance relating to asking for clarification of a request within the month is counterproductive. A subject may take the full month to come back to state that they want a fraction of the original request, meanwhile the request has been met fully in order to be time compliant. This would seem to be a huge waste of effort and will not deliver what the data subject actually wants.

Q9 Are you answering as:

An individual acting in a private capacity (eg someone providing their views as a member of the public)

An individual acting in a professional capacity

On behalf of an organisation

Other

Please specify the name of your organisation:

Animal Friends Insurance Services

What sector are you from:

Insurance

Q10 How did you find out about this survey?

ICO Twitter account

ICO Facebook account

ICO LinkedIn account

ICO website

ICO newsletter

ICO staff member

Colleague

Personal/work Twitter account

Personal/work Facebook account

Personal/work LinkedIn account

Other

If other please specify:

Thank you for taking the time to complete the survey.