

## 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 The draft guidance also explores the special rules involving certain categories of personal data, how to deal with requests involving the personal data of others, and the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We are running a consultation on the draft guidance to gather the views of stakeholders and the public.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Q1 Does the draft guidance cover the relevant issues about the right of access?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Q2 Does the draft guidance contain the right level of detail?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?

The level of detail is good in most areas, but it would be beneficial to have more detail on the topics of forced SARs and checking ID for SARs received via social media, as well as an explanation of the phrase "in exercise of a power conferred by an enactment or rule of law" on pages 63 and 73, and more detail on how to apply the serious harm test for education data and social work data.

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 you think should be included in the draft guidance.

An example for forced SARs would be useful.

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).

In the employment sphere, we have come across SARs that have been submitted alongside an ongoing dispute, that are dropped once a settlement is reached. And then sometimes the SAR, or a very similar SAR, has been resubmitted after the settlement has been paid.  
Sometimes we suspect a SAR is unfounded as it is part of a campaign by an individual due to a grudge against the organization, but this is difficult to evidence. The judgement of a grudge may be based on a number of different interactions between the individual and staff members in the organisation, and indicators such as a number of FOIA requests, and unfounded grievances, complaints, and other non-DP requests being submitted at the same/similar time as the SAR(s).

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     |
| <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |

Q6 Why have you given this score?

The guidance covers the types of questions we see most often from clients and is written in plain English. The inclusion of references to other laws, such as Access to Health Records, is very useful, for completeness.

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           |
| <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/>   | <input checked="" type="checkbox"/> | <input type="checkbox"/> |

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

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:

Anthony Collins Solicitors

What sector are you from:

Law

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

Thank you for taking the time to complete the survey.

