

ID. Date of interview
date 12/02/20

ID. Time interview started
start 14:17:31

ID.end Completion date of interview
Date 12/02/20

ID.end Time interview ended
14:24:28

ID. Duration of interview
time 6.95

new case

ICO consultation on the draft right of access guidance

Q1 Does the draft guidance cover the relevant issues about the right of access?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Q2 Does the draft guidance contain the right level of detail?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If no or unsure/don't know, in what areas should there be more detail within the draft guidance?

Q3 Does the draft guidance contain enough examples?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If no or unsure/don't know, please provide any examples that think should be included in the draft guidance.

It would be helpful if the guidance contained more examples of the manifestly unfounded or excessive for both organisations and data subjects.

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).

Please see our response to Q8.

Q5 On a scale of 1-5 how useful is the draft guidance?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="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>

Q6 Why have you given this score?

Parts of the Guidance are contradictory, and the content could do more to reflect a risk based approach.

Q7 To what extent do you agree that the draft guidance is clear and easy to understand?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="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>

Q8 Please provide any further comments or suggestions you may have about the draft guidance.

We propose two key changes to the draft Guidance. Clarification and timescales Page 23 of the draft Guidance discusses the circumstances in which a request can be subject to clarification. However, the Guidance then states that requests for clarification do not have the effect of "stopping the clock" in terms of the statutory timescales for complying with the request. In our view this approach significantly undermines the ability of a controller to clarify a request, even when seen in the context of the availability of the extended timescale for compliance of an additional two months. In many cases requesters either delay their response to a request for clarification or simply do not respond at all. The "excessive" exemption Whilst the draft Guidance on the application of the "excessive" exemption gives some clear examples of what may constitute an excessive request i.e. a repeat or overlap request, it would benefit from more examples of what might also fall within the exemption. We are also of the view that the current references to when a large amount of information may or may not be considered excessive would benefit from greater clarity and detail. In particular, we are strongly of the view that an excessive request includes a request which results in a large volume of information in circumstances where the requester has either failed to narrow the scope of the request and/or has failed to explain the grounds for why he/she is making the request, when invited to do so. In short, there must be a consideration of whether the request is or is not reasonable. In support of our view above we rely on two key points: Firstly, the Collins Dictionary states the following: "If you describe the amount or level of something as excessive, you disapprove of it because it is more or higher than is necessary or reasonable" Therefore it is clear that the meaning of

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:

BBC

What sector are you from:

Media

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: