

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Q1 Does the draft guidance cover the relevant issues about the right of access?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Q2 Does the draft guidance contain the right level of detail?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If no or unsure/don't know, in what areas should there be more detail within the draft guidance?

Our community would welcome further guidance on how companies can define the scope of the DSAR search, and how to deal with manifestly unfounded or excessive DSARs. This is particularly important for SMEs, which have limited resources and limited available counsel, and can bear overwhelming operational and financial in processing DSARs.

Q3 Does the draft guidance contain enough examples?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If no or unsure/don't know, please provide any examples that you think should be included in the draft guidance.

Our community would tremendously benefit from guidance/ or criteria for proportionality. Currently our members miss any legal certainty with regards to scoping down the excessive and disingenuously submitted DSARs. In order to meet their obligations as data controllers in an efficient way for both, themselves and the data subject/requestor, our members would appreciate direction on how to determine relevant data to be provided.

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).

One company highlighted an instance where an additional DSAR was submitted in order to suspend an inactivity which could have led to a close out of a court proceeding.

Another indicator that privacy is not at the core of the DSAR is seen in the fact that requests will be submitted mainly in course of grievance processes or that data subjects are not willing to provide further indication of what information is of interest to them. Further guidance on how to tackle such situations is needed.

Q5 On a scale of 1-5 how useful is the draft guidance?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 guidance covers important aspects such as timing, exemptions, format of response. However, SMEs in particular would benefit from practical guidance on how to avoid becoming overwhelmed by excessive or unfounded requests in a manner that does not incur high resources and costs on the business.

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.

Feedback from our business community showed that further guidance on what constitutes proportionality in carrying out searches in order to locate an individual's personal data is needed.

For example, even when data controllers can rely on electronic searches, human intervention is more often than not needed to evaluate whether the data should or should not be disclosed. The ICO should provide clear instructions regarding to what extent time and cost can be used to define what constitutes a proportional response to a DSAR.

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:

BritishAmerican Business

What sector are you from:

Business services

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.

