

ID. Date of interview
date 12/02/20

ID. Time interview started
start 15:47:06

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

ID.end Time interview ended
16:38:13

ID. Duration of interview
time 51.12

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Q1 Does the draft guidance cover the relevant issues about the right of access?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Q2 Does the draft guidance contain the right level of detail?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If no or unsure/don't know, in what areas should there be more detail within the draft guidance?

It would be helpful to see some further detail, especially for smaller organisations, on how size and resources can be taken into account when determining what steps should be taken to prepare for a SAR. The guidance should also refer to the application of the principles of proportionality to the exercise of data subject rights. Further detail would be useful in relation to personal data kept on staff devices - in particular, the extent (if any) to which data controllers are obliged to provide this if these devices are not meant to be used for work purposes e.g. where a data subject has requested copies of texts/WhatsApp messages. In the legal professional privilege section, it might be useful to point out that privilege can be lost in certain circumstances e.g. where legal advice has been forwarded to a third party.

Q3 Does the draft guidance contain enough examples?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If no or unsure/don't know, please provide any examples that think should be included in the draft guidance.

In relation to the section on 'requests for information about children or young people' it would be helpful to have an example of how data controllers might demonstrate that allowing a parent or guardian to exercise a child's rights on their behalf was evidently in the best interests of the child. More examples of where a request would be manifestly unfounded because the individual clearly has no intention of exercising their right of access would also be useful. It can currently be difficult to give clients clear guidance on when this might apply. With regards to requests that are 'malicious in intent', the examples in the guidance refer to an intent 'to cause disruption', 'unsubstantiated accusations' and individuals 'targeting a particular employee against whom they have some personal grudge'. Some more detail in relation to these would be helpful - particularly where the employee is also raising a grievance, is in the middle of a disciplinary process, or is threatening litigation.

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).

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?

The guidance is clearly drafted but further detail is needed in some areas, in particular the section on manifestly unfounded or excessive SARs. No reference has been made to the principle of proportionality.

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

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:

Capital Law Limited

What sector are you from:

Legal

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: