

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 The draft guidance also explores the special rules involving certain categories of personal data, how to deal with requests involving the personal data of others, and the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We are running a consultation on the draft guidance to gather the views of stakeholders and the public.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.

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Q1 Does the draft guidance cover the relevant issues about the right of access?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Q2 Does the draft guidance contain the right level of detail?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 you 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).

Requests for the entirety of a subject's personal data during the time of their employment by the controller. In this case we would try and get the subject to narrow down their requests to what they need to meet their objective, but if they do not it may be impractical to supply them with all this data. This is despite effective information retrieval systems – the sheer bulk of email, document systems etc. may mean it would take many thousands of staff hours to redact the data applying the exemptions in the DPA.

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?

It covers the ground effectively and is clearly expressed.

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

It should make it clear that there are other SAR regimes apart from the GDPR (i.e. DPA Part 3 and 4), although there will be similarities they are not identical.

The section on when is a SAR complex was particularly helpful.

It would be worth covering the situation where you receive a SAR and other legal disclosure procedures are under way or anticipated e.g. an employment tribunal,

Bottom of page 23 – I don't see why you can't ask the requester to narrow their request, as long as they have an option not to do so, and you don't make assumptions, This would help both parties. There seems no legislative bar to this.

Page 36 – the section on excessive and manifestly unfounded requests while generally helpful does not seem to directly address the Dawson Daymer caselaw, in that a request may involve so much work by the controller as to be disproportionate.

Page 44 – it would be useful to address the situation where statements have been given in confidence during internal disciplinary or grievance procedures – I think the assumption should be these should be confidential and not disclosed to avoid undermining this important employment protection.

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 organization:

GCHQ, SIS and MI5, the UK Intelligence Community

What sector are you from:

Central government

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.

