

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 The draft guidance also explores the special rules involving certain categories of personal data, how to deal with requests involving the personal data of others, and the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We are running a consultation on the draft guidance to gather the views of stakeholders and the public.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Q1 Does the draft guidance cover the relevant issues about the right of access?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

Guidance does not include any information or a link to Article 89 which details the exemptions for statistics and research data, of which subject access rights are one.

A section on handling SARs in employment context would be helpful. These are usually sensitive and complex cases.

Exemptions – DPA 2018 Sch 2 Part 2 lists a range of exemptions. It would be helpful to have those turned into guidance so that we have a simple way of justifying to data subjects why we have applied an exemption without having to point at the Act. This would be particularly helpful in clarifying where the 'management forecasting' exemption applies.

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?

We would also like to see additional information on call recording and CCTV under section 'What should we do if the request involves info about other people', pg 39

More clarity on Responding to a request – suggested number of days are reasonable to request the ID & verification

More clarity on 'manifestly unfounded and unreasonable', especially in the case of repeat SARs covering slightly different information or timeframes.

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.

We would like to see an example on how to present information ensuring easy to understanding by the child

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

Q6 Why have you given this score?

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.

Include clear guidance on both the definition of a month when responding, and whether we can pause the month deadline when awaiting necessary information (ID) not given with the initial SAR.

Q9 Are you answering as:

On behalf of an organisation

Please specify the name of your organisation:

Scottish Government

What sector are you from:

Public sector

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:

Thank you for taking the time to complete the survey.