

ID.

date

Date of interview

13/12/19

ID.

start

Time interview started

15:23:58

ID.end

Date

Completion date of interview

13/12/19

ID.end

Time interview ended

16:05:55

ID.

time

Duration of interview

41.95

Start of new case

Q1 Does the draft guidance cover the relevant issues about the right of access?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Q2 Does the draft guidance contain the right level of detail?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If no or unsure/don't know, in what areas should there be more detail within the draft guidance?

The guidance does not cover the situation where a SAR is clearly being made but there is no clarity as to what the individual is looking for (i.e. they keep changing what information they want, are unclear as to what specifically they are looking for). Our understanding is that previously the time limit did not start to run until the SAR was clarified (on the basis that it is not a valid request and it is impossible to process it) but this appears to no longer be the case. It would be helpful to understand the basis on which the position has changed. I fear it will result in a lot of confusion, and organisations will instead seek an extension if they are unable to process the request within one month. The guidance does not make it clear whether the time limit for a response starts to run when it is made on behalf of a third party before any required authority from that third party is received. For example, in a school context, if a parent makes a request on behalf of their child, but the child has capacity to understand his/her own data rights, a school will usually seek consent from the pupil. It is our understanding that the request is not valid and the time limit will not start to run until such consent is received, but it would be helpful if the guidance could confirm this. The guidance does not go into enough detail about the assumption of reasonableness for education related workers and whether this assumption is rebuttable. It would be helpful if the guidance could clarify whether it would only be reasonable to disclose education related workers' data when they are acting in their professional capacity. There is no further guidance on what the 'serious harm test' is.

Q3 Does the draft guidance contain enough examples?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.

The guidance states that a requester is entitled to ask for all information held and organisations must make 'reasonable searches' for the information covered in the request. It would be helpful to have an example of what 'reasonable searches' might mean, in particular in relation for searches on online systems when the requester has a common name. An example of when the assumption of reasonableness for education workers may not apply would be helpful, as would an example of when the 'serious harm test' might be applied.

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).

A disgruntled parent who has two (or more) children at a school makes a SAR for everything the school holds on each member of the family - the family name is [REDACTED] and the parent has specifically asked for searches to be made under this name. The schools asks the parent to clarify the request but they refuse and even say they are trying to make life difficult for the school as they are not looking for anything in particular. *please note it is not necessarily our view that this amounts to a manifestly unfounded or excessive request, but it is the kind of request we are often asked to advise on*

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?

It is comprehensive but is not tailored to any specific sector. I work in the education sector and schools are experiencing a high number of SARs at the moment. Schools would welcome more specific advice and examples.

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.

I was hoping for greater clarity on the points raised on the earlier page of this survey. It is more detailed than the previous advice which is helpful, but as stated above, it is general and it would be helpful if the ICO could produce specific advice for schools with useful examples. A lot of the examples given are not relevant to the education sector.

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:

stone king llp

What sector are you from:

legal (working in the education 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: