

Is a whistleblower protected if someone makes a SAR?

Yes. An organisation can (and should) withhold information about the identity of a whistleblower unless they have that whistleblower's consent, or it's reasonable to disclose it without consent.

There may be situations when someone's data protection rights conflict with legal protections for whistleblowers. For example, an employee may make a whistleblowing disclosure to their employer that contains information about another employee. The other employee might then make a subject access request to the employer, which would in theory include the identity of the whistleblower.

However, there's an exemption in the DPA 2018 that allows an organisation to withhold information about someone else. An organisation should consider applying this exemption to protect the identity of the whistleblower.

For more information see our guidance: [What should we do if the request involves information about other individuals? | ICO](#)

DPDC 20
23

**EMPOWERING YOU
THROUGH INFORMATION**

How to deal with subject access requests (SARs) as an employer

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About this workshop

We want to...



- Help you to understand your options
- Give you confidence in dealing with SARs
- Help you to comply with your legal obligations

We will...



- Introduce the basics of the SAR process
- Discuss three employment-specific case studies
- Provide time for questions and comments at the end

You can...



- Put comments and questions in the chat throughout
- See our guidance for more information

Useful links

SAR Q&As for employers

<https://ico.org.uk/for-organisations/uk-gdpr-guidance-and-resources/employers/subject-access-request-q-and-as-for-employers/>

Right of access

<https://ico.org.uk/for-organisations/uk-gdpr-guidance-and-resources/individual-rights/right-of-access/>

What is a subject access request?

A request that a person makes for their personal information (or that someone makes on their behalf). This can be made verbally or in writing.

You must:

- Respond on time
- Conduct reasonable searches
- Provide the information unless exemptions apply



How do you prepare for SARs?

What personal information do you process?

Is it kept up to date?

Is it searchable and clearly labelled?

Do you have a retention policy?

Are staff adequately trained?

Do your staff use personal devices for work?

Do any third party service providers process personal data on your behalf?



How long do we have to respond?

When does the time limit start?

What if we need to confirm the person's identity?

What if we decide to charge a fee for a manifestly unfounded or excessive request?



Case study 1

'Can I have a copy of all of the information you hold about my case?'

You receive this SAR from a former employee who:

- was employed by you for 15 years; and
- is suing you on grounds of unfair dismissal

How do you respond?

How can we deal with an unclear request?

- You can ask for clarification before you respond
- The time limit is paused until you receive clarification – ‘stopping the clock’
- You should only ‘stop the clock’ and ask for clarification if:
 - it is genuinely required to respond to the SAR **AND**
 - you have a large amount of information about the person



Case study 1 – clarification received

'Can I have a copy of all of the information you hold about me?'

The person has now clarified their request, and as you begin searching you discover that:

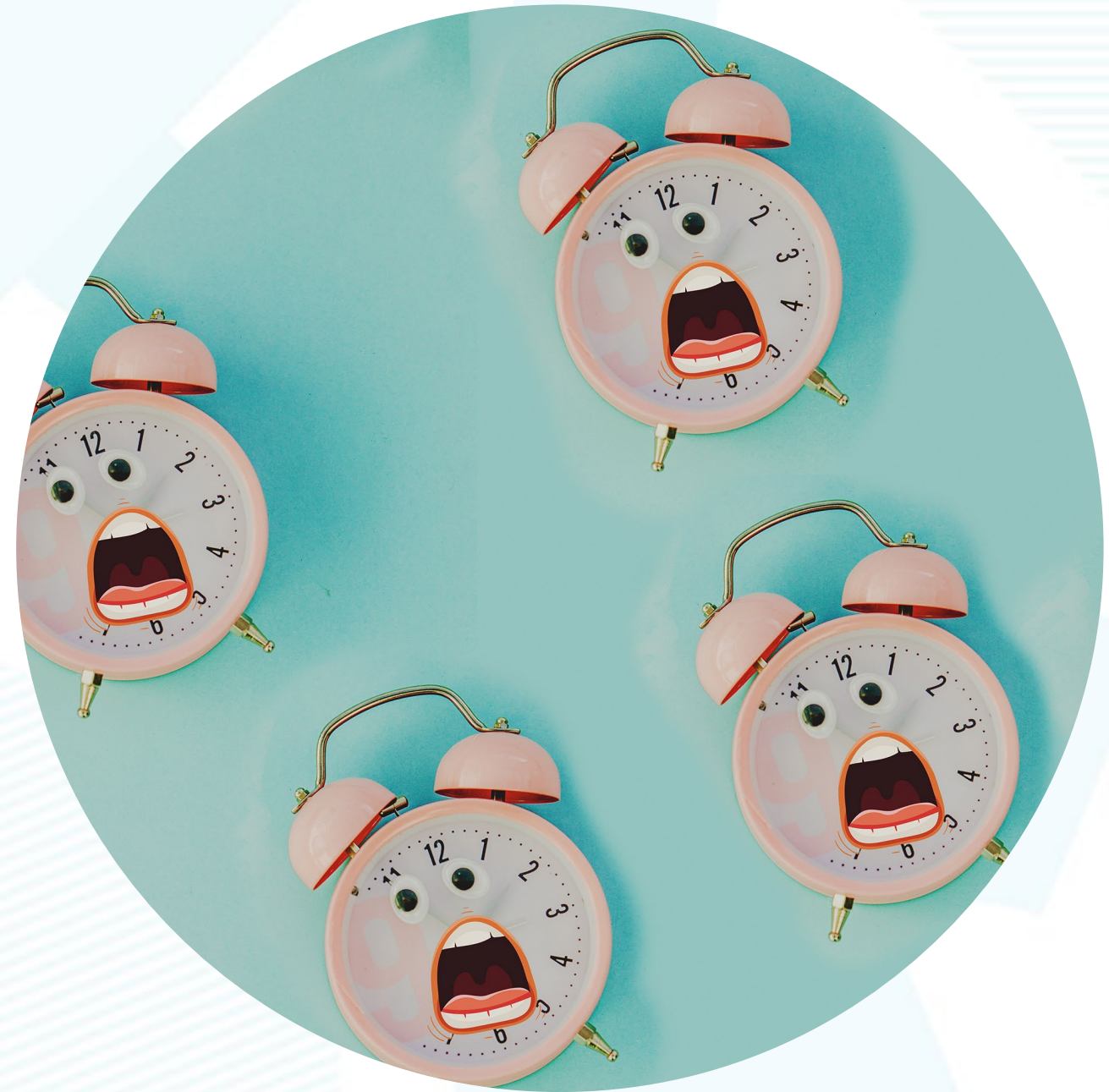
- you hold a lot of information about them; and
- there are several complex issues for you to consider

How do you respond?

Can we extend the time limit?

You can extend the time limit by up to two months if:

- the request is complex; **or**
- the person has made multiple requests.



Reasonable searches



What kinds of searches?



Where might you look?



Who might you ask?

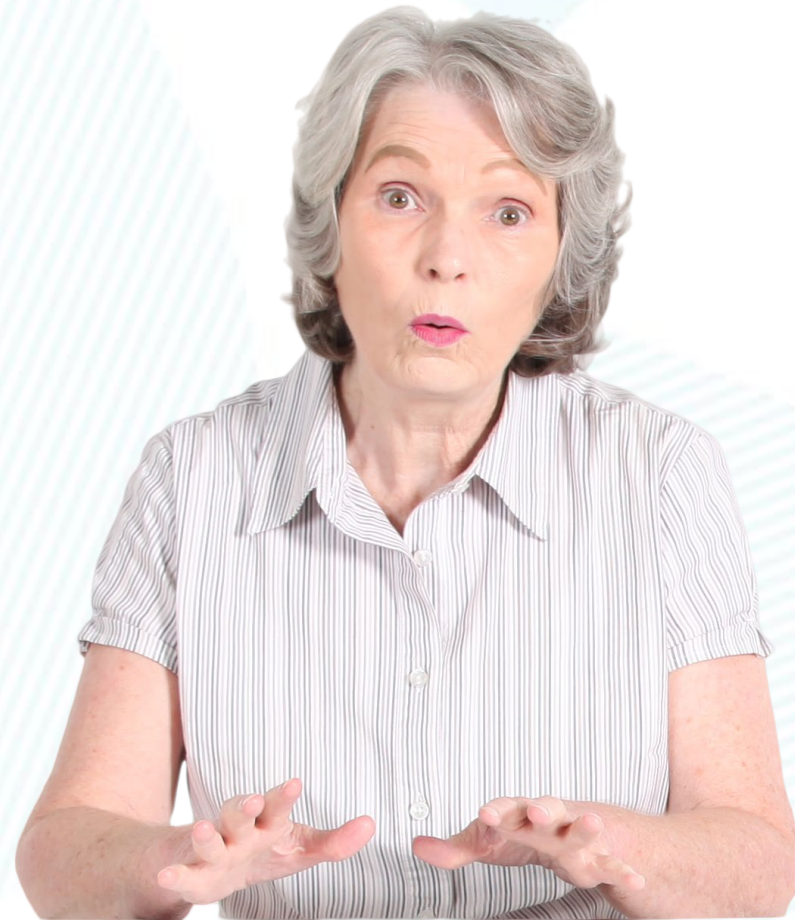


Refusing to provide information

Won't they get this during the proceedings?



Maybe we can use an exemption?



Surely this is excessive?



Refusing to provide information

Won't they get this during the proceedings?



- They may get some of their information during proceedings
- There is no exemption for information that is available under another process
- You still have to respond to the SAR
- A SAR only allows a person to access their own personal information

Refusing to provide information

Maybe we can use
an exemption?



You might consider the following exemptions:

- Legal professional privilege
- Negotiations with the person
- Information about other people
- Information that is manifestly unfounded or excessive

Refusing to provide information

Surely this is excessive?



You should consider if the request is:

- clearly or obviously unreasonable; and
- proportionate when balanced with the burden or costs involved

It's important to consider all the circumstances of the request

Case study 2

'Can I have a copy of all the information about the complaint made about me on 10 March 2023?'

You receive this SAR from a current employee who:

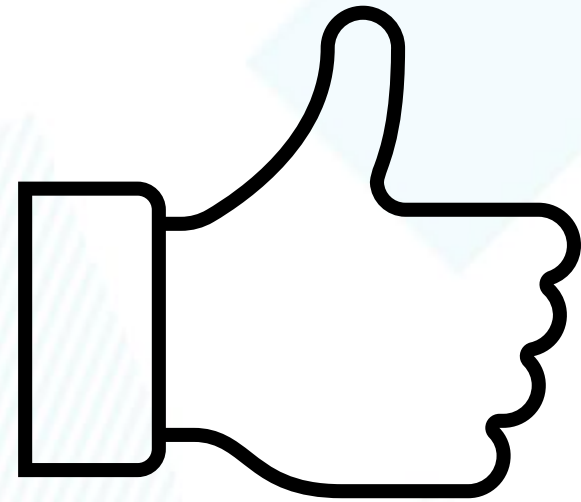
- was recently subject to a grievance process following a complaint made against them by a colleague; and
- wants to appeal the decision.

How do you respond?

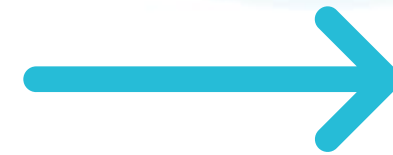
Third party personal information



Redact?



Consent?



Disclose?

Case study 3

'Can I have a copy of all the information you hold about me?'

You receive this SAR from a candidate who:

- was offered a job by you, subject to satisfactory references.
- **But** their current employer provided a confidential reference so unfavourable that you withdrew the job offer.

How do you respond?

Things to consider



What information do you hold?



Do we have to supply information the person already has?



What about pseudonymisation?

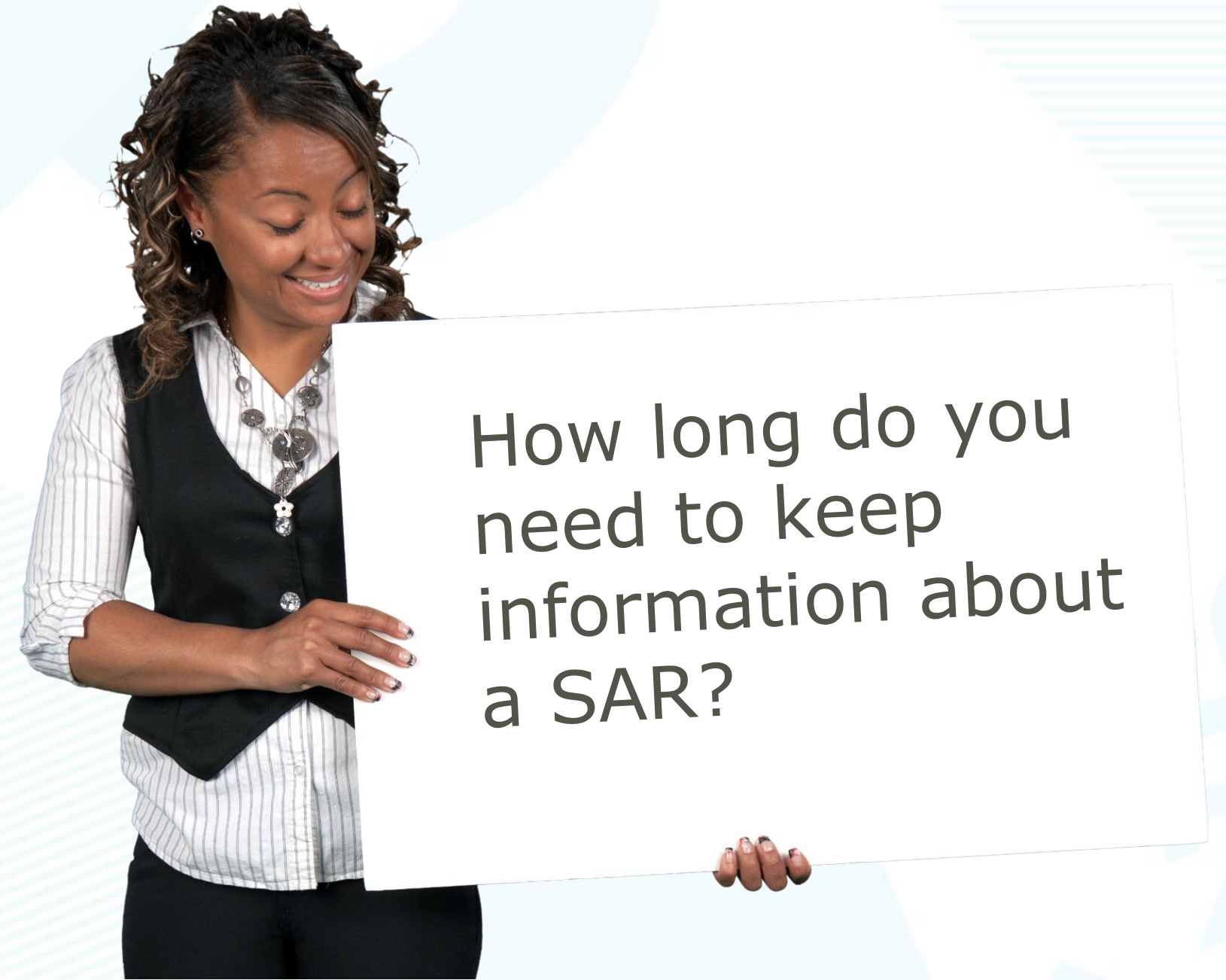
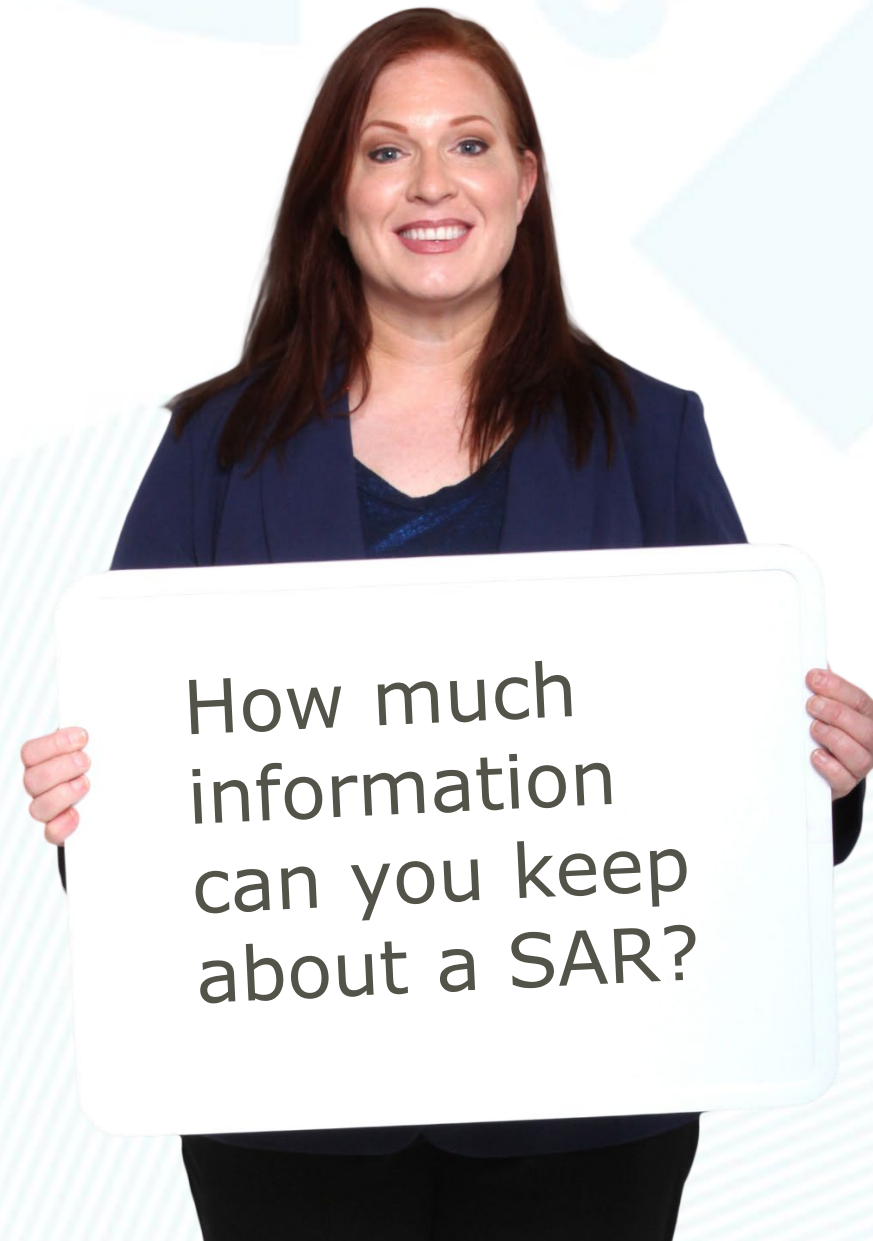


Is there any third party information?



How do we deal with confidential references?

Other things to think about



How do you record the SAR process?



- Keep relevant records
- Consider the retention period for SAR information
- Think about who can access this information
- It is important that the information is in an accessible format

Remember that SAR records can also be requested as part of a SAR!

Useful links

SAR Q&As for employers

<https://ico.org.uk/for-organisations/uk-gdpr-guidance-and-resources/employers/subject-access-request-q-and-as-for-employers/>

Right of access

<https://ico.org.uk/for-organisations/uk-gdpr-guidance-and-resources/individual-rights/right-of-access/>

Questions?

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How to deal with SARs as an employer: Script

Slide 1: Introduction

Emily's introduction

This year the ICO published subject access request Q&As specifically aimed at employers. This guidance has been designed to help employers deal with subject access requests, or 'SARs' (as they're commonly known).

Responding to SARs is a legal requirement, but we know that dealing with them is not easy. They can be time-consuming and hard work, but they're also important. Giving people access to their information empowers them and allows them to exercise their rights. Providing this information can offer reassurance and helps people to understand how their information is being used.

In an employment context SARs can be particularly complex, resource-intensive, and high volume. They are often made in circumstances where there is some sort of ongoing grievance or dispute. They can also involve sensitive information. It is because we recognise how difficult these can be, that we have published new guidance in this area.

Today's workshop will expand on some of the topics covered in this guidance, including examples of scenarios that employers might face when dealing with SARs made by current and former employees, and job applicants. It will be delivered by Sarah, who deals with information access requests at the ICO, as well as Caroline and Julie, who develop guidance for organisations.

Slide 2: Intro [Sarah]

Thank you Emily. Hello and thank you for attending our workshop.

(next slide please)

Next slide please.

Slide 3: About this workshop [Sarah]

As Emily has explained, this workshop is about helping you as an employer, deal with SARs made by employees and job applicants. We want to:

- help you to understand the options that you have available when dealing with SARs in an employment context;

- give you confidence in using these options effectively; and
- help you comply with your duty to give people their information when they ask for it.

We're going to do this by:

- introducing the basics of the SAR process.
- discussing three employment-based case studies
- providing the opportunity to submit questions and comments

We'll speak for approximately 35 minutes and at the end we'll answer questions. You can put your comments and questions in the chat as we go along as well as at the end. Please 'like' your favourites as this will help us to prioritise which topics to cover at the end. It would also be helpful if you can let us know what kind of organisation you work for, so that we know a bit more about you as our audience. Finally, please do check our guidance in this area, as this will cover many commonly asked questions and issues.

Next slide please.

Slide 4: Useful links [Sarah]

The information on these web pages provides more details about the topics we will discuss today. You can find both sets of guidance by searching our website, and we will provide the link again at the end.

Next slide please.

Slide 5: What is a subject access request? [Sarah]

As some of you may already be aware, a SAR is a person's request for their personal information. In other words, information that is specifically about them. They may make the request themselves, or ask someone to make it on their behalf. A SAR does not have to be made in writing – it can be made by phone or in person, or even via social media. Therefore, it is important that everyone in your organisation knows how to recognise a SAR and how this might be received, including anyone who monitors your organisation's social media accounts.

You have a legal obligation to respond to SARs, and you are required to respond on time, conduct reasonable searches and provide the information unless a relevant exemption applies. People are entitled to their information free of charge and you can only consider charging a fee in specific circumstances. We'll talk more about this and other parts of the SAR process later, but first, let's take a step back and take a quick look at

how you might prepare for SARs, particularly those made in an employment context.

Next slide.

Slide 6: How do you prepare for SARs? [Sarah]

Your ability to deal effectively with SARs will depend on how your organisation manages its information. In an employment context it is helpful to think about what personal information your organisation processes about current and former employees and job applicants, where it is stored and who is responsible for keeping it accurate and up to date.

If files are not clearly labelled and searchable this may make dealing with SARs more difficult. It is also worth considering what information you need to keep and for how long. Do you have a policy on retention? You need to think about how long you will keep information about job applications and any employee records, particularly after employees leave the organisation.

You may have lots of staff dealing with personal information so it's important that they have sufficient training and are aware of their legal obligations. They need to be aware that any personal information they deal with at work could be requested, including anything contained in their correspondence and on devices or accounts they use for work purposes. They also need to know how to recognise a SAR and how to handle this (or who to pass it on to).

If you use third-party service providers to process personal information on your organisation's behalf, for example an occupational health provider, you need to be able to obtain this from them for SARs. Remember that data controllers, rather than data processors, who are responsible for SAR compliance.

This is not a workshop about record keeping, but dealing with subject access requests requires an understanding of what information you hold and how to locate personal information effectively. Considering these questions and proactively addressing any record keeping issues is important because you have only a limited amount of time to respond to a SAR. Caroline is going to say a bit more about this before introducing our first case study.

Slide 7: How long do we have to respond? [Caroline]

Thanks Sarah. Next slide please.

In general, you must respond to a SAR as soon as possible, and within one month.

In most cases, the time limit starts on the day the request is received by your organisation. So even if it goes to the wrong person or the wrong department, it starts on the day it is received, whether that's by email, post, verbally, or any other means. So it's really important that your staff are able to identify a SAR and you have a process in place to ensure that it reaches the right person.

Although the time limit usually starts on the day you receive the request, if you need to confirm the person's identity, it starts as soon as you receive the information you need to allow you to do that, **or** if you're charging a fee, it begins as soon as you receive the fee. You should ask for what you need as soon as possible.

Remember that you can only charge a fee in very limited circumstances – for example, for responding to a manifestly unfounded or excessive request – and we'll talk about these types of requests in more detail a bit later. In general, you must provide people with their information free of charge.

You should calculate the time limit from the day you receive the request or the other information you need until the corresponding calendar date in the next month. So for example, if it arrives on 3rd October, the corresponding date for a response is 3rd November. It's a little less clear if the corresponding date doesn't fall on a working day, and our right of access guidance explains in a lot more detail how to calculate time limits, so please have a look at that if you're not sure.

You should only ask a person to confirm their identity if you really need to. It's important though that you don't collect more information than you need. For example, you could check details you already have on file for them, like their date of birth or National Insurance number, so you're not collecting additional details about them.

Remember that just because the requester is your employee or former employee, does not mean that their identity will be obvious to you from their request. It will really depend on the circumstances. For example, whether they've used their work email or a personal email, or if they've left your organisation a long time ago.

Next slide please.

Slide 8: Case study 1 [Caroline]

As Sarah mentioned, we're going to talk you through a number of case studies. In our first case study, you receive a SAR from a former employee requesting 'all the information you hold about my case.'

You employed this person for 15 years and you're aware that they are suing you on grounds of unfair dismissal.

The first thing you might notice about this request is that it's not very clear. You might not know what this person means by 'my case'. They might be referring to the potential legal proceedings, but they could also be referring to another matter or dispute. As you've employed this person for a long time, this request could relate to any number of issues.

Next slide please.

Slide 9: How can we deal with an unclear request? [Caroline]

If a request is unclear, it's usually a good idea to ask the person to explain exactly what they are looking for. In most cases, you will still need to respond within the original time limit of one month.

However, you can stop the clock and ask for clarification if you can meet two criteria:

- one, you genuinely need clarification to be able to answer the request AND
- two, you have a high volume of information about the person.

'Stopping the clock' essentially means you can pause the time limit until the person responds to your request for clarification.

What amounts to a high volume of information is likely to vary depending on the size of your organisation and your available resources. But remember that you should not stop the clock and ask for clarification on a routine basis.

If you do need to ask for clarification, you should do this as soon as possible. If you wait until a few days before the deadline, and the person responds on the same day, you'll still need to respond by the original time limit. So this really isn't a way of extending the deadline for responding.

On the other hand, if the requester ignores your request for clarification, you can close the request after a reasonable period of time. What is reasonable ultimately depends on the circumstances, but this will usually be after one month.

In the case study, the requester has been employed by you for a long time and as it's not clear what they mean by 'my case' you could stop the clock to ask for clarification in this situation.

Next slide please.

Slide 10: Case study 1 – clarification received [Caroline]

You've now received clarification. The person has explained that they in fact want all of their information. This is fine. The purpose of stopping the clock is to clarify the request not to extend the time limit or reduce the amount of information you need to search. A person is entitled to ask for all of their information.

As you begin searching, you discover that you hold a lot of information about this person, and you need to consider a number of complex issues.

Next slide please.

Slide 11: Can we extend the time limit? [Caroline]

You can extend the deadline for a request by up to a further two months if:

- it is complex; or
- you've received a number of requests from the same person that you need to deal with concurrently, including other types of requests relating to their rights, for example, if they'd also asked you to delete some information you hold about them, in addition to making a SAR.

In the case study, the person has not made other requests. However, you believe that the SAR might be complex and you want to extend the time limit to fully address the issues before you respond.

In this scenario, it may be complex if:

- you have to carry out very technical or difficult searches to locate the information – if you can obtain and provide the information quickly and easily, it's unlikely to be complex, even if you have a high volume of information about the person; or
- you need to obtain specialist legal advice – for example, if some of the information relates to the legal proceedings, you might need to obtain advice from your lawyer before disclosing it; or
- there is a high volume of information for you to consider, and you need to apply an exemption to information about other people or there are ongoing negotiations and responding to the SAR could harm those negotiations. But just because you are

processing a high volume of information about the person, won't automatically mean the request is complex,. There needs to be additional factors like the ones I've just mentioned.

Remember that a request isn't complex just because your record-keeping isn't good or you haven't filed the information properly.

If you are extending the deadline you should let the requester know within one month of receiving the request, and provide them with updates where possible.

Again you can read more about complex requests in our right of access guidance.

Sarah will now explain in a bit more detail what we mean by 'reasonable searches'.

Slide 12: Reasonable searches? [\[Sarah\]](#)

You are required to perform reasonable searches to locate the information. What is reasonable may depend on the circumstances. Here we have a request that potentially covers 15 years of information. It may not be practical or proportionate to perform exhaustive searches.

So, what could you look for?

You could use the search terms most likely to locate the information. The requester's name would be a good starting point. If they had specified any criteria in the request, for example a date range or subject matter, you could use this as well. Performing searches using a person's initials may not necessarily be reasonable, particularly if these appear in common acronyms or other words.

But where might you look for this information?

You could target the places that the information is most likely to be held, e.g. the individual's HR file, information held by their department and systems they used as an employee. It may not be reasonable to search all your information, particularly if this involves a significant investment of resources and there are many locations that are unlikely to contain the requester's information.

What about personal devices? These should not be used for work purposes, but if these do contain work information and it relates to the requester, this may be in scope of a SAR.

Sometimes it may not be obvious where to look, or you may need to search files that are not readily accessible to you. In these cases, you also need to think about who to ask. Who might hold or have access to the relevant information within your organisation?

You could consult with the requester's manager or former manager and HR staff, rather than everyone in the organisation, about information they hold. It may not be reasonable or practical to check with everyone in your organisation. It's also important to consider whether you have a duty of confidentiality to your employee or former employee in relation to particular matters. Who needs to know about the request so that they can assist with the searches? This is particularly relevant if the information in scope relates to sensitive matters such as the dismissal in this example .

If a third-party provider processes information on your behalf, such as an occupational health provider, then information they hold may fall within scope of a SAR. They will need to be made aware of this and you will need to be able to access the information if a request is made. This should be covered in your controller/ processor agreement.

Finally, while there is a high expectation that you make efforts to search for information, you are not required to conduct searches that would be unreasonable or disproportionate. You can read more about what efforts you should make to find information in our right of access guidance (which you'll find if you follow the link we mentioned at the start).

To summarise, you are required to conduct reasonable searches. What is reasonable will depend on the circumstances. You need to consider what to search for and what keywords or searches are most likely to locate the information. You also need to consider where this information is likely to be stored, who you need to ask and any duty of confidentiality where the request relates to sensitive matters.

So, what happens next? Do you have to provide all the information? Are there any circumstances in which you can refuse? Caroline will look at some of the factors you may need to consider in the next few slides.

Slide 13: Refusing to provide information 1 [Caroline]

Thanks Sarah. Next slide please.

We know that if a SAR arrives on your desk, it can be very stressful, especially if you know it's going to be tricky and take up a lot of your time. At this point, we'd like to remind you that you should provide people with their personal information where this is possible. As you're aware, dealing with SARs is a legal obligation, and therefore an important part of

your work as well. It's also really important to the person who is asking for their information.

In the next few slides, we're going to explore when you may be able to refuse to provide some or all of the information when responding to a SAR. We're going to specifically look at applying exemptions in the context of Case study 1 – just to remind you – it's where the person who worked for you for 15 years has asked for all of their information, and they're planning to bring legal proceedings for unfair dismissal.

Next slide please.

Slide 14: Refusing to provide information 2 [Caroline]

If this person is bringing legal action, they are likely to get some of their information in the course of the proceedings. However, the fact that there is another way for them to access their information, is not an exemption and you still need to deal with the SAR.

Remember that the SAR process is separate to court disclosure and the information they will get under a SAR is likely to be different from what they might get during proceedings.

First of all, they won't get all of their information in the course of proceedings. They might get information that is relevant to the case, but you are likely to hold additional material about them on your file. And remember, they have asked you to provide 'all' of their information.

Keep in mind that a SAR only allows people to access their own personal information – not details about other people. It also doesn't give them a right to original documents – only their personal information contained within those documents. So anything they get using the SAR process may have limited use for the proceedings anyway, as you may not be able to provide them with anything that relates to the other people involved. You can of course explain this to them, but they are still entitled to ask you to respond to their SAR.

As I mentioned, there is no specific exemption for information that may be disclosed through another process. However, there may be other relevant exemptions that you can use and we'll explore these next.

Next slide please.

Slide 15: Refusing to provide information 3 [Caroline]

You can refuse to provide information if an exemption applies. Here we've set out some of the most relevant exemptions to this case study,

although there are other exemptions that may be relevant depending on the circumstances.

In Case Study 1, some of the information you have might be subject to legal professional privilege which means it could be exempt from disclosure. You can read more about how this exemption works in our right of access guidance that we linked to earlier.

If you're trying to settle the employee's claim, and negotiations are underway, you may be able to rely on the negotiations exemption but only to the extent that providing some of the information would prejudice – or harm – the negotiations. Again you can read more about this in our right of access guidance and SAR Q&As for employers.

If the information also relates to other people, it may be exempt from disclosure, and Sarah will talk about this in more detail later on.

You can refuse to respond to a request if it's manifestly unfounded. This means that it must be clear and obvious that a person has no real wish to access their information, or it is malicious in nature, or they are making the request only to harass an organisation. In this scenario, there is no evidence that this is the case.

The fact that someone is taking legal action and will get some of their information during proceedings doesn't mean that their request is manifestly unfounded, or they don't have a good reason for making a SAR.

For example, they might want their information to get initial legal advice to decide whether they want to bring a claim. Remember that people are often motivated to make a SAR where there is a dispute of some sort. And just because you're not on good terms with someone does not mean that they are asking for their information just to cause disruption. It's important that you take a reasonable approach and you're able to justify your decision.

If you want to rely on the manifestly unfounded exemption, you must be able to prove that a person is not genuinely looking to access their information. In this case, you are likely to need more evidence such as examples of correspondence, or evidence of harassment to support an argument that the request is manifestly unfounded.

Next slide please.

Slide 16: Refusing to provide information 3 [Caroline]

An excessive request is one that is clearly or obviously unreasonable when balanced with the burden or costs involved. However, a request is not automatically excessive just because there's a high volume of information. You should consider each request on a case by case basis, and again ensure that any decision to deem a request as excessive is fair and reasonable.

Whether a request is excessive can depend on a number of factors including the size of your organisation and the resources available to you. In general, it's good practice to think about alternative options before you deem a request as excessive. For example, whether it's appropriate to ask for clarification first, or carry out reasonable searches instead. The fact you've already explored and considered other options might also help add weight to a decision to deem a request as excessive.

If you have already provided the exact same information to the person under another process, for example, during legal proceedings, this could be a factor to consider in deciding whether the request is excessive. But it won't automatically make it excessive- you need to carefully consider the circumstances.

However, the fact that a person has another route of access available to them, and the fact that they're likely to get the same information during legal proceedings is not a factor to consider in deeming a request excessive, unless they have already received the information.

Remember that if you have deemed a request to be either manifestly unfounded or excessive, you can still respond and charge a fee. You can read more about manifestly unfounded and excessive requests, and how to calculate the fee for responding to them in our right of access guidance.

Sarah will now talk you through the second case study.

Slide 17: Case study 2 [\[Sarah\]](#)

This request relates to a complaint made against the requester. They've clearly stated what complaint they are referring to by providing the date, although if more than one complaint has been made on this date, you would need to seek clarification. You may also need to consider whether the information you hold about this complaint is complex, for example if you hold a large volume of information or need to consider lots of complicated or potentially exempt information. If so, you may be able to consider extending the deadline by a further two months.

The information in this case may be complex for several reasons. Complaints involve multiple people, including the complainant, the

complained about party, witnesses, their representatives and anyone else involved. Therefore, the information may be about other people as well as the requester. Even if names are not used, the people involved may still be identifiable, particularly if information refers to something they have said or done, or implies something about their involvement or the circumstances. This may complicate searches and make it more difficult or time consuming to check the information, so there may be justification for an extension.

If the requester has a deadline by which to appeal the outcome of their complaint, this may be sooner than the statutory timeframe for the SAR, particularly if an extension is applied.

While it is good practice to minimise delays and respond to SARs as soon as possible, it may not be practical or reasonable to respond by the requester's own appeal deadline. Remember that when responding to SARs you are required to comply with the statutory deadline for SARs. This is a separate process to any complaints policy or procedure you are using to handle the complaint.

As we've mentioned, the information may be complex, and you will need to bear this in mind when conducting reasonable searches. The most helpful approach might be to focus searches on any folders relating to the complaint, and those involved with investigating it. The information is likely to be sensitive and confidentiality should also be a consideration.

Although knowledge of the complaint is likely to be limited to a small number of people, you may also need to consider who to approach, what each of these individuals are aware of, how you go about consulting with them, and what is appropriate and reasonable in the circumstances. Our example does not go into details, but if the request had mentioned specific aspects of the complaint you may need to consider whether each person you consult needs to receive all these details to locate relevant information assist with the SAR.

As we've mentioned, while the requester has asked for information about the complaint, not all this information is necessarily their personal information. Some of it may consist of administrative emails which relate to the procedure of dealing with the complaint, but don't specifically refer to the requester. Some of it may be other people's personal information.

Next slide.

Slide 18: Third party personal data [Sarah]

One of the most significant challenges you might encounter with this request is other people's information. Information provided by the

complainant, witnesses and others may have been provided in confidence, and while the requester may have received some information about the complaint and the outcome as part of the investigation, complainants, witnesses and their representatives may not necessarily reasonably expect that information about them will be shared with the requester.

First you should consider whether the requester's information is clearly separate from that of others. Can you provide their information without providing personal information about other people? For example, could you just provide the sections of a report which relate to the requester? You could consider whether it's possible to redact information about other people.

If you cannot separate the requester's information from that of other individuals, then you should consider seeking consent from those other people. However, this may not be appropriate or reasonable in all cases. The complainant or witnesses may have already explicitly stated that they do not want any of their correspondence or comments about the complaint to be shared with the requester.

You could consider whether it would be reasonable to disclose any of the information without consent. You'll need to take all the circumstances into account, and inform the parties involved.

So, to summarise, first consider whether you can redact or remove the third-party information. If not, then consider whether you can ask for consent or if you can disclose without consent. After considering both these options you will then need to consider whether the information can be disclosed.

Other exemptions that might apply to the information might include legal professional privilege, for example if while dealing with the complaint you sought legal advice. We don't have time to go into more details about this here, but our right of access guidance provides further information.

Next slide

Slide 19: Case study 3 [\[Julie\]](#)

in this example, you've received a SAR from a job applicant. You will need to consider what information you hold about this particular person, as they've asked for all of their information. This can include any information they provided to you as part of their application, including any information you have specifically asked them for such as copies of their qualifications, and any information you have created about them during the application process. For example, if you have used testing, scored them during the

shortlisting process, or made notes during the interview. This information all comes within scope of the SAR

Considering firstly information they have provided, such as their personal details, their application form, degree certificates and so on – this is information the candidate is already likely to have. Even though the candidate already has this information it still comes within scope of the SAR as people have a right to know what information you're processing about them. It might not always be necessary to provide them with a copy of it if they already have it. You could contact them and tell them that you hold info you think they already have. They might want a copy of their application form generated on your online system if they haven't been automatically provided with this when they applied. You could try and make sure that your online systems automatically provide candidates with a copy of their application form once they apply.

Even if some information is pseudonymised (for example for shortlisting and scoring), this still comes within scope of the SAR. This means that it's partially anonymised, eg where you use a reference number that is linked to a specific person. You'll be able to identify the person. Only fully anonymised information is outside the remit of data protection law. It's unlikely that you will fully anonymise information for recruitment purposes as you'll need it to be able to identify someone to make a decision about them. For example, you ask candidates to sit an aptitude test but only provide those marking the test with a reference number that you can link back to the candidate at a later stage. Even if names and contact details are removed from CVs and application forms for shortlisting, this information is still personal information and comes within scope of the SAR.

You will also need to consider whether there is any third party personal information involved, for example there may be details about other applicants in a record of a group interview, where for example, you've drawn up comparisons between candidates. Where possible, you should remove any information about other candidates.

In relation to the confidential reference, there is an exemption in data protection law for references that have been provided in confidence. People don't have a right to be given a copy of a confidential reference that relates to them. However, this does not apply to all references – only to those that are confidential. You need to carefully consider whether the exemption applies to the reference you've been given. Did the referee have an expectation of confidentiality when supplying the reference?

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- What do you need to process the request? Keeping a record of the request, any relevant correspondence (with the requester, and with any consultees), information in scope and the response, will enable you to handle the request, as well as justify your decision making and demonstrate compliance if a complaint is made. Relevant correspondence includes the request acknowledgement, any updates or deadline extensions communicated to the requester, as well as a copy of the response. If withholding or redacting information, you will need to keep a fully unredacted copy on record so that you can justify these decisions at complaints stage if required.

- Do you need to keep everything? Think about what you need to handle the request and demonstrate compliance. If consulting with colleagues or externally about the information, think about whether these conversations may be more efficient by phone (and summarised in a call note) rather than via lengthy email chains. If you do end up with large amounts of correspondence, can any of this be summarised in a case note instead? Remember that any internal or other correspondence about the SAR may also be requestable in the future, so it might be helpful to avoid using personal data in recorded conversations unless absolutely necessary and to keep these conversations professional.

- How long do you need to keep the information? At the very least the records need to be maintained long enough to respond to a complaint. If the SAR relates to a more complex matter, for example the requester is pursuing legal action and has made a SAR to support this, then might you need to keep the information for longer? Also think about retention more broadly across your organisation – do you have a retention policy and are staff well informed about data protection legislation, what to retain and for how long? Have you considered automatic retention period for email and online chats? This means that messages are automatically deleted after a certain period unless saved elsewhere. Good record keeping will make it easier to deal with employee SARs.

- Who can access the information? Do you have a physical or digital area where information about employee SARs can be securely stored? Who needs access? Might you consider having a dedicated member of staff to deal with these? How will you ensure that confidentiality is maintained?

- Is the information in an accessible format? Or can it easily be converted into such a format (e.g. PDF) for SARs? Can redactions/extractions be made if necessary? If you are introducing new software for HR functions (for example) how can this be searched and the relevant information retrieved? Be mindful of metadata in original documents or other incidental data for example if disclosing screenshots. The requester is only entitled to their personal data, and it may not be appropriate to disclose incidental information on a discretionary basis (for example if metadata includes personal data of others)

That brings us to the end of the presentation.

Q&A

As the Q&A is drawing to a close we'd like to ask you to give us a bit of feedback. A poll question will pop on your screen and we'd appreciate if you can tell us if you found the workshop useful by giving it a rating.