

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Q1 Does the draft guidance cover the relevant issues about the right of access?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?

There are a number of different legal duties involving disclosure: Pre-Action Protocol as part of Civil Procedure Rules, Access to Medical Records and disclosure to an employment tribunal. It would be really helpful if the guidance could set out how these duties interface with one another.

Q2 Does the draft guidance contain the right level of detail?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If no or unsure/don't know, in what areas should there be more detail within the draft guidance?

Q3 Does the draft guidance contain enough examples?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If no or unsure/don't know, please provide any examples that you think should be included in the draft guidance.

We would suggest that the guidance should incorporate further examples of how charging may apply. In some instances where the request is considered to be excessive but the organisation wants to do all they possibly can to meet the needs of the individual (in line with Article 15 of the GDPR), we note that the proposal is to disallow charging for time dedicated to the request. For smaller companies such as ours, resource to undertake activities in respect of SARs is very limited as is budget to buy tools which may be more readily available to larger companies. Where there is a requirement not to be able to charge for time this may eventually put the company into a loss making position and therefore impact the services they provide. We would suggest, therefore, that the guidance more closely follow that of the Freedom of Information Act and the cost of compliance for public authorities for treating unstructured manual records under the DPA2018.

We would also welcome more worked examples of:

- 'the three step procedure' in deciding whether to disclose information relating to a third-party
- Redaction of documents versus providing extracts

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).

An example that may resonate with a great many professionals would be a request for all data captured in all systems, which would cover, for example:

- All emails that name the requestor
- All log-in events of the requestor
- All swipe in and out data about the requestor
- All documents in which the individual is named

Data protection professionals can often be put in a position in which they are asked to find 'the smoking gun' that proves x or y. Seeking clarity and parameters of scope can be extremely challenging.

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?

We greatly welcome the:

- Strengthening of the position on seeking ID
- Helpful steer on use of SAR Portals

We would like to express our concern around one area of the guidance, which may ultimately lead to unintended consequences for data subjects. This pertains to the scenario laid out on pages 23-24 of the guidance, in which a controller may be awaiting additional details to help locate the requested information. The draft guidance states: 'The time limit is not paused whilst you wait for a response, so you should begin searching for information as soon as possible.'

We are committed to providing individuals with information about themselves, as quickly as possible. However, we consider there to be a risk in setting an expectation that controllers must run untargeted searches. The corollary of this would be that individuals are not provided with the data that they are seeking and businesses direct resource away from other data protection activities to focus on an unstructured, undefined and ineffective search. We would hope that the regulator would take a pragmatic view on this issue in instances, for example, in which steer was only provided by the data subject 29 days after the controller had begun searching.

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.

- On page 7 there is a reference to 'Information Asset Registers' - we wonder if it may be helpful to also cite here 'Records of Processing Activities', as this term may resonate with certain controllers and processors?
- We would also suggest that a lot of controllers and processors may find a section on 'management of records post SAR closure' helpful. This could offer a steer for data protection teams on retention of personal and administrative data (e.g. SAR History documentation, evidence of consent to disclose by third parties).
- The guidance states that requests can be made verbally. However, in practice, there will be a degree of documentation required as part of the accountability principles:
  - the obligation to verify ID
  - the importance of understanding what the individual is seeking, to ensure that searches are minimising intrusiveness, particularly in the processing of other people's personal data

We would propose that the guidance acknowledged this.

- Finally, when running a SAR, particularly those in the employment context, there may be crossover between HR and Data Protection teams. We anticipate that many controllers and processors would welcome a section in the guidance on how such teams need to operate independently of one another, recognising the challenges that this approach can bring. We expect that this section would need to acknowledge the importance of working on a case by case basis and simply to follow robust data protection principles (e.g. using techniques such as data minimisation and considering lawful bases)

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:

Communis

What sector are you from:

Customer communications

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.

