

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 The draft guidance also explores the special rules involving certain categories of personal data, how to deal with requests involving the personal data of others, and the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We are running a consultation on the draft guidance to gather the views of stakeholders and the public.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Q1 Does the draft guidance cover the relevant issues about the right of access?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

N/A

Q2 Does the draft guidance contain the right level of detail?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?

N/A

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.

N/A

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).

N/A – no occasions of using manifestly unfounded and/or excessive requests.

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?

The overall document provides a good generalised overview of the 'Right of Access'. When considering any person responsible for dealing with requests for personal information this document will provide an in-depth guide and covers the majority of vital topics and questions, which may be encountered when dealing with a Subject Access Request under the Data Protection Act 2018.

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 guidance.

One area of concern which we, as an organisation would have is the ability to refuse a request which has changed since the implementation of the General Data Protection Regulations.

As mentioned in a previous question the main two reasons for refusing a request surround it being either manifestly unfounded or excessive. We believe that the wording around these two areas makes it extremely difficult to refuse a request. For example, we have recently had 3 identical Subject Access Requests from 3 different individuals who have colluded together to cause disruption.

The guidance states a request may be manifestly unfounded if, 'the individual has explicitly stated, in the request itself or in other communications, that they intend to cause disruption'. Unfortunately none of the requests mentioned wanting to cause disruption, we therefore had no option but to comply with the request even though we knew one individual was initiating contact with others to submit requests.

The 3 requests in question involved 2 employees with over 20+ years experience and 1 with approximately 5 years experience which resulted in over 32,000 emails and documents with some of these containing 100+ pages. As a relatively small Council this led to an insurmountable workload to redact documentation. The collection of documentation and reformatting to an appropriate, workable format took weeks of Officer time. Due to the sheer amount of documentation we had to go to an external redaction company which has cost Council over £6,000 to date.

Mid and East Antrim Borough Council believe that the wording requires alteration to allow for refusal for any people whose intent is to cause disruption but who do not explicitly mention it.

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:

Mid and East Antrim Borough Council

What sector are you from:

Local 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.

