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From: [REDACTED]
Sent: 18 February 2020 12:06
To: SARguidance
Cc: [REDACTED]
Subject: ICO Consultation on the draft right of access guidance

External: This email originated outside the ICO.

Hello. With apologies for missing your deadline for responses, I'm hoping you're able to take the following into consideration in your review of the guidance.

Looking at the guidance on the legal professional privilege exemption (page 48), we think it is worth pointing out that under the DPA 2018 Sch 2, Part 4, paragraph 19 (reproduced below for ease of reference) the exemption applies not only to privileged communications, but also to other confidential information kept by a professional legal adviser (e.g. solicitor's meeting notes, other confidential documents prepared or kept by a solicitor on a client electronic or paper file or on the solicitor's matter management system, etc).

The guidance document, however, explains only the first bullet on privileged communications and does not elaborate on the second bullet point. It would be helpful to make it clear that such other information/documents are equally exempt from subject access requests and give some examples (as above).

19The listed GDPR provisions do not apply to personal data that consists of—

(a)information in respect of which a claim to legal professional privilege or, in Scotland, confidentiality of communications, could be maintained in legal proceedings, or

(b)information in respect of which a duty of confidentiality is owed by a professional legal adviser to a client of the adviser.

Many thanks

[REDACTED]

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