Subject A **ce Notes**

Introduction

The UK GDPR (the retained EU la Data Protection Regulation ((EU) 2016/679), as it forms part of the s, Scotland, and Northern Ireland by virtue of section 3 of the Eur l) Act 2018) bestows a range of rights upon individuals. Individuals the following rights, as set out in Chapter 3 (Articles 12-23) of the U

- The right to be informed ab se of their personal data;
- The right of access to their
- The right to rectification of it is inaccurate or incomplete;
- The right to have their pers
- The right to restrict or supp eir personal data;
- The right to data portability
- The right to object to the p al data (in certain circumstances); and
- Rights in relation to auton nd profiling (where this is carried out).

These Guidance Notes focus on **t** vidual data subjects have the right to obtain a copy of their personal certain other information such as confirmation that you are proc data and other information that essentially matches that which yo acy notice or policy.

> Article 15 UK GDPR
>
> 1. The data subject obtain from the controller confirmation as to data concerning him or her are being process the case, access to the personal data and
>   a) the purposes of
>   b) the categories ed;
>   c) the recipients o o whom the personal data have been or rticular recipients in third countries or inte
>   d) where possible or which the personal data will be stored, c eria used to determine that period;
>   e) the existence o the controller rectification or erasure of pe of processing of personal data concerning ject to such processing;
>   f) the right to lodg ommissioner;
>   g) where the pers ted from the data subject, any available in rce;
>   h) the existence naking, including profiling, referred to in A , at least in those cases, meaningful info involved, as well as the significance an uences of such processing for the data sub

2. Where personal d… a third country or to an international organ… shall have the right to be informed of the … pursuant to Article 46 regarding the trans…
3. The controller shal… personal data undergoing processing. For an… ed by the data subject, the controller may ch… based on administrative costs. Where the … he request by electronic means, and unles… by the data subject, the information shall be… used electronic form.
4. The right to obtai… n paragraph 3 shall not adversely affect the… others.

A request to exercise the right o… ect is usually known as a **"data subject access request"** … **ess request"**. It will often be abbreviated further to the a… is the term we will use throughout these Guidance Notes…

The purpose of a SAR is to ensur… d out if you are using their personal data, what you are using… it, and if you are doing so lawfully.

Part 1. What to Provide in [redacted]ect Access Request?

The information required in respon[redacted] full in Article 15 of the UK GDPR (see above).

- Firstly, the data subject is [redacted]**n that you are processing their personal data**. Not all SA[redacted]als who already know whether or not you have personal data
- Secondly, if you do have p[redacted]data subject, they are entitled to **a copy of their personal da**
- Thirdly, the following inform[redacted]ote, is essentially the same as the information you should als[redacted] privacy notice, privacy policy, or similar):
    - The purpose(s) for [redacted]g the personal data;
    - The category or ca[redacted] involved;
    - Any recipients or c[redacted] whom you disclose the personal data;
    - Your retention peri[redacted]data or, if you do not have fixed retention periods, t[redacted]e how long the personal data will be kept;
    - Details of the follow[redacted]
        - to request r[redacted] incomplete personal data;
        - to erasure;
        - to the restri[redacted]
        - to object to [redacted]
    - Details of the indivi[redacted]o the ICO;
    - If the personal data[redacted]rd party rather than the individual data subject thems[redacted]hat source;
    - Details of any aut[redacted]g (including profiling) carried out using the personal [redacted]
    - Where personal da[redacted]d country" (one outside the UK) or to an international [redacted]e safeguards in place. (Note that, as of 1 January 20[redacted]r part of the EEA. Personal data transfers from the [redacted] permitted and, under transitional provisions in the E[redacted]eration Agreement, personal data transfers from the [redacted]so continue during the "specified period" set out in th[redacted]n EU adequacy decision to cover the UK.)

When providing personal data to [redacted]onse to a SAR, it is important to remember that they are **only enti[redacted]nal data**. This means that, **unless the individual is acting on so[redacted] the information is also about them**, information relating to other [redacted]sclosed.

Identifying Personal Data

At this point, it may be useful to re[redacted]is. The UK GDPR's definition can be found in Article 4(1):

> 'personal data' means any [redacted]an identified or identifiable natural person ('data subje[redacted]ral person is one who can be identified, directly or in[redacted] reference to an identifier such as a name, an identif[redacted]data, an online identifier or to one or more factors spe[redacted]siological, genetic, mental, economic, cultural or socia[redacted]erson…

To break this down somewhat, l or identifiable" if they can be distinguished from other people. the UK GDPR refers may stand on their own or work in combinati nd can include many things, some more obvious than others. Names nal data, as are things like contact details, card and account numbers e.

Less obvious, perhaps, are the iers" such as IP addresses and cookie identifiers. Particularly for s g such data as personal data may seem counterintuitive because in , for example, from an IP address would be extremely difficult in pra of official authority. Nevertheless, because it is technically possible eld by, for example, the owner of a website and records held by an r ("ISP"), an IP address meets the UK GDPR's definition for personal

In some cases, particularly where tifiers are concerned, you will be able to identify an individual direc you already have (either using an individual piece of information on it with other information that you have). This, then, is clearly person

In other cases, the question is tify someone indirectly from the information that you have by co rmation that is available to you, perhaps from another source. Eve uation is not always clear. As the ICO explains:

> In some circumstances t ypothetical possibility that someone might be able to such a way that identifies the individual. However, y sufficient to make the individual identifiable in t ou must consider all the factors at stake.

Returning to the UK GDPR's defi sider the meaning of "information **relating to** an identified or identifi is important to note that **data can refer to an identifiable individu data about them if it does not *relate to them***. Again, the situatio ar. The ICO's recommendation is to err on the side of caution:

> There will be circumstanc cult to determine whether data is personal data. If t tter of good practice, you should treat the informatio you have a clear reason for processing the data an you hold and dispose of it securely.

Finding and Retrieving Persona

You are required to make "rea d and retrieve personal data in response to a SAR. The right o only to that information which is easy for you to find. In particular, sets, you must practice good data management and have suitable n place to ensure compliance. This does not mean, however, that you es that would be unreasonable or disproportionate to the importance

When deciding whether a search oportionate, the ICO explains that you should consider the circum t; any difficulties in finding the information; and the fundamental ess.

It is important to note that eve at finding certain information is unreasonable or disproportionate, u from finding that which can be found. Moreover, if you think tha rom the data subject would help

ease the difficulties in finding t k for it. Further detail on clarifying SARs is provided below in Part 6

When might information be dif mple is data that has been archived or stored in a backup. A potenti or backed-up data is that it might not be as easy to search through ere is no exemption that covers this and you should make the same data when responding to a SAR as you would when searching your portant to remember that personal data cannot be held indefinitely. al for difficulties in locating data that has been archived, this underlin ving (and adhering to) proper data retention limits and procedures.

Some might also ask whether ted is covered by a SAR since, in some cases, deleted electronic The ICO's own guidance makes it clear that data is properly delete anently discard it and you have no intention of ever trying to access could possibly be recovered using advanced data recovery metho hould do so when responding to a SAR. That said, data is not "del is in the recycle bin, trash, deleted items folder, or similar.

A particular challenge, especially f staff working from home or take a BYOD (Bring Your Own Devic ment, is personal data stored on personal computer equipment. ample, if an employee uses their home computer for work. SARs f which you are a controller. While you would not normally need to tored on someone else's computer systems (unless they are a pr be the case where personal data relating to your business is bein yees' personal devices. This could, therefore, make it difficult to find.

Good data management in t easier to comply with your obligations and data subjects' Employees' use of personal devices is no exception. Your policies sh al data on employees' own devices is handled properly. Your staff s status as the data controller, and what their personal obligations a nal data, including cooperating with SARs. Policies such as Home W s can assist in this regard.

What about non-electronic recor d in a non-electronic form, such as paper files will be covered by a g system. The UK GDPR does not apply to personal data which is n ned in Article 4(6) as:

> ..any structured set of pe essible according to specific criteria whether centralis spersed on a functional or geographical basis.

Having reviewed what exactly i n order to respond to a SAR and having given some consideration w turn to how to recognise the SAR itself.

Part 2. How to Recognise a equest

There is **no prescribed form for** to be made in writing. Moreover, **it can be sent to anyone within** any means. You may, therefore, receive a formal letter, addressed Officer, that clearly identifies itself as a data subject access request u might receive a short, informal message on social media from a p ut) their personal data.

The words "subject access reque all and terminology may not be consistent. For example, more g nformation" rather than "personal data" may be used. While there is you, as the data controller, need in order to respond to a SAR, this in s be provided in the first instance. You might be mentioned in a tw the lines of "Please tell me what information your company has abo

Anybody within your organisatio ve a SAR by any means. It is important to **ensure that all staff** articularly those who have regular contact with individuals outside th omers or prospective employees) in the course of their work.

Training and Policies

Training is important, not only whe g SARs but also when it comes to handling them. Anyone within you y to receive a SAR should receive at least some basic training, but sponsible for handling SARs and responding to them, such as Da HR managers and the like could benefit from more comprehensive n CPD requirements, **many SAR training courses contribute to C**

A **Subject Access Request Poli** useful document. Key ingredients of such a policy might include:

- Details of who is responsi on for data protection compliance (e.g. your Data Protection
- How to recognise a SAR;
- What to do when a SAR is
- How to respond to a SAR uests, identifying individuals, time limits, locating information, response); and
- When and how to refuse to

Providing a Subject Access Request

While you may not force data sub g a specific method or form, you can invite them to do so. One w and handling SARs easier is to provide a standard form. Not only for you to spot an incoming SAR, but it also makes it easier for d em by providing prompts for the required information.

Particularly if you are processin onically, enabling individual data subjects to make SARs electronic deed, Recital 59 of the EU GDPR states that "The controller should equests to be made electronically, especially where personal data ar c means."

Always remember, however, that e to use any method they wish to make a SAR and it remains impo ot any that don't use a standard form if you provide one.

Part 3. Providing Personal cts

As stated in the UK GDPR (see ta subject makes the request by electronic means, and unless othe data subject, the information shall be provided in a commonly used ecitals also recommend that you provide a self-service system, if po

> Recital 63
>
> …Where possible, the cor provide remote access to a secure system which wo bject with direct access to his or her personal data. T versely affect the rights or freedoms of others, includi ectual property.
>
> Particularly in a small bus t be practical to provide a self-service system like thi ur business and the kinds of personal information use s worthy of consideration.

If the SAR has been made by no example by letter or verbally, you may respond in any commonly electronic or otherwise), unless otherwise requested. If the data bal response to their SAR, it is acceptable to do so, particularly i small amount of personal data. In such cases, the ICO recommends itten records of such responses.

Information should be provided concise, intelligible, and easily accessible form, using clear ar at care should be taken to make your SAR response understanda rocess personal data relating to children and the SAR in question r

It may be the case that the pe y the SAR is mixed with other information including non-persona relating to other individuals. Each piece of information must be cor ore, to ensure that no third-party personal data is disclosed. It is lik owever, to separate non-personal data from your response unless th nsitive or contentious.

Providing Data in a Commonly Used E

There is surprisingly little guidance a "commonly used electronic form" in this context. When dealing with ility, the ICO's guidance suggests formats such as CSV, XML, and J ensure that it is easy for personal data to be moved from one service

These file formats are likely to be ponding to SARs too, as they can be easily opened without specific and JSON can all be opened on almost any computer or device us r simple stock text editor app. The CSV format is also widely compati text editors or spreadsheet apps.

It is best to avoid assumptions ab ices that a particular data subject may have access to. Proprietary g that requires specific software should therefore be avoided.

When Data Changes Between SAR R

Particularly where personal data i ded (or even deleted) regularly, it may be the case that it will chan tween your receipt of a SAR and your response. The ICO takes a p

> It is our view that a subject o the data held at the time the request was received e reasonable for you to

supply information you ho a response, even if this is different to that held when t.

Provided, therefore, that you don' mend or delete personal data in a way that you would not have oth SAR (indeed, it is an offence to amend data to prevent its disclos tection Act 2018), you should not need to worry about backtracking ersonal data as it was when the SAR was received.

Explaining the Data

You should not simply dump a lo n individual's lap in response to a SAR. In some cases, the data inc ill be simple and self-explanatory. In other cases, where the data is i al may not be able to understand, you may need to explain it as pa ear, accessible, open, and honest terms. The ICO, however, explain d to be an onerous obligation. For example, "…you are not expecte or decipher unintelligible written notes."

Part 4. Time Limits

You must normally respond to a [illegible]ay" and, at the latest, **within one month of receipt**. If you have rec[illegible]nfirm the individual's identity (see below in Part 6) or a fee (see be[illegible] limit will be within one month of receipt of those.

Calculating the One Month Period

How long is one month? The one-[illegible] the calendar day that you receive the SAR, fee, or other requeste[illegible]nally ends on the corresponding calendar day in the following mo[illegible] a SAR on 10 January, the one-month period would end on 10 Fe[illegible]rmitted extensions. What happens if the following month is shorter a[illegible]esponding day? In this case, the one-month period ends on the las[illegible]For example, if you receive a SAR on 31 January, the one-month per[illegible].

This method of calculating your re[illegible]sult in lost time or a late response. It is, therefore, good practice to se[illegible]t internally to 28 days.

There is one small exception to[illegible]period. While calendar days, not business days, are what counts w[illegible]e limit, **if the end date falls on a weekend or public holiday, the l[illegible]t working day**.

Extending the Time Limit

If a SAR is complex, or if the same[illegible]ltiple requests (including requests to exercise other rights made at t[illegible]e possible to extend the time limit by a further two months. If you wis[illegible]t, you must nevertheless respond to the data subject within the first [illegible]ve) to explain why you need more time.

Complex Requests

Given that the time limits for resp[illegible]e strict, it is important to consider whether a request truly is comple[illegible]tending your response time. What amounts to "complex" will be a s[illegible]mething that would be simple for one data controller might be comp[illegible]on matters such as the availability of resources – both human and te[illegible].

Factors that may be considered w[illegible]r or not a SAR is complex include technical difficulties, specialist wo[illegible]d, resolving confidentiality issues, and the need to obtain specialist l[illegible]nt to note that the mere fact that a SAR relates to a large amount o[illegible]automatically render it "complex" (although you may be able to pau[illegible]seeking clarification – see below); nor does the involvement of data p[illegible].

Clarifying Requests – Stopping the C[illegible]

In October 2020, the ICO made a[illegible]guidance on responding to SARs. Previously, if additional informatio[illegible]data subject to clarify a SAR, the one-month time limit did not paus[illegible]ormation. This has now changed. **The time limit for responding t[illegible]il you receive clarification** from the data subject. Unless and until[illegible]es the necessary clarification, you do not need to provide them with [illegible]ny supplementary information that you cannot reasonably provide.

It is important to note that you sh ion if it is genuinely necessary in order to respond to the SAR and y e amount of information about the data subject. For more informatio lease refer to Part 6, below.

Responding to Subject Access	COVID-19 Pandemic

The global novel coronavirus or C 020 has resulted in a significant increase in home working. Morec g arrangements will have been made hastily, meaning that acces nd large-scale IT infrastructure may be difficult for some. In so will make responding to SARs harder as it may take more time a uired information.

The time limits and other requ ave not been changed (nor is there, at the time of writing, any be). It is, however, important to note that **the ICO is taking a r ach** to enforcement during the pandemic.

> We will recognise that th ations' resources could impact their ability to res Requests, where they need to prioritise other wo s. We can take this into account when considerin ny formal enforcement action.
>
> - Information Commissi 's regulatory approach during the coronavirus " (April 2020)

To use a particularly apt expressi *vashes the other*. It may also be more difficult for individu ke SARs and that you should ensure that the informati e (e.g. your customers) about making SARs emphasises ch SARs can be made and encourages them to use whic or them.

Part 5. Fees

Under the old Data Protection Ac ermissible to charge a fee for the handling of a SAR. Since the Data d EU GDPR (and now UK GDPR) came into effect, however, this is r ct to some limited exceptions.

Fees cannot be charged for nor request is "manifestly unfounded or excessive" (for details, please an also refuse to comply in such cases) or if a data subject reque their personal data following your response to a SAR, you can charg t covers your administrative costs.

If you are charging a fee, you mu ect as soon as possible to inform them. You do not need to continu nse to the SAR until you receive the fee. Data subjects should be to respond. As with requests for clarification, a month might gene asonable", but it will turn on the specific circumstances of the S ICO, it may also be "generally reasonable to close the request i esponse within one month…", but note the qualifier: "…although wha ends on the circumstances".

Always remember, however, that it **can only be enough to cover your true administrative costs**, provides some key points to take into consideration when calculatin

- The administrative cos
  - assessing whether g the information;
  - locating, retrieving ation;
  - providing a copy of
  - communicating the al, including contacting the individual to inform he requested information (even if you are not n).
- A reasonable fee may
  - photocopying, prin other costs involved in transferring the info (e.g. the costs of making the information ava ine platform);
  - equipment and sup es or USB devices); and
  - staff time.

When requesting a fee, you shou to the data subject and include a copy of your criteria for charging fe

You should also inform the indivi plain to the ICO and their right to seek to enforce their right of acces edy.

Part 6. Requesting More In

After receiving a SAR, you may tional information before you can respond to it. This may also exter mit, but not always. If you need to request proof of identity or if you st, it important to do so as quickly as possible. The ability to do so s talling tactic to buy you more time to comply.

It is also important to note that, w nformation, you should inform the individual of their right to complai ht to seek to enforce their right of access through a judicial remedy.

Requesting Proof of Identity

If you need to confirm the iden aking the SAR, you can request additional information from them. nate, however, and care must be taken to avoid asking for more ctually need for confirmation. In particular, the ICO warns that you al identification documents unless necessary".

If additional information is require nust inform the individual as soon as possible. As noted above in F responding to the SAR does not begin until the date on which you ormation. From there, it runs from date to corresponding date, as a ion in which the information you receive from the data subject is in o ask for more, the time limit does not begin until you have received s

Clarifying a Subject Access Request

Particularly if you collect, hold, a unt of information about the data subject (or if it is not clear that the SAR), it may be necessary to ask them to clarify their request befo **is does not mean you can ask them to narrow the scope of t** d to provide additional particulars that may help to clarify it and ass ormation they require. If the SAR relates to all of the personal data y subject, then that is what you must provide. Furthermore, as noted a equest clarification if it is actually needed and you are processing mation about the data subject in question.

Even if you are processing a larg , this does not automatically give you grounds for requesting clar ate and provide the information requested in response to the SA is unlikely to be reasonable (or necessary) to seek clarification. gned to be used as a stalling mechanism.

What if the data subject respon clarification by simply repeating their original request or by refu g further? In this case, you must still comply as best you can and r es for the information requested in the SAR. There will likely be ce ou can still provide even without clarification, such as confirmatio the personal data that you hold about the data subject. It will a le to provide the supplementary information required by Article 1 (see the list in Part 1, above), especially the details of the data s rectification, erasure, or restriction or to object to the processing of t eir right to lodge a complaint with the ICO. In such cases, the ICO s

If you can reasonably pro entary information without clarification, you should p nth. If your privacy notice already contains this…it is ndividual with a link to it.

As with all data subject rights, yo asy for individuals to exercise the right of access. This also applies n of a SAR. Explain why you are asking for clarification. Help the i d ensure that they are aware that the time limit for your response ovide clarification. If you need a response within a certain timefr tell the data subject this when requesting clarification.

What if the data subject doesn CO says that you must give data subjects a reasonable period of t ich you can consider the request "closed". What, then, is reasonab ells us, one month is reasonable, but you should be reasonable whe e individuals may have difficulty in responding quickly and you sh ating as is reasonably possible, particularly where the request o are complex or where there are accessibility concerns. *In such c e does not make it entirely clear whether or not any response is e their guidance states that "you should wait for a reasonable per idering the request 'closed'", this appears to be contrary to the guid s where the data subject responds by refusing to clarify their SAR or n't get a response to your request for clarification, therefore, you m information you can, as set out above, as opposed to closing the eless,* ***in the event of any doubt in such a case, specialist advic***

The time limit for responding to a request for clarifying information. The ICO refers to this as "stoppin where you receive a request and cannot tell whether or not it is a not begin until you have clarified the nature of the request. Time is nce in such cases and you should contact the individual to request cl ssible.

Given the rapid nature of electro ay be the case that you receive clarification on the same day that pens, the time limit is not paused as it runs in whole days, not hours

If, therefore, you receive a SAR o nse is normally due by (or on) 10 November. If you request clarific d the individual provides it on 14 October, the time limit is paused f hereby extending the time limit for your response by three days. Yo due on 13 November. If, on the other hand, you receive clarificati deadline for your response to the SAR will be unchanged and will be mber.

It is also important to note that paused if you are clarifying the information covered by the SAR, as the requested format of your response.

Part 7. Subject Access Rec…other Person's Behalf

Third parties can make SARs o…e. This might be a solicitor acting on behalf of a client, but it can be…ant is ensuring that the individual making the SAR is authorised to d…uthorisation may, for example, be a written authority or a power of at…

In the absence of evidence, you d…the SAR; however, if you are able to contact the individual on whose…n ostensibly made, you should do so and ask if they wish to make a …

Responding to a SAR Made on Anoth…

In most cases, your response to t…n to the party that made the SAR, rather than the party that it relate…however, you should contact the data subject that the SAR relates…s first. You may, for example, be concerned that the data subjec…ne information provided, or that excessive information will be disc…ances, if the individual agrees, it may be preferable to send your r…ther than to the party making the SAR on their behalf. It is then up…bject to share the SAR response with the third party should they c…ssible to contact the data subject directly in such a situation, provid…the third party making the SAR is authorised to do so, the response …rty.

Individuals Without the Mental Capac…fairs

The UK GDPR does not deal wi…, however, reasonable to assume that an attorney with the authorit…and property of an individual will also have the authority to make …This is a potentially complex area touching on other legislation and …certain courts. In the event of any doubt over the authority of a party…lf of an individual in such a case, specialist advice should be sought…

SARs Relating to Children

Children have rights under data p…ame as everyone else. Many will clearly be too young to understan…be aware of them, much less the particulars of a SAR. The right of …the child's right, but in practice it will often be exercised on their bel…a parent or guardian.

If you receive a SAR relating to in…it is important to **consider if that child is likely to be mature eno…r rights**. If so, respond directly to the child if you can. If, however,…d the other party (e.g. parent or guardian) to make the SAR on the…that it would be in the child's best interest, you can respond to that p…ild.

The ICO provides the following list…en deciding whether or not a child is able to understand subject acce…

- The child's level of mat…nake such decisions;
- The nature of the perso…
- Any court orders relat…or responsibility that may apply;
- Any duty of confidence…ng person;
- Any consequences of …ental responsibility access to the child's or young…his is particularly important if there have been alleg…atment;

- Any detriment to the [illegible] individuals with parental responsibility cannot a[illegible]d
- Any views the child or [illegible]ether their parents should have access to informa[illegible]

It is also important to keep in mi[illegible]tion is given to children and their personal data under data protecti[illegible]e fact that they will be less aware of the risks involved in handing t[illegible]o organisations. When collecting, holding, and processing persona[illegible] is important to be aware of the additional protections and conside[illegible]n.

Part 8. When Data Includes Others

Information to be provided in res nclude personal data about other people. For example, a complain regarding two employees acting together, or a report written by one r. In some cases, it may simply be possible to **redact or otherwise** on, leaving only that which relates to the data subject making the SA elates, if made on their behalf). In other cases, i**t may be not be pos nformation**.

If the latter applies, the Data Pr s into play (Schedule 2, Part 3, Paragraph 16). **You do not hav SAR if doing so would mean disclosing information about an**

- The other individual has gi disclosure; or
- It is reasonable to comply hat individual's consent.

What, then, makes it "reasonab consent? You must consider all relevant circumstances including:

- The type of information tha
- Any duty of confidentiality ual;
- Any steps that you have ta the other individual;
- Whether the other individu nsent; and
- Any express refusal of con ual.

This decision is a careful balancin of the individual making the SAR and the individual whose persona ed as part of your response to it. Given the risks which may be inv nal advice in the event of such a situation would be advisable.

Part 9. Data Processors

When you appoint another party t n your behalf, that party is known as a data processor. Data prote umber of obligations upon data processors and upon data controll

If you, as the data controller, rece o personal data being handled by a processor, **it remains your resp ith that SAR**, whether it is sent to you or to the processor. It is impo suitable contractual arrangements in place (whether as clauses wit in the form of a dedicated data processing agreement) to ensure t orrectly.

While it may be more difficult to lo personal data required in order to respond to a SAR when some or a a processor, it is important to note that **the time limit for respond not change**, and the limits (and extensions) set out previously in th apply.

Part 10. Refusing to Comp ess Requests

Generally speaking, you must c here are exemptions and certain limited circumstances under which fuse.

Exemptions

The Data Protection Act 2018 se s from particular parts of the UK GDPR. These typically fall within e thus outside the scope of these Guidance Notes. If you think tha e exemptions may apply to your organisation, specialist advice is road terms, exemptions are to be found in the following areas:

- Crime, taxation, law, and p
- Regulation, parliament, an
- Journalism, academia, res e public interest;
- Health, social work, educat a;
- Corporate finance, manage otiations;
- Negotiations with the indivi
- Confidential references;
- References and exams.

Other Grounds for Refusal

Few of the exemptions set out in t 018 are likely to be relevant to the typical SME. The grounds provide fusing to comply with a SAR may, however, be more relevant. You m omply with a SAR if it is:

- **Manifestly unfounded**; or
- **Manifestly Excessive**.

According to the ICO, **a SAR may ded" if**:

- the individual clearly ha e their right of access. For example, an individual hen offers to withdraw it in return for some form of nisation; or
- the request is malicio ng used to harass [your] organisation with no r to cause disruption. For example:
  - the individu in the request itself or in other comm nd to cause disruption;
  - the request accusations against you or specific emp
  - the individu r employee against whom they have s
  - the individua ifferent requests to you as part of a ca eek, with the intention of causing dis

This is not, however, a black g exercise. Each SAR must be considered on its own merits and n if it is from someone who has previously sent malicious or oth unded" SARs, or if the SAR in question is aggressive in tone.

Referring again to the ICO, wh r or not a SAR is "manifestly excessive", it comes down to request is "clearly or obviously unreasonable". Consider whether e when weighed against the costs

and burdens of responding to i ...e following issues be taken into consideration:

- the nature of the requeste
- the context of the requ ...ip between you and the individual;
- whether a refusal to provi ...en acknowledge if you hold it may cause substantive
- your available resources;
- whether the request larg ...equests and a reasonable interval hasn't elapsed; or
- whether it overlaps with o ...if it relates to a completely separate set of informatio ...ssive).

A large amount of information do ...the SAR excessive. The SAR and the circumstances surrounding ...ed as a whole. It may also be appropriate to seek clarification ...6, above), and to consider what "reasonable searches" you can st

As to what a "reasonable interv ...g previous requests from the list above), the ICO suggests conside

- the nature of the data – t ...r it is particularly sensitive; and
- how often you alter the da ...e information has changed between requests, you m ...ed to respond to the same request twice. However, ...nformation since the last request, you should inform

Again, therefore, each SAR mu ...own merits, and not automatically condemned to refusal merely be ...from or about the same individual data subject. You must have a ...eciding that a SAR is manifestly unfounded or manifestly excessiv ...e able to demonstrate this.

How to Refuse to Comply with a Sub

The time limit for responding to ...i.e. within one calendar month of receipt of the SAR. Even if you a ...th the SAR, you must still *respond* to it, explaining why you are refus

As when you request a fee or ad ...should also inform the individual of their right to complain to the IC ...k to enforce their right of access through a judicial remedy.

Part 11. Conclusions

One of the central tenets of mode ation is transparency. The subject access request is an essential too ls to find out about your collection and use of their personal data.

When you receive a SAR, it sho y, efficiently, and carefully. If any additional information is required f hould be requested as early in the process as possible and should ne of buying yourself more time.

These guidance notes are desig l overview of the key aspects of SARs and responding to them. f "special cases" which are not covered. If any of these apply, or is required on any other aspect of SARs, specialist advice (including CO themselves) should be sought.

The ICO lists the following special al rules and provisions apply:

- Unstructured manual reco
- Credit files;
- Health data;
- Educational data; and
- Social work data.

As with all aspects of data prote important that you document the process before, during and after re that you have suitable policies and procedures in place to handle cument your decision-making and outcomes along the way. This is when reaching more contentious decisions such as charging fees o using to comply. You must always be prepared to justify such decisio making the SAR and to the ICO.