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Strategies for dealing with DSARs

15th February 2022

Helen Snow, Partner

Spotlight on...



What do you know?

- Right of Access (Article 15 UK GDPR)
- Entitles a data subject to:
 - Confirmation as to whether or not personal data concerning the DS is being processed
 - A copy of their personal data (in electronic form)
 - Other supplementary information
- No fee
- 1 month (can be extended by 2 months - complexity and number of requests)
- Specific exemptions may apply

Formalities

- Does a SAR have to be in writing? – No (unlike an FOI request)
- No formal requirements for a valid request
- Can be made verbally
- Can be made to anyone within the organisation
- Doesn't have to refer to it being a subject access request

Can you narrow an SAR down?

- You can try but you can't force them
- Clarification
 - Large amount of personal data e.g. for an employee
 - Genuinely required

Can you narrow an SAR down?

- Strategy tip: Reduce the scope of your search and the personal data to be reviewed
- Strategy tip: Seeking clarification stops the clock
- Strategy tip: Keep the ICO happy – act without undue delay
- Strategy tip: Present the request for clarification in terms of its benefits to the data subject

Identification

- Must be satisfied of the identity of the requester
- Enough information to judge whether the requester is the subject of the SAR
- Be reasonable and proportionate
- Not appropriate where requester's identity is obvious
 - Strategy Tip: the clock doesn't start until you received the ID information

Extending Time

- Complex request; or
- Received a number of requests from the same individual (including other individuals' rights e.g. erasure)
- Three months from the original start date

A reasonable search

- High expectations to provide information in response to SAR under the UK GDPR
- Reasonable efforts
 - Strategy Tip: Searches that are reasonable and proportionate are sufficient
 - Strategy Tip: Consider appropriate search parameters and agree them with the requester

What do you have to give in response to an SAR?

- The data subject's own personal data
- General information
 - Strategy Tip: Keep the definition of personal data in mind
- A copy of their personal data (in electronic form)
 - Strategy Tip: Remember there's no requirement to provide full copies of original documents
 - Strategy Tip: Consider providing a copy of the personal data in a different form
- “The right...shall not adversely affect the rights and freedoms of others” (Article 15(4))
 - Strategy Tip: Consider the 3rd party data exemption

When can you refuse to comply?

- Manifestly unfounded
 - no intention to exercise their right of access
 - the request is malicious in intent and is being used to harass an organisation with no real purpose other than to cause disruption
 - makes unsubstantiated accusations clearly prompted by malice;
 - targets a particular employee against whom they have some personal grudge; or
 - systematically sends different requests as part of a campaign
- Excessive
 - clearly or obviously unreasonable
 - Strategy Tip: Keep a record all subject access requests

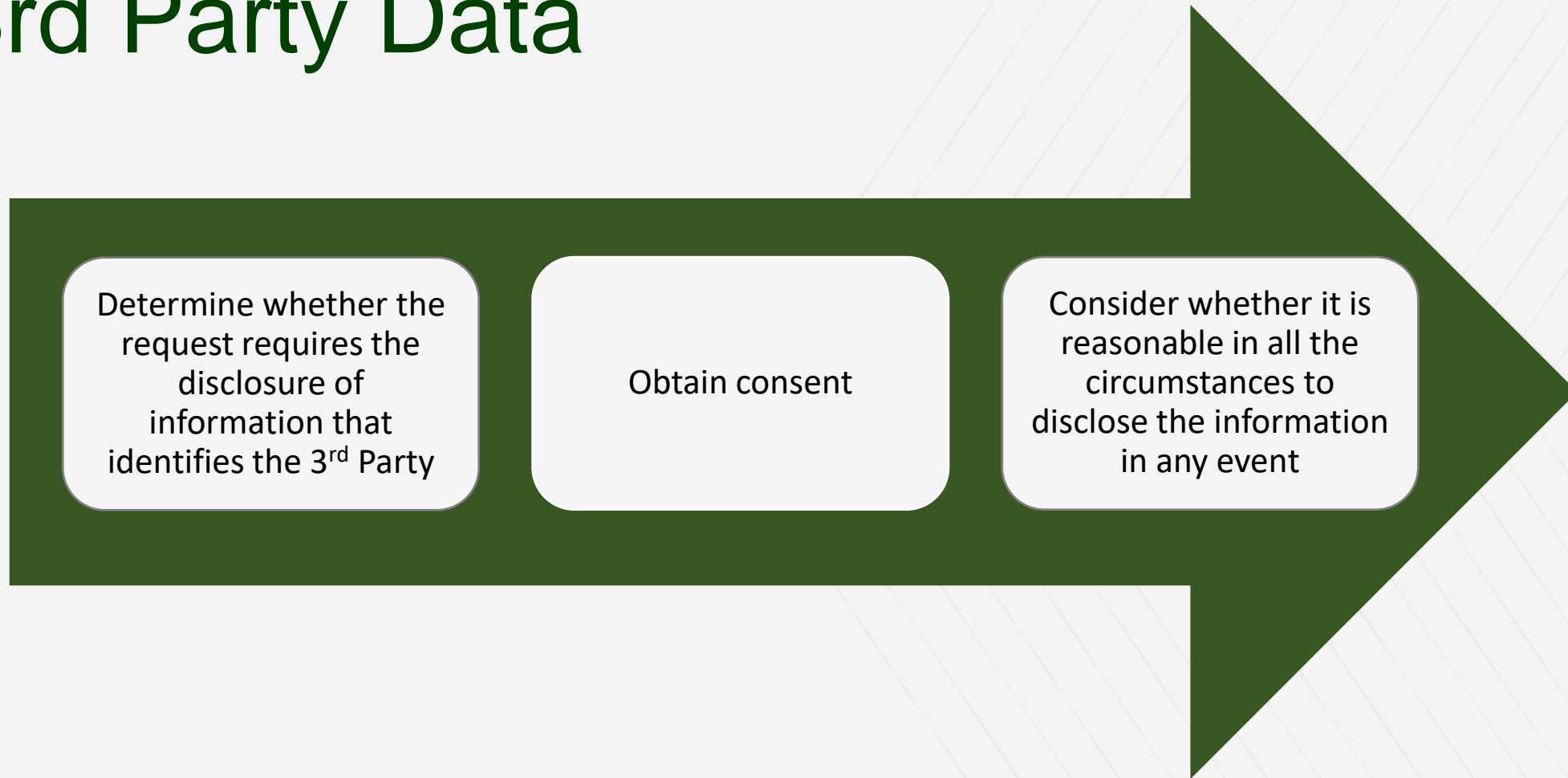
When can you refuse to comply?

- An exemption applies
 - Enable you to withhold information a from Data Subject
 - Require detailed case by case application
 - Free to provide information even if an exemption is applicable, but should consider implications
 - Ensure audit trail to justify exemption

Examples of relevant exemptions

- References (in confidence)
- Management forecasts
- Negotiations
- Legal professional privilege
- 3rd party data

3rd Party Data



KK and other matters



Helen Snow

To Helen Snow

Reply Reply All Forward

Fri 01/10/2021 15:14

Hi Masudah

I had another run in with Kim Kardashian this morning. She was complaining about the usual. I just can't believe that woman, she really is beyond the pale.

In my view she's gone too far this time, she was dragging Paul and George and Ringo into things wholly unnecessarily. Paul has had his fair share of run ins with Kim in the past 6 months and he thinks she's just awful. He even at one point contemplated raising a grievance in relation to the way KK was treating him. I don't blame him, it was causing him such stress and anxiety and he was back and forth to the doctor for months.

I suggest we offer her 10K just to make her go away. We can then consider filling her position with John from accounting, he been doing a great job.

Let me know what you think.

Also can you arrange a catch up call with Ed Sheeran, we need to discuss the up coming implications of the outsourcing project with him and he's been pretty hard to get hold of.

Thanks

Helen

PS. KK's annual salary is £50K

KK and other matters



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[↩ Reply](#) [↩ Reply All](#) [→ Forward](#) [...](#)

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Thank You

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