

A photograph of three business professionals (two men and one woman) sitting around a table in a modern office or cafe at night. They are looking at laptops and talking. The background shows a window with city lights. The image is partially obscured by a dark green overlay at the bottom.

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# Strategies for dealing with SARs

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Helen Snow, *Partner, Information Law*

# Spotlight on...



# What do you know?

- Right of Access (Article 15 UK GDPR)
- Entitled 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 3<sup>rd</sup> 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

# 3<sup>rd</sup> Party Data

Determine whether the request requires the disclosure of information that identifies the 3<sup>rd</sup> Party

Obtain consent

Consider whether it is reasonable in all the circumstances to disclose the information in any event

## KK and other matters



Helen Snow

To Helen Snow



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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PS: KK's annual salary is £50K

Any questions

Book onto our next  
Public Sector England Webinar

# Property Law Update

Wednesday 4<sup>th</sup> May 2022 @11am

In this webinar we will summarise recent changes and developments in property law which may impact on local authority's assets and regeneration projects including a summary of recent case law and legislative changes.

**For more information and to book a place, click on the link now showing in the Chat function.**

Thank You

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# Thank You

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