

What can Burness Paull do for you?

Subject Access Requests (or “SARs”) are an increasing feature of the employment landscape. They are now seen as part of an employee’s armoury where a dispute or potential dispute has been identified by that employee.

Potentially covering lengthy periods of time and significant quantities of data, both electronic and paper, a SAR is often difficult to deal with. Add to this a lack of clarity from the ICO and an absence of judicial guidance relative to what a holder of data actually has to do, and employers can be faced with significant pressure on resources, expense and complexity when seeking to respond a SAR.

Based on our extensive experience of helping clients deal with both SARs and dealing with the ICO, together with the superb sifting capabilities of our intelligent SAR review platform, we are ideally placed to help employers respond to SARs proportionately and efficiently.



How can we help?

REVIEW THE ORIGINAL SAR

The document identified as a SAR may not be clear relative to the data actually sought by the employee. We can advise on its content and any appropriate limitations in terms of its scope. We can recommend whether there should be dialogue with the requester with a view to narrowing the scope of the request, and what approach that dialogue should take.

DO YOU NEED TO COMPLY WITH THE SAR - OR NOT?

It is not always the case that a SAR needs to be complied with. The rules permit holders of data to decline to comply in certain circumstances where the request could be described as unfounded or excessive. We can assist in advising on this, drawing on our experience of dealing with many SARs over the years and an awareness of the ICO's approach to these.

THE COMPLIANCE STAGE - TIME FRAMES

You will be aware of the one month period for responding to a SAR but there may be an opportunity for more time. We can assist in advising on applicable timescales and the entitlement or otherwise to request an extension to these.

COMPLIANCE - STRUCTURE OF SEARCHES AND MANAGEMENT OF WHAT YOU FIND

It is at the point of compliance that the most challenging issues arise. What do you do if the necessary search parameters result in thousands, tens of thousands or even, on occasions, hundreds of thousands of documents? How do you avoid the risk of disclosing other people's confidential data or your organisation's commercial data in error due to the complexity and volume of the documents returned by an initial search?

We can provide guidance on appropriate search parameters and we have sophisticated analytical tools to assist you to sift out irrelevant documents and duplicates, which can cut down the numbers of potentially disclosable documents by thousands, to more easily identify the potentially disclosable documents for more detailed review.

Further difficult questions can arise at the point of review of potentially disclosable documents. How do you separate out a requester's data from the data of others? How do you separate out and determine what is privileged? How do you apply the right to withhold data that may fall into one of the relevant exemptions? We have considerable experience of conducting SAR document reviews and advising on all of these matters.

Where you have the resources to carry out a sift and review of documents internally, we can provide you with a protocol to apply to the search for, and review of documents, and we can also audit a percentage of your documents for compliance and quality control purposes.



For more information on how we can help you deal with SARs, please contact:



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