

# No order for DSAR compliance where not reasonable or proportionate

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The courts will not enforce compliance with a data subject access request (also referred to as a DSAR) where compliance

would not be reasonable or the search would require disproportionate effort. The motive for submitting the data subject access request will also be relevant to the court's decision.

A mother and two children submitted a DSAR to a law firm, Taylor Wessing, which since 1987 had been the representative of a Bahamian trustee company with whom the mother was in a legal dispute. Taylor Wessing would not comply with the DSAR on the grounds that (i) many of the documents it holds are legally privileged and (ii) some of the information it holds dates back to its instruction in 1987 and has never been computerised. The claimants applied to the court in the UK to enforce compliance with the DSAR.

The High Court refused the application. To search for unprivileged documents from the duration of Taylor Wessing's relationship with its client would be very time consuming and costly, particularly considering that Bahamian laws of privilege are complex and would require interpretation by a skilled lawyer. The court also agreed in principle that uncomputerised records were not intended to be covered by data protection provisions. In any event, the claimants' motive for submitting the DSAR was to gain access to documents for the purposes of litigation, which is at odds with the data protection rules' aim to allow data subjects to monitor the use and accuracy of their personal data.

This case is good news for employers because it confirms that they need not comply with every data subject access request they receive. Whilst employers will inevitably want to say that any request made by a disgruntled employee is made for the purposes of furthering a dispute and therefore does not need to be complied with, it is of course possible for an employee to be both in dispute with their employer and genuinely interested in how their personal data is being processed.

Dawson-Damer and others v Taylor Wessing LLP and others [2015]  
EWHC 2366 (HC)

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