# 7a Blog Seven A SARs and TSARs, part two, unfounded and excessive

**Part 2**

If you’ve read the [Subject Access Requests, SARS and TSARs blog](https://www.dropbox.com/s/x4k9a4jzoxjhtwd/7%20Blog%20Seven%20Subject%20Access%20Requests%20REVISED%2030th%20April.doc?dl=0) you’re probably wondering about “Unfounded and excessive”. GDPR doesn’t define them, what do they mean, can you help?

**No, but I can Google.**

**Unfounded**

Let’s do a Tony Stanton and begin by finding out what the opposite, “well-founded” means. It means: based on facts or good evidence, based on sound judgment, reasoning, or evidence or matters that are adequately substantiated. Like all that NICE stuff.

So “unfounded” means the opposite;

* having no foundation or basis in fact,
* groundless, unwarranted, unproven,
* unsubstantiated, unverified, unattested,
* unconfirmed, untested, unsupported,
* uncorroborated, without basis,
* not backed up by evidence.

…."his fear that he had cancer was unfounded", again like that NICE stuff.

**Excessive?**

* going beyond the usual, necessary, or proper limit or degree
* characterized by excess,
* more than is necessary, normal, or desirable; immoderate
* unrestrained, unrestricted, uncontrolled, uncurbed, unbridled
* lavish, extravagant, exorbitant, extortionate, unreasonable
* outrageous, undue, uncalled for, extreme, inordinate
* unwarranted, unnecessary, needless, disproportionate

or simply, and we downtrodden GPs recognise this one…..

* too much

so that’s unfounded and excessive sorted

**back to charging, what can we charge, or not charge’ for?**

Well we’ve seen in [Subject Access Requests, SARS and TSARs blog](https://www.dropbox.com/s/x4k9a4jzoxjhtwd/7%20Blog%20Seven%20Subject%20Access%20Requests%20REVISED%2030th%20April.doc?dl=0)

* You cannot charge for SARs or TSARs that are not excessive or unfounded.
* You can charge a fee to cover your reasonable admin costs for copies of the above
* You can charge a fee, which may be different to admin costs, for any SAR or TSAR that is unfounded or excessive.
* And for excess and unfound, the other option is refusal.

**OK so can we have some charge / no charge examples please?\***

**Certainly**

1) A person wants a copy of their records. First time ever request.

Not much in the record, no more than 10 pages of A4 printout

It’s a SAR.

Reasonable, founded, not excessive

No charge

2) Next day same person wants another copy, the dog ate the last

It’s a copy SAR.

Reasonable, founded, not excessive, but a copy

Admin charge

3) 6 months later after a new hip replacement, same person wants a complete set of records to update theirs

The request is a SAR.

Reasonable, not innately excessive, only the last 6/12 will differ

Suggest a TSAR of the last 6 months. No charge for that

If they insist on the full lifelong SAR, decline or charge

4) A person wants a copy of their records. First time ever request. Not much in the record, 50 pages of A4 printout

It’s a SAR.

Reasonable, founded, not excessive, but quite a lot of paper

Electronic copy, no charge. Paper copy, probs no charge (Blast!)\*\*

5) Next day same person wants another copy, the dog ate the fob

It’s a copy SAR.

Reasonable, founded, not excessive, but a copy

Admin charge

6) 3 months later after two failed hip replacements, 3 intubations, 2 months on ITU, a renal transplant, you get the picture; same person wants another SAR, to update their records. 250 pages of new letters and discharge summaries, all previously copied to the patient.

The request is a SAR.

Reasonable request, but only the last 3/12 will be different and he’s had copies previously

Suggest an electronic TSAR of only the last 3 months. No charge

If they insist on the full lifelong SAR, decline or charge

If they insist on a paper TSAR, decline or charge

If they insist on a paper SAR, decline or charge

7) A person wants copy of their lifelong records, they are 99 yrs old, the paper record is one Lloyd George envelope. The last 5 years are all electronic but produce 10 pages of printout.

It’s a SAR.

Reasonable to ask, founded, possibly not excessive?

Suggest an electronic TSAR of the last 5 years, no charge

If they insist on a paper TSAR, another Blast!, no charge\*\*

8) A person wants copy of their lifelong records, they are 99 yrs old, the paper records weigh 18kg and fill 20 Lloyd George records. The last 5 years are all electronic but produce 10 pages of printout.

It’s a SAR.

Reasonable to ask, founded, excessive!

Suggest an electronic TSAR of the last 5 years, no charge

If they insist on a paper TSAR, another Blast!, no charge\*\*

If they insist on the full lifelong SAR, decline or charge

9) A person wants copy of their lifelong records, they are 99 yrs old, the paper records weigh 18kg and fill 20 Lloyd George records. The last 5 years are all electronic but produce 200 pages of printout.

It’s a SAR.

Reasonable to ask, founded, excessive!

Suggest an electronic TSAR of the last 5 years, no charge

If they insist on a paper TSAR, decline or charge

If they insist on the full lifelong SAR, decline or charge

10) A person wants copy of their lifelong records, they want to claim for an incident 5 yrs previously, but they don’t declare that, they just ask for a SAR.

It’s a SAR, you can’t know what you’ve not been told

Charge if excessive

11) A person wants copy of their lifelong records, they want to claim for an incident 5 yrs previously, they say so.

If they declare that its for a specific incident and a claim, you can respond with “that means its not a SAR, it’s a report”.

Charge as if it were a report.

12) A solicitor writes to you saying they need a SAR for their client, who is your patient. It’s not clear why.

Solicitors are bound by GDPR in the same way you are, not excessive, appropriate, minimum necessary etc. They are also bound by the rules of their GMC equivalent, the Law Society. If the purpose of their request is not clear, ask them to be specific and clarify.

Await their clarification

13) A solicitor writes to you saying they need a SAR for their client, who is your patient, you’re not implicated, its about the hip op.

If you’re not implicated, someone else is, if its about a specific hip op they can’t possibly need a SAR. Furthermore its in pursuit of a claim.

Its not a SAR, it’s a report

Provide and charge accordingly.

14) A solicitor writes to you saying they need a SAR for their client, who is your patient, they confirm there is no other purpose.

They are also bound by the rules of their GMC equivalent, the Law Society. If the purpose of their request is not what they say it is they are potentially in trouble.

However they state in black and white its simply a SAR, you must therefore treat it as one.

Charge if excessive.

15) A person wants copy of their company BUPA medical reports

It’s an excepted TSAR.

All the info from these medicals was provided by the DS and you are not expected to keep copies unless clinically relevant

Offer to provide a TSAR of what you do have.

Charge, because they’ve already had the data

16) A person wants copy of their lifelong records because “you are an advance party of Martians intent on global domination hacking his brain”

Yes it’s a SAR. GDPR makes no determination about capacity of the requestor, if it’s a written request, even from outer space, it’s a SAR

Need I comment? It may be a SAR but its unfounded.

Suggest a referral

But, make sure you properly document the episode.

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\*These are my opinions and guides as to what I believe will be reasonable approaches in the given situations.

\*\*There clearly is a debate to what extent GPs should pay for the paper and toner on which SARs are printed, even the first page let alone the nhundredth.