Consultation on the ICO's Guidance on the AI auditing framework

The ICO are consulting on our guidance on the AI auditing framework. This guidance aims to give organisations practical advice to help them create, use and audit AI systems that are compliant with data protection laws.

We are looking for a wide range of views from organisations across all sectors and sizes.

If you would like further information about the consultation, please email AIAuditingFramework@ico.org.uk.

Please send us your response by 17:00 on 01/04/2020 by completing the online version of this survey.

Privacy statement

Please note, your responses to this survey will be used to help us with our work on the AI auditing framework only. The information will not be used to consider any regulatory action, and you may respond anonymously should you wish. For more information about what we do with personal data see our privacy notice.

Please note that we are using the platform Snap Surveys to gather this information. Any data collected by Snap Surveys for ICO is stored on UK servers. You can read their Privacy Policy.

Q1   Is the draft guidance clear about what you should consider when creating and using AI-systems that are compliant with data protection law?

☒   Yes

☐   No

Please outline what parts, if any, you think could be improved:

The scope and objectives of the consultation were clear. One member noted:
"My initial reaction was the usual 'why isn't the public one of the core consultee groups?'.   Having understood the scope and objectives of the consultation I withdrew that reaction."

The scope of the ICO is very important but quite restricted and that is reflected in the scope and objectives of the consultation. The stated purpose of the consultation is to check whether the draft paper gives the right information on the **legal** data protection and security requirements to be considered by organisations contemplating the use of data from members of the public in investigating and developing AI.

We note that the fitness for purpose question is best answered by those organisations which will have to use the document in implementing AI rather than by the public.

It specifically excludes ethical, explainability, liability, validation and commercial issues which are outside the remit of ICO.   These excluded items are probably the ones where use MY data might have its strongest role to play, so we look forward to being able to comment from that perspective in another consultation.

Q2   How well-pitched are the sections in the draft guidance?

a   'About this guidance'

☐   Too detailed

☒   Just right

☐   Too vague

Please provide your suggestions on how we can improve on the level of detail:

We recognise that 90% of the document is about specifying the ICO's legal interpretation of data protection and security as applied to AI and we think it is best if comment on that is left to legal specialists rather than a lay-voice.

The other 10% of the document was more interesting and more concerning.   Some thoughts were:

"It is about, for each of the legal aspects, how organisations should manage their approach to these legal aspects. It starts from the premise that organisations contemplating an application of AI based on data from the public should take a risk-based approach to managing the legal data protection and security aspects of this use of AI. However, in describing what to do, it only describes a gold-plated approach to what should be done to manage the legal aspects prior to use of AI. Thus the same requirements would be placed on AI developments which decide what product adverts should be shown on your screen when you Google 'train times' as should be placed on AI which decides whether to chop off your leg when you go to your GP with earache."

"As such I believe it will stifle research and improvements in healthcare since the skills and overhead in complying will preclude, in my opinion, academic researchers, SME's and charities from contributing, as they might, to delivering public benefits from AI. Only the big beasts will have the money and skills to comply.   In healthcare, the big beasts will look at NHS data and want to use it but will find the costs of compliance too high and thus use weaker but cheaper data from other countries thus reducing the benefits to world health and to UK PLC."

b   'What are the accountability and governance implications of AI?

☐   Too detailed

☐   Just right

☐   Too vague

Please provide your suggestions on how we can improve on the level of detail:

c   'What do we need to do to ensure lawfulness, fairness, and transparency in AI systems?'

☐   Too detailed

☐   Just right

☐   Too vague

Please provide your suggestions on how we can improve on the level of detail:

d   'How should we assess security and data minimisation in AI?'

☐   Too detailed

☐   Just right

☐   Too vague

Please provide your suggestions on how we can improve on the level of detail:

e   'How do we enable individual rights in our AI systems?'

☐   Too detailed

☐   Just right

☐   Too vague

Please provide your suggestions on how we can improve on the level of detail:

3   Is it easy to find information in the draft guidance?

☒   Yes

☐   No

Please provide your suggestions, if any, on how the structure could be improved:

4   Are the risk statements and the examples of controls useful?

☐   Yes

☒   No

Please provide any suggestions, if any, on how these could be improved:

Some thoughts from our membership:

"My first thoughts are that ICO should develop a risk-based approach using something like the following matrix:

RISK SEGMENTATION		IMPACT		
		Low eg product advertising	Important eg cv or credit scoring	Life or death
PURPOSE	Determine feasibility			
	Assess Accuracy			
	Product Development and Deployment			

"I would argue that the hurdles to use of data from the public should be lower towards the North West of the chart and much higher towards the South East. In healthcare, investigating the feasibility of using AI to chase up likely failed appointments or to see whether AI might spot some glaucomas would be in the North West and controlling the scalpel in live operations would be in the South East.

"On that basis I would argue that the next iteration of the ICO doc, in hopefully moving emphasis from what's the law to how to apply the law, might come up with risk-segmented guidance. It would particularly help the academic researchers, SME's and charities to be able to continue to operate in AI development as most of their activities would, because of the limited depths of their pockets, necessarily be towards the North West."

5   Do you have any examples of using the draft guidance in practice that you think would be useful for us to know?

☐ Yes

☒ No

If yes, please provide further details:

6   What industry is your organisation in?

We are a movement of patients, families and carers. Our focus is on using the patient voice to build confidence in the use of patient data to save lives and improve outcomes.

7   Do you develop AI in house, or provide/procure it to/from others?

Multiple options allowed

☐   We procure AI from a third party

☐   We create and use AI in-house

☐   We provide AI to a third party/parties

☒   N/A

If yes, please provide further details:

8   Where did you hear about the consultation?

☒   ICO Twitter

☐   ICO LinkedIn

☐   ICO enewsletter

☐   ICO website

☐   Twitter

☐   LinkedIn

☐   Other organisation's enewsletter

- [ ] Other website (please specify)
- [ ] Media, blog or podcast
- [ ] ICO staff member
- [ ] Colleague

Thank you for completing our survey