

CDP/COMP/365/2025

vs

COMPLAINT

1. On the 10th July 2025, [REDACTED] (the “**complainant**”) lodged a complaint with the Information and Data Protection Commissioner (the “**Commissioner**”) pursuant to article 77(1) of the General Data Protection Regulation¹ (the “**Regulation**”) alleging that [REDACTED] (the “**controller**”) had failed to fully comply with her request to access her personal data dated the 9th June 2025.
2. For the purpose of this complaint, the Commissioner assessed the relevant facts surrounding the complaint:
 - a. that this was not the first instance in which the complainant exercised the right of access. In 2019, a detailed subject access request was submitted to the controller, which was only partially answered and beyond the statutory time limit;
 - b. that in 2025, the complainant submitted a broader and more comprehensive request covering all personal data relating to [REDACTED] activity, support requests, disciplinary procedures and employment disputes that had developed over the years;
 - c. that the controller did not provide an acknowledgment until the complainant followed up. On the 20th June 2025, the controller provided the same file previously sent in response to the subject access request made in 2019. Both the 2019 and 2025 responses lacked any explanation, context or indication that a proper and thorough data search had been conducted;

¹ Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC.

- d. that on the 23rd June 2025, the complainant sent a further follow-up, to which no reply has been received. The complainant argued that such conduct constitutes a failure to comply with the right of access established under article 15 of the Regulation, as well as a breach of article 12(3) thereof, which requires that controllers provide a timely and meaningful response within one (1) month of receiving the request;
- e. that the complainant has, over the years, actively contributed to the controller's initiatives and has sought its assistance on multiple occasions. These include:
 - i. requests for support in situations involving workplace bullying, salary discrepancies and threats of redundancy;
 - ii. participation as a candidate in an internal election of the controller, for which access to the election results generated by the voting software was denied;
 - iii. submission of statute amendments and participation in [REDACTED] governance processes;
 - iv. subjecting the complainant to a disciplinary procedure, without providing any report or explanation of the outcome; and
 - v. exclusion from correspondence between [REDACTED]
[REDACTED], none of which was disclosed in either of the responses provided.
- f. that both the 2019 and 2025 requests explicitly or implicitly covered internal communications, meeting notes, derived records, governance documents, correspondence with third parties and any other documentation relating to the aforementioned matters, and none of this information was provided;
- g. that the responses issued by the controller further failed to include the information required under article 15(1) and (2) of the Regulation, including the purposes of processing, categories of personal data, recipients or categories of recipients, data retention periods, data sources or any details concerning transfers outside the European Union; and
- h. that it has been observed that the controller routinely copies internal correspondence, including sensitive information, to a central email address [REDACTED]. This

practice suggests that relevant personal data and communications are archived internally. However, no reference to or disclosure of such material was made in either reply.

INVESTIGATION

3. Pursuant to the Office's investigation procedure, the Commissioner communicated with the controller and noted that, in accordance with article 12(3) of the Regulation, following a request made under article 15 thereof, the controller is required to provide information on the action taken without undue delay and, in any event, within one (1) month of receiving the request. Consequently, by virtue of article 58(2)(c) of the Regulation, the Commissioner instructed the controller to respond to the complainant's request. The controller was further informed that, if a reply had already been provided to the complainant or any other communication had been made with the data subject to which no response was received, a copy of such correspondence is to be submitted to the Commissioner.
4. During the course of the investigation, the Commissioner met with the controller to further discuss the contents of the case and following this meeting, the controller provided a copy of an email dated the 20th June 2025, which confirms that a reply had been provided to the complainant in response to the subject access request submitted on the 9th June 2025. Within this context, the Commissioner sought clarification as to whether the controller held any other personal data concerning the complainant that had not been provided. In this regard, the controller declared that "██████ does not have any other data about [the complainant]".

LEGAL ANALYSIS AND DECISION

5. As a preliminary step of the investigation, the Commissioner noted that the complainant had submitted two (2) subject access requests to the controller. Therefore, for the purpose of this decision, the Commissioner will only take into consideration the most recent subject access request which was submitted in 2025, as this request is the one forming the basis of the complaint under examination.

Provision of Information about the Processing

6. Article 15 of the Regulation provides for the right of the data subject to exercise a subject access request with the controller and obtain a copy of the personal data concerning her which are being processed, as well as a meaningful information about, *inter alia*, the processing activity. This provision reflects and implements the requirements emanating from the fundamental right to the

protection of personal data, as enshrined in article 8(2) of the Charter of Fundamental Rights of the European Union².

7. The provisions of the data protection legislation must be interpreted in the light of the fundamental rights guaranteed by the Charter, in connection with the spirit and scope of the Regulation, which are specifically intended to provide a high level of protection of personal data within the European Union, and to that end, ensure a consistent and homogeneous application of the Regulation³.
8. In this respect, the Commissioner assessed the wording of article 15(1) of the Regulation, which enables the data subject to *"obtain from the controller confirmation as to whether or not personal data concerning him or her are being processed and, where that is the case, access to the personal data"*, as well as other supplementary information pursuant to article 15(1)(a) to (h) of the Regulation. Further to this, article 15(3) of the Regulation, which is more prescriptive, states that *"the controller shall provide a copy of the personal data undergoing processing"* [emphasis has been added].
9. More specifically, article 15(1)(a) to (h) of the Regulation provides that the data subject shall have the right to obtain from the controller access to information on the processing. This information shall be provided in addition to a copy of the personal data itself, and shall include the purposes of the processing, the categories of personal data, the recipients or categories of recipient, the envisaged duration of the processing or the criteria for determining the duration, the existence of the rights of the data subjects, the right to lodge a complaint with the Commissioner and any available information on the source of the data.

² Charter of Fundamental Rights of The European Union, 2012/C 326/02, published in the Official Journal of the European Union C 326/391 of 26th October 2012.

³ Recital 10 of the Regulation: *"In order to ensure a consistent and high level of protection of natural persons and to remove the obstacles to flows of personal data within the Union, the level of protection of the rights and freedoms of natural persons with regard to the processing of such data should be equivalent in all Member States. Consistent and homogenous application of the rules for the protection of the fundamental rights and freedoms of natural persons with regard to the processing of personal data should be ensured throughout the Union. Regarding the processing of personal data for compliance with a legal obligation, for the performance of a task carried out in the public interest or in the exercise of official authority vested in the controller, Member States should be allowed to maintain or introduce national provisions to further specify the application of the rules of this Regulation. In conjunction with the general and horizontal law on data protection implementing Directive 95/46/EC, Member States have several sector-specific laws in areas that need more specific provisions. This Regulation also provides a margin of manoeuvre for Member States to specify its rules, including for the processing of special categories of personal data ('sensitive data'). To that extent, this Regulation does not exclude Member State law that sets out the circumstances for specific processing situations, including determining more precisely the conditions under which the processing of personal data is lawful"*.

10. In this regard, the Commissioner carefully analysed the controller's reply to the complainant's request for access and observed that the information provided did not fully satisfy the requirements set out in article 15(1)(a) to (h) of the Regulation.

Consideration of the Declaration provided by the Controller

11. Following the Commissioner's intervention, the controller was requested to provide a declaration clarifying whether any further personal data relating to the complainant was held or processed. Thus, the controller submitted a written declaration confirming that it does not hold any additional personal data concerning the complainant other than that which had already been disclosed.
12. Accordingly, the Commissioner draws the controller's attention to article 22 of the Data Protection Act (Cap. 586 of the Laws of Malta), which clearly sets out that whoever knowingly provides false information to the Commissioner when so requested by the Commissioner pursuant to his investigative powers under article 58 of the Regulation, shall be guilty of an offence against this article and shall, upon conviction, be liable to a fine (multa) of not less than one thousand, two hundred and fifty euro (€1,250) and not more than fifty thousand euro (€50,000) or to imprisonment for six months or to both such fine (multa) and imprisonment.

On the basis of the foregoing considerations, the Commissioner is hereby deciding that the controller failed to provide the complainant with the information relating to the processing of her personal data as required under article 15(1)(a) to (h) of the Regulation.

Accordingly, pursuant to article 58(2)(c) of the Regulation, the controller is hereby being ordered to provide the complainant with the information concerning the processing of her personal data in accordance with the requirements set out in article 15(1)(a) to (h) of the Regulation. The controller shall comply with this order within twenty (20) days from the date of receipt of this legally-binding decision and shall inform the Commissioner of the action taken immediately thereafter.

Furthermore, having examined the documentation submitted, including the declaration confirming that no additional personal data relating to the complainant is held beyond what has already been disclosed, the Commissioner notes that the controller does not hold or process any further personal data concerning the complainant.

In light of the foregoing, the Commissioner concludes that, although the controller did not provide complete information about the processing as required under article 15(1)(a) to (h) of the

Regulation, no infringement has been established in relation to the complainant's allegation that not all her personal data had been provided.

Ian
DEGUARA
(Signature)

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by Ian DEGUARA
(Signature)
Date: 2025.10.15
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Ian Deguara
Information and Data Protection Commissioner

Right of Appeal

In terms of article 26(1) of the Data Protection Act (Chapter 586 of the Laws of Malta), “*any person to whom a legally binding decision of the Commissioner is addressed, shall have the right to appeal in writing to the Tribunal within twenty days from the service of the said decision as provided in article 23*”.

An appeal to the Information and Data Protection Appeals Tribunal shall be made in writing and addressed to:

The Secretary
Information and Data Protection Appeals Tribunal
158, Merchants Street
Valletta.