Information and Data Protection Commissioner

CDP/COMP/537/2025

[redacted]

vs

[redacted]

COMPLAINT

1. On the 3rd October 2025, Ms [redacted] (the "**complainant**") lodged a data protection complaint with the Information and Data Protection Commissioner (the "**Commissioner**") in terms of article 77(1) of the General Data Protection Regulation[1] (the "**Regulation**"), alleging that [redacted] (the "**controller**") infringed her right to the protection of personal data by emailing a number of parents, including herself, using the '*Carbon Copy*' (the "**CC**") field, thereby unlawfully disclosing her personal data to third parties and linking sensitive information about her child's circumstances to her identity. As supporting documentation, the complainant submitted a copy of the email dated the 29th September 2025 sent by the controller, which reads as follows: "*Please find attached a letter from the* [redacted] *concerning your child's training assessment.*"

2. Given that this email sent by the controller referred to an attached letter, and that the email itself contained no sensitive information about her child's circumstances, the Commissioner requested the complainant to submit a copy of the attachment, which was submitted on the 13th October 2025.

[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 (General Data Protection Regulation).

INVESTIGATION

Request for submissions

3. Pursuant to the internal investigative procedure of this Office, the Commissioner provided the controller with a copy of the complaint, including the documentation attached thereto, and enabled the controller to submit any information which it deemed relevant and necessary to defend itself against the allegation raised by the complainant.

Submissions of the controller

4. By means of a letter dated the 21st October 2025, the controller, through its legal representative, submitted the following arguments for the Commissioner to consider during the legal analysis of the case:

    a. that the controller sent the email dated the 29th September 2025 in good faith, and that the inclusion of all recipients in the CC field resulted from a technical error and oversight, as the controller had intended to send the relevant email to all recipients using the '*Blind Carbon Copy*' (the "**BCC**") field;

    b. that, notwithstanding this error, the controller did not breach any data protection legislation;

    c. that the controller is a [redacted] where children are enrolled to learn and practice football, and that upon enrolment, parents are asked to provide their email addresses and telephone numbers for the purpose of contacting them, either individually or collectively, in relation to the controller's students;

    d. that it is not the first time that parents have been contacted collectively by email or WhatsApp messages, and that the complainant remains active in the controller's WhatsApp group;

    e. that the controller constantly assesses the students, and that over time the students are categorised based on their skills and capabilities for various reasons, including their safety, and that this was the background of the controller's letter attached to the email dated the 29th September 2025;

f. that the attached letter did not contain any medical information about any child. The letter focuses on the children's football skills, and it is implied that the term 'development' in the letter refers to football development. This refers to the fact that each child progresses at a different rate, which is not a medical condition;

g. that the attached letter merely states that the recipients' children will not be given much playing time in competitive matches and that they are free to find another football club; and

h. that the complainant's email address [redacted] is unlikely to identify her as the parent of a child who will not be given much playing time, since one cannot automatically identify the complainant from her email address.

Submissions of the complainant

5. Pursuant to the internal investigative procedure of this Office, the Commissioner provided the complainant with the opportunity to rebut the controller's submissions. By means of an email sent on the 6th November 2025, the complainant through her legal representatives submitted the following arguments:

a. that the complainant's email address [redacted] constitutes personal data since the element [redacted] enables the identification of the complainant's name [redacted];

b. that the complainant is identifiable from her email address, particularly since all the individuals copied in the controller's email dated the 29th September 2025 personally know her;

c. that inferences can be drawn from the identification of the complainant in relation to the letter attached to the controller's email dated the 29th September 2025, which also leads to the identification of the complainant's minor son;

d. that the controller breached the complainant's right to the protection of personal data by including her email address in the CC field, thereby disclosing her personal data to third parties who could identify her without her consent;

e. that the controller admitted in its submissions that it breached the complainant's data protection rights by stating that "*it was a mistake that the email of 29 September 2025*

contained the email addresses of all the recipients. My client would like to point out that it was intended that the sender would use BCC and not CC.";

f. that the controller's argument that the complainant remains active in its WhatsApp group is irrelevant to the present complaint, and that, in any event, the complainant is free to leave the group at any time and thus retains control over whether she remains visible in it;

g. that the controller's statement in its submissions that "*[f]rom what my client saw in Ms [redacted]'s son, it was obvious that he would not advance with the [redacted]*" further substantiates the complainant's argument that her identification through the disclosure of her email address to other parents could lead to inferences being drawn about her minor son;

h. that the controller, in its submissions, seeks to excuse its lack of adherence to data protection rules by stating that it relies on a number of volunteers. The data controller should ensure that it, including any volunteers, is fully aware of and complies with its data protection obligations to safeguard data subjects' rights at all times and in all circumstances; and

i. that mistakenly disclosing personal data does not exempt the controller from its data protection obligations, as accidental disclosure still constitutes a breach of the complainant's data protection rights.

LEGAL ANALYSIS AND DECISION

9. During the course of the investigation, the Commissioner examined the complaint lodged on the 3rd October 2025, in which the complainant alleged that the controller emailed a number of parents, including herself, using the '*Carbon Copy*' (the "**CC**") field, thereby unlawfully disclosing her email address, which constitutes personal data, to other parents and linking sensitive information about her child's circumstances to her identity. The Commissioner further examined the supporting documentation, which was submitted by the complainant, namely the controller's email dated the 29th September 2025 together with the controller's letter attached thereto.

10. With reference to the controller's letter attached to the email dated the 29th September 2025, the Commissioner noted that this one-page letter is drafted in general terms and does not directly disclose any medical or other personal data relating to the complainant's minor son. The letter

informs the parents or legal guardians that their child "*is still in the early phases of [football] development, which means his playing time in competitive matches will be limited*". With reference to the controller's email dated the 29th September 2025, the Commissioner established that the controller sent this email to thirteen (13) recipients using the CC field instead of the BCC field. The complainant's personal email address was included in this communication and, as a result, disclosed to the other twelve (12) recipients.

11. Therefore, the Commissioner proceeded to examine whether in this case the complainant's personal email address [redacted] constitutes "*personal data*" within the meaning of article 4(1)[2] of the Regulation.

12. Article 4(1) of the Regulation defines "*personal data*" as "*any information relating to an identified or identifiable natural person ('data subject')*". An identifiable person is one who can be identified, directly or indirectly, in particular by reference to an identifier like a name, identification number, or location data, or to one or more factors specific to a person's physical, physiological, mental, economic, cultural, or social identity. The Court of Justice of the European Union (the "**CJEU**") held that "*to determine whether a person is identifiable, account should be taken of all the means likely reasonably to be used either by the controller or by any other person to identify the said person*".[3]

13. The Commissioner notes that an email address which contains the name and surname[4] of a natural person constitutes "*personal data*" within the meaning of article 4(1) of the Regulation. In this context, recital 26 of the Regulation states that a person may still be identifiable after taking into account "*all the means reasonably likely to be used, such as **singling out**, either by the controller or by another person **to identify the natural person directly or indirectly***" [emphasis has been added].

14. In this case, the complainant's personal email address does not contain her full name and surname but does contain part of her name ('[redacted]'). In view of the complainant's submissions dated the 6th November 2025 stating that "*all individuals copied in that same email know her*", and considering the social context in Malta, where individuals within a given community are generally well acquainted with one another, as well as the fact that the complainant was part of

[2] Article 4(1) of the Regulation defines 'personal data' as '*any information relating to an identified or identifiable natural person ('data subject'); an identifiable natural person is one who can be identified, directly or indirectly, in particular by reference to an identifier such as a name, an identification number, location data, an online identifier or to one or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity of that natural person*;'

[3] *Patrick Breyer v Bundesrepublik Deutschland* (Case C-582/14) EU:C:2016:779 [2016] para. 42.

[4] This has been confirmed by the Court of Appeal in '*Doreen Camilleri vs Kummissarju għall-Informazzjoni u l-Protezzjoni tad-Data*' (Appeal No. 63/17), decided on the 5th October 2018.

the controller's WhatsApp group, the Commissioner concludes that the complainant's email address constitutes "*personal data*" within the meaning of article 4(1) of the Regulation, since the other recipients could identify the complainant and infer that she is the parent of a child who would not be given much playing time.

15. Accordingly, the controller is obliged to ensure that its processing activities are carried out in a manner that ensure appropriate security of the personal data, including protection against unauthorised disclosure of, or access to, personal data. By virtue of the principle of accountability held under article 5(2) of the Regulation, the controller is responsible for, and must be able to demonstrate compliance with the principles of data processing, specifically the principle of integrity and confidentiality pursuant to article 5(1)(f) thereof.

16. The principle of integrity and confidentiality is further reflected in article 32(1) of the Regulation, which is more prescriptive and sets out the obligations to which the controller is subject, in terms of data security. In this respect, article 32(1) of the Regulation obliges the controller to implement appropriate technical and organisational measures to ensure a level of security appropriate to the risk, taking into account the state of the art, the costs of implementation and the nature, scope, context and purposes of processing as well as the risk of varying likelihood and severity for the rights and freedoms of natural persons.

17. The Commissioner stresses that the controller should select the appropriate security measures which are necessary to effectively protect the personal data prior to the processing activity. In this respect, article 32(2) of the Regulation stipulates that "*in assessing the appropriate level of security account shall be taken in particular of the risks that are presented by processing, in particular from accidental or unlawful destruction, loss, alteration, unauthorised disclosure of, or access to personal data transmitted, stored or otherwise processed*".

18. After assessing the parties' submissions, the Commissioner took into account the controller's submissions stating that "*it was a **mistake** that the email of 29 September 2025 contained the email addresses of all the recipients … it was intended that the sender would use BCC and not CC. This was **a technical error and an oversight** when it was sent"* [emphasis has been added]. The Commissioner further noted that "*I assure you that the sender and the [redacted] sent the email in good faith and the **error was genuine**. The [redacted] rests on a number of volunteers who are dedicated to giving an exceptional experience to a large number of young boys"* [emphasis has been added]. It is thus clear that the email dated the 29th September 2025 was sent by the controller using the CC field instead of the BCC field by mistake.

19. In this regard, the Commissioner notes that the European Data Protection Board (the "**EDPB**") recognises human error as a common and frequent occurrence in the context of personal data

breaches. In particular, the EDPB Guidelines 01/2021 on Examples Regarding Personal Data Breach Notification state that "*[t]he role of human error in personal data breaches has to be highlighted, due to its common appearance. Since these types of breaches can be both intentional and unintentional, it is very hard for the data controllers to identify the vulnerabilities and adopt measures to avoid them.*"[5] The same Guidelines further provide that unintentional human error caused by inattentiveness "***may be avoided or decreased in frequency by a) enforcing training, education and awareness programs*** *where employees gain a better understanding of the importance of personal data protection*"[6] [emphasis has been added].

20. Furthermore, the Article 29 Working Party (the predecessor of the EDPB) distinguished between infringements of an intentional and of a negligent character, stating that "*in general, intent includes both knowledge and wilfulness in relation to the characteristics of an offence, whereas* ***'unintentional' means that there was no intention to cause the infringement although the controller/processor breached the duty of care which is required in the law****"* [emphasis has been added].[7] It also identified "*human error"* as a specific example of a circumstance that may indicate negligence.

21. Following an analysis of the circumstances of the case, the Commissioner finds that the disclosure of the complainant's personal data, even if unintentional, constitutes an infringement of her data protection rights. The controller remains accountable for ensuring that it, including any volunteers acting under its authority, is fully aware of and complies with its data protection obligations. Accordingly, the Commissioner concludes that the controller failed to demonstrate that it had taken the appropriate technical and organisational measures to ensure a level of security appropriate to the risk.

In light of the foregoing, the Commissioner hereby decides that the controller infringed article 32(1)(b) of the Regulation, when it failed to implement the appropriate technical and organisational measures to ensure the ongoing confidentiality of the complainant's personal data.

In terms of article 58(2)(d) of the Regulation, the controller is hereby being ordered to implement the appropriate technical and organisational measures to ensure the ongoing confidentiality of the processing of personal data when sending emails to multiple recipients.

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[5] EDPB Guidelines 01/2021 on Examples regarding Personal Data Breach Notification, adopted on the 14th January 2021, para. 71.
[6] Idem, para. 78.
[7] Article 29 Working Party WP 253 Guidelines on the application and setting of administrative fines for the purposes of the Regulation 2016/679, adopted on the 3rd October 2017. These Guidelines were endorsed by the EDPB in its first Plenary meeting on 25 May 2018. See Endorsement 1/2018.

After considering the nature of the infringement, the controller is hereby being served with a reprimand pursuant to article 58(2)(b) of the Regulation and warned that, in the event of another infringement of a similar nature, the appropriate corrective action will be taken accordingly.

Ian DEGUARA (Signature)
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Date: 2025.11.17 16:14:31 +01'00'

Ian Deguara
Information and Data Protection Commissioner

Right of Appeal

The parties are hereby being informed that in terms of article 26(l) of the Data Protection Act (Cap. 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 to the Information and Data Protection Appeals Tribunal within twenty (20) days from the service of the said decision as provided in article 23 thereof[8].

An appeal to the Tribunal shall be made in writing and addressed to *"The Secretary, Information and Data Protection Appeals Tribunal, 158, Merchants Street, Valletta"*.

[8] Further information on the appeals procedure is available on this Office's website at the following hyperlink: https://idpc.org.mt/appeals-tribunal/.