

To Good To Go ApS  
Landskronagade 66  
2100 København Ø

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J.No. 2021-7320-2722  
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Caseworker

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## Draft decision: Complaint about the processing of personal data

The Danish Data Protection Agency (DPA) hereby returns to the case in which ██████████ (hereinafter referred to as 'complainant') has complained to the Dutch Data Protection Authority that Too Good To Go (hereinafter TGTG) did not respond to his request for deletion of his personal information.

**The Danish Data  
Protection Agency**  
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Pursuant to Article 56 of the Data Protection Regulation, the Dutch Data Protection Authority has forwarded this complain to the Danish Data Protection Agency, which has assumed the role of leading supervisory authority in relation to TGTG's cross-border processing activities.

### 1. Decision

Following an examination of the case, the Danish Data Protection Agency finds that there are grounds to **issue a reprimand** as the processing of personal data done by TGTG was not done in accordance with Article 12(3) of the General Data Protection Regulation.

As the data covered by the complainant's request for erasure has been deleted, the Danish Data Protection Agency has not considered the basis for notifying to delete the complainant's customer account.

The details of the case and the reasons for the decision of the Danish Data Protection Agency are set out below.

### 2. Statement of the facts

The complainant sent e-mails containing a request for erasure of his personal data to TGTG on December 20<sup>th</sup> 2019 and April 10<sup>th</sup> 2020. The e-mails were sent to [info@togooodtogo.dk](mailto:info@togooodtogo.dk).

As the complainant did not receive a response from TGTG the complainant lodged a complaint with the Dutch Data Protection Authority on July 2<sup>nd</sup> 2020.

On July 12<sup>th</sup> 2021, the Danish Data Protection Agency sent the complaint in hearing asking TGTG for an opinion on the matter.

On August 3<sup>rd</sup> 2021 TGTG made a statement to the Danish Data Protection Agency on the matter.

The Danish Data Protection Agency forwarded the statement of TGTG to the complainant on September 8<sup>th</sup> 2021, with a request for any additional comments. The Danish Data Protection Agency did not receive a response from the complainant.

### **2.1. Remarks by the complainant**

The complainant has generally stated that TGTG has not responded to his request for deletion.

### **2.2. Comments by Too Good To Go**

TGTG has stated that the company did receive the complainant's request for erasure by e-mail of December 2019. TGTG elaborated, that due to a human error, no action was taken to comply with the request and thus no reply was sent to the complainant.

Moreover, TGTG stated, that the company initiated their standard procedure for the erasure of user data as a result of receiving the hearing from the Danish Data Protection Agency. Furthermore, TGTG confirmed that the complainant's user profile had been erased.

Furthermore, TGTG informed that the company had incorporated new measures to ensure that similar error would not happen in the future.

### **3. Reasons for the decision of the Danish Data Protection Agency**

It follows from Article 12(3) of the General Data Protection Regulation that the data controller shall provide information on action taken on a request under amongst Article 17 regarding erasure to the data subject without undue delay and in any event within one month of receipt of the request. That period may be extended by two further months where necessary, taking into account the complexity and number of the requests. The controller shall inform the data subject of any such extension within one month of receipt of the request, together with the reasons for the delay.

On basis of the facts presented in the case the Danish Data Protection Agency finds that TGTG did not provide information to complainant on actions taken on basis of the request for erasure within one month of receiving the request. In fact, the DPA finds that no actions were taken by TGTG before the company received the DPA's hearing of July 12<sup>th</sup> 2021.

On the basis of the above, the DPA **issues a reprimand** to TGTG as the controller did not comply with their obligation under Article 12(3) in the General Data Protection Regulation.

### **4. Final remarks**

The Danish Data Protection Agency considers the case closed and will not take further action in the case.

Kind regards



**Appendix: Legal basis**

**Extracts from regulation (EU) 2016/679 Of The European Parliament And Of The Council of 27<sup>th</sup> of 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).**

**Article 12.** The controller shall take appropriate measures to provide any information referred to in Articles 13 and 14 and any communication under Articles 15 to 22 and 34 relating to processing to the data subject in a concise, transparent, intelligible and easily accessible form, using clear and plain language, in particular for any information addressed specifically to a child. The information shall be provided in writing, or by other means, including, where appropriate, by electronic means. When requested by the data subject, the information may be provided orally, provided that the identity of the data subject is proven by other means.

**2.** The controller shall facilitate the exercise of data subject rights under Articles 15 to 22. In the cases referred to in Article 11(2), the controller shall not refuse to act on the request of the data subject for exercising his or her rights under Articles 15 to 22, unless the controller demonstrates that it is not in a position to identify the data subject.

**3.** The controller shall provide information on action taken on a request under Articles 15 to 22 to the data subject without undue delay and in any event within one month of receipt of the request. That period may be extended by two further months where necessary, taking into account the complexity and number of the requests. The controller shall inform the data subject of any such extension within one month of receipt of the request, together with the reasons for the delay. Where the data subject makes the request by electronic form means, the information shall be provided by electronic means where possible, unless otherwise requested by the data subject.

**4.** If the controller does not take action on the request of the data subject, the controller shall inform the data subject without delay and at the latest within one month of receipt of the request of the reasons for not taking action and on the possibility of lodging a complaint with a supervisory authority and seeking a judicial remedy.

**5.** Information provided under Articles 13 and 14 and any communication and any actions taken under Articles 15 to 22 and 34 shall be provided free of charge. Where requests from a data subject are manifestly unfounded or excessive, in particular because of their repetitive character, the controller may either: a) charge a reasonable fee taking into account the administrative costs of providing the information or communication or taking the action requested; or b) refuse to act on the request. The controller shall bear the burden of demonstrating the manifestly unfounded or excessive character of the request.

**6.** Without prejudice to Article 11, where the controller has reasonable doubts concerning the identity of the natural person making the request referred to in Articles 15 to 21, the controller may request the provision of additional information necessary to confirm the identity of the data subject.

**Article 17.** The data subject shall have the right to obtain from the controller the erasure of personal data concerning him or her without undue delay and the controller shall have the obligation to erase personal data without undue delay where one of the following grounds applies:

- a) the personal data are no longer necessary in relation to the purposes for which they were collected or otherwise processed;

- b) the data subject withdraws consent on which the processing is based according to point (a) of Article 6(1), or point (a) of Article 9(2), and where there is no other legal ground for the processing;
- c) the data subject objects to the processing pursuant to Article 21(1) and there are no overriding legitimate grounds for the processing, or the data subject objects to the processing pursuant to Article 21(2);
- d) the personal data have been unlawfully processed;
- e) the personal data have to be erased for compliance with a legal obligation in Union or Member State law to which the controller is subject;
- f) the personal data have been collected in relation to the offer of information society services referred to in Article 8(1).

**2.** Where the controller has made the personal data public and is obliged pursuant to paragraph 1 to erase the personal data, the controller, taking account of available technology and the cost of implementation, shall take reasonable steps, including technical measures, to inform controllers which are processing the personal data that the data subject has requested the erasure by such controllers of any links to, or copy or replication of, those personal data.

**3.** Paragraphs 1 and 2 shall not apply to the extent that processing is necessary:

- a) for exercising the right of freedom of expression and information;
- b) for compliance with a legal obligation which requires processing by Union or Member State law to which the controller is subject or for the performance of a task carried out in the public interest or in the exercise of official authority vested in the controller;
- c) for reasons of public interest in the area of public health in accordance with points (h) and (i) of Article 9(2) as well as Article 9(3);
- d) for archiving purposes in the public interest, scientific or historical research purposes or statistical purposes in accordance with Article 89(1) in so far as the right referred to in paragraph 1 is likely to render impossible or seriously impair the achievement of the objectives of that processing; or
- e) for the establishment, exercise or defence of legal claims.