

The e-mails sent to the Data Protection Commissioner's Office

See [this article](#) for full explanation.

To: info@dataprotection.ie
17 February 2015

Hello,

I receive e-mails from many organisations on a daily basis. More and more of them are using MailChimp for the e-shots. I have looked at the raw source code of some of these mails, and it is clear that MailChimp gathers personal information without my permission – in particular whether I opened the mail and whether I clicked on any of the links. Since I cannot tell, before opening the mail, whether the mail has been sent via MailChimp, I have no way of protecting myself from this data-collection practice.

I have recently also been able to see MailChimp from the other side – a colleague was sending out an e-shot using MailChimp. And there indeed, after an e-shot had been sent, was a list of all the e-mail addresses and whether each recipient had opened the e-mail.

I doubt MailChimp is the only mailshot program that gathers data in this way.

I would be grateful if you could let me know whether this behaviour by MailChimp / the users of MailChimp is legal.

Many thanks,
Peter

Peter FitzGerald
086 213 7913

18 February 2015

Dear Mr FitzGerald,

I refer to your recent email to this Office.

I have examined the website in question and note that the website appears to be based outside our jurisdiction (Atlanta Georgia USA). We generally advise individuals to make a request to the website directly seeking the removal of their information and provide the url of the page in question but as the MailChimp website appears to be operating from a country outside our office's jurisdiction, our office will have no way of enforcing your request should they not comply with it as they are not subject to the Irish Data Protection Acts.

Yours Sincerely,

Colette Cullen
Information Officer
Office of the Data Protection Commissioner
Canal House
Station Road
Portarlinton
Co. Laois

Ph: 057 868 4800
E: info@dataprotection.ie
www.dataprotection.ie

To: info@dataprotection.ie
18 February 2015

Thanks for your response, Colette. MailChimp is based outside Ireland. The people using MailChimp to take data without my permission from my computer are often in Ireland. What is the situation there?

Best wishes,
Peter

11 March 2015

Dear Mr. Fitzgerald

Thank you for your further email to this office. I would like to add the following information for clarification purpose.

If an Irish based organisation is providing personal email addresses of its customers to a provider for the purpose of distributing an email newsletter, it would be considered the Data Controller (DC) in the situation and mailchimp would be a data processor (DP). Therefore the Irish based organisation would be required to have an appropriate DC/DP contract in place with mailchimp to outline the exact nature of processing they can do on their behalf and the security measurements they would have while holding/processing the information. Further information of what should be contained in the contract can be found at the following link:

<http://www.dataprotection.ie/viewdoc.asp?DocID=654>

There are additional requirements if the data processor is based outside of the EEA and guidance on the use of model contracts for this sort of arrangement are available at the link below:

<http://www.dataprotection.ie/ViewDoc.asp?fn=/documents/responsibilities/3ma.htm&CatID=56&m=y>

Should you wish to specify the Irish organisation(s) which you feel are providing your data to the data processor, based outside of this jurisdiction, we may be able to review the issue more thoroughly. You should include details of specific instances in your reply.

Yours Sincerely

Stewart Fennell
Information Officer
Office of the Data Protection Commissioner
Canal House
Station Road
Portarlinton
Co. Laois

Ph: 057 868 4800
E: info@dataprotection.ie

To: info@dataprotection.ie
14 March 2015

Thank you for your response, Stewart. It gets into technicalities I find hard to follow, I'm afraid. I do also appreciate that I may be asking questions about a practice that is entirely allowable. It just seems to me like it shouldn't be.

If you don't mind, I do have three questions and one point:

- 1 Is it allowable in this country for me to send you – for example – an e-mail and receive automatic notification as to whether, when and how often you looked at it, and whether you clicked on any links in it, without your knowing and without your permission?
- 2 Does it matter whether the e-mail is a one off from myself, or part of a mailshot?
- 3 Do the answers to the above (1 and 2) change if I route through a server outside of Ireland, although I'm in Ireland?
- 4 I am attaching a quick analysis I did a few days ago – by opening an account myself – of how MailChimp works and examples of its use in Ireland. I would call it spyware, but I'm no expert in the area. **[see mailChimp attachment]**

I hope I am not being a nuisance, and look forward to a reply.

Best wishes,
Peter

Peter FitzGerald

086 213 7913

[Dnote.info](#) • [iCulture.info](#) • [paintfor.me](#)

To: info@dataprotection.ie

13 April 2015

Hi,

I was wondering if there is any feedback on my e-mail of 14 March? It was acknowledged on 16 March, but I haven't had anything since.

Best wishes,

Peter

Peter FitzGerald

086 213 7913

[dnote.website](#) • [iCulture.info](#) • [paintfor.me](#)

21 April 2015

Dear Mr Fitzgerald

I refer to your recent emails to this Office. I apologise for the delay in my response.

The questions you have raised in your email do not appear to give rise to data protection issues and therefore do not fall under the remit of this Office.

I am sorry we cannot be of further assistance at this time.

Yours Sincerely

Stewart Fennell
Information Officer
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Canal House
Station Road
Portarlinton
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Ph: 057 868 4800

E: info@dataprotection.ie

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To: info@dataprotection.ie

23 April 2015

Dear Stewart,

Thank you for your answer. I'm afraid you did not answer my questions. I would like answers to them, please, in particular the first one as the others follow from it. It was:

"Is it allowable in this country for me to send you – for example – an e-mail and receive automatic notification as to whether, when and how often you looked at it, and whether you clicked on any links in it, without your knowing and without your permission?"

You did not answer whether this practice is allowable or not. Just Yes or No, please, if at all possible.

I would be grateful if you could give this citizen's request another go.

Best wishes,

Peter

12 May 2015

Dear Mr Fitzgerald

I refer to your further email to this Office.

The position as outlined in our previous email remains the same, the questions that you have raised do not come under the remit of the data protection acts.

Yours Sincerely

Stewart Fennell
Information Officer
Office of the Data Protection Commissioner
Canal House
Station Road
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Ph: 057 868 4800

E: info@dataprotection.ie

www.dataprotection.ie

To: info@dataprotection.ie
12 May 2015

Dear Stewart,

Thank you for your reply.

Can I ask two things then, finally I hope:

- Do the issues with regard to such data protection come under the remit of any body in Ireland?
- Am I free to use our communications in a public forum?

Many thanks,
Peter

26 May 2015
Dear Mr Fitzgerald

Thank you for your further email to this office.

In relation to your first query we are not aware of any body which would deal with the issues raised by him. In relation to your second point there is no restriction in relation to use of correspondence with the ODPC.

I hope this is of some assistance to you.

Yours Sincerely

Stewart Fennell
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Office of the Data Protection Commissioner
Canal House
Station Road
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www.dataprotection.ie

Peter FitzGerald
To: Peter FitzGerald
Reply-To: Peter FitzGerald
Data Protection

3 June 2015 21:48



[View this email in your browser](#)

I just wanted to

4 June 2015 @ 16:17

Dear Sir,

Thank you for your recent email.

Can you please revert with details of your data protection query on receipt of which the matter will be further assessed.

Yours Sincerely,

Colette Cullen
Information Officer
Office of the Data Protection Commissioner
Canal House
Station Road
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Co. Laois

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