



OFFICE OF THE DATA PROTECTION COMMISSIONER

ODPC COMPLAINT NO. 1354 OF 2025

KABEBERI HASSAN ABDALLA.....COMPLAINANT

-VERSUS-

MARTIN TETU KAMAKU.....RESPONDENT

DETERMINATION

(Pursuant to Section 8 (1) (f) and 56 of the Data Protection Act, 2019 and Regulation 14 of the Data Protection (Complaints Handling Procedure and Enforcement) Regulations, 2021)

A. INTRODUCTION

1. The Office received a complaint on 15th September 2025 against the Respondent alleging that the Respondent unlawfully collected, processed and published the Complainant's personal data including his curriculum vitae and recommendation letter on Facebook and TikTok without his consent, and further accompanied the publications with defamatory remarks.

B. LEGAL BASIS

2. Article 31 (c) and (d) of the Constitution of Kenya provides for the right to privacy. Consequently, as an effort to further guarantee the same, the Data Protection Act, 2019 (hereinafter known as 'the Act') was enacted.
3. The Office of the Data Protection Commissioner (hereinafter 'this Office' and/or 'the Office') was established pursuant to Section 5 of the Act and is mandated with the responsibility of regulating the processing of personal data; ensuring that the processing of personal data of a data subject is guided by the principles set out in Section 25 of the Act; protecting the privacy of individuals; establishing the legal and institutional mechanism to protect personal data and providing data subjects

with rights and remedies to protect their personal data from processing that is not in accordance with the Act.

4. Section 8 (1) (f) of the Act provides that the Office can receive and investigate any complaint by any person on infringements of the rights under the Act. Furthermore, Section 56 (1) of the Act provides that a data subject who is aggrieved by a decision of any person under the Act may lodge a complaint with the Data Commissioner in accordance with the Act.
5. This determination is premised on the provisions of Regulation 14 of the Data Protection (Complaints Handling Procedure and Enforcement) Regulations, 2021 (the Enforcement Regulations) which states that the Data Commissioner shall, upon the conclusion of the investigations, make a determination based on the findings of the investigations.

C. BACKGROUND OF THE COMPLAINT

6. This Office received complaints from the Complainants on 15th September 2025. The complaints were lodged pursuant to Section 56 of the Act and Regulation 4 of the Enforcement Regulations.
7. Pursuant to Regulation 11 of the Enforcement Regulations, the Office, notified the Respondent of the complaint filed against it *vide* a letter dated 4th November 2025 referenced ODPC/CIE/CON/2/1 (836). The Office in the said Notification of Complaint requested the Respondent to furnish the Office with –
 - a) A response to the allegations made against it by the Complainants;
 - b) Evidence of a tenancy contract between the Respondent and the Complainants;
 - c) Any relevant materials or evidence in support of her response including screenshots, correspondence or records showing the source, purpose and context of the posts published on their Facebook and TikTok accounts containing the Complainant's personal data;
 - d) An explanation of the circumstances under which they obtained, processed and published the Complainant's personal data on their social media platforms;

e) Evidence of consent, authorization or legal justification under which the Complainant's personal documents including his cover letter and recommendation letter were obtained and made public;

f) Details of any actions taken to remove or restrict access to the said posts following receipt of the Notification of Complaint;

g) Information or any measures you have implemented to prevent further disclosure, circulation or misuse of the Complainant's personal data;

h) Any actions taken or mitigation measures implemented to address the issues raised in the Complaint and to prevent similar conduct in future; and

i) Any other information she wished the Office to consider.

8. In the interest of fair justice, and pursuant to Regulation 11 of the Data Protection (Complaints Handling Procedures and Enforcement) Regulations, 2021, the Office further informed the Respondent of the options of -

- Reviewing the complaint and summarily resolving the same to the satisfaction of the Complainants, or
- Resolving the complaint through mediation, negotiation and/or conciliation, as the alternative dispute resolution (ADR) mechanisms provided for by the Act and the Regulations.

9. The Respondent did not submit a response to the Notification of Complaint. Regulation 11(2) of the Data Protection (Complaints Handling and Enforcement Procedures) Regulations, 2021 states that, "***where a respondent does not take any action as contemplated in the notification of complaint, the Data Commissioner shall proceed to determine the complaint in accordance with the Act and the Enforcement Regulations.***"

10. This determination is therefore as a result of analysis of the complaints as received and investigations conducted by the Office.

D. NATURE OF THE COMPLAINT

11. The Complainant alleged that the Respondent the Respondent unlawfully collected, processed and published the Complainant's personal data including his

curriculum vitae and recommendation letter on Facebook and TikTok without his consent, and further accompanied the publications with defamatory remarks.

E. SUMMARY OF RELEVANT FACTS AND EVIDENCE ADDUCED

i. THE COMPLAINANTS' CASE

12. The Complainant stated that the Respondent unlawfully collected, processed, and published his personal data, contrary to Sections 25, 26, and 30 of the Data Protection Act, 2019. He stated that the Respondent uploaded documents bearing his personal information including his Curriculum Vitae, cover letter, and recommendation letter on his Facebook and TikTok accounts without his knowledge or consent.
13. The Complainant further stated that the Respondent accompanied these publications with defamatory and misleading statements intended to damage his reputation and expose him to ridicule. He contended that this conduct caused harm to his dignity, professional standing, and personal safety, and amounted to unlawful disclosure and misuse of his personal data.
14. The Complainant also stated that the Respondent's actions violated his rights as a data subject under Section 26 of the Act, including the right to privacy, the right to object to processing, and the right to protection against unauthorized or excessive use of personal data. He added that he has since filed reports with the Directorate of Criminal Investigations (DCI) and INTERPOL regarding the Respondent's conduct.
15. The Complainant sought the following redress from this Office:
 - i. That the Respondent be compelled to immediately remove the Complainant's personal data from all Facebook and TikTok platforms;
 - ii. That the Respondent be restrained from further publishing, processing or sharing the Complainant's personal data without consent
16. As part of his evidence, the Complainant adduced:-
 - a) Screenshots of the Respondent's Facebook posts containing the Complainant's personal data and defamatory remarks;

b) Evidence of reports lodged with the DCI and INTERPOL.

H. ISSUES FOR DETERMINATION

17. In light of the above, the following issues fall for determination by this Office:

- i. Whether there was unauthorized disclosure of personal data under the Act and its attendant regulations;
- ii. Whether the Complainant IS entitled to any remedies under the Act and the attendant Regulations.

I. WHETHER THERE WAS UNAUTHORISED DISCLOSURE OF THE COMPLAINANT'S PERSONAL DATA.

18. Section 2 of the Act defines personal data as information relating to an identified or identifiable natural person.

19. Section 2 also defines personal data breach as breach of security leading to the accidental or unlawful destruction, loss, alteration, unauthorized disclosure of, or access to, personal data transmitted, stored or otherwise processed.

20. Section 25 states, every data controller or data processor shall ensure that personal data is —

- (a) processed in accordance with the right to privacy of the data subject;
- (b) processed lawfully, fairly and in a transparent manner in relation to any data subject;
- (c) collected for explicit, specified and legitimate purposes and not further processed in a manner incompatible with those purposes;
- (d) adequate, relevant, limited to what is necessary in relation to the purposes for which it is processed;
- (e) collected only where a valid explanation is provided whenever information relating to family or private affairs is required;

21. The Complainant alleges that the Respondent intentionally and willfully disclosed his personal data to the public without a lawful basis. The Respondent shared the

Complainant's Curriculum Vitae, which contained personal and sensitive personal information, going against the principle of fairness in processing.

22. It is also the Complainant's assertion that, the Respondent did not acquire his personal data directly from him but rather from a third party, before proceeding to post the same on Facebook and TikTok. These actions by the Respondent go against the principle of purpose limitation as espoused in Section 25 (d).

23. In light of the above and based on the evidence adduced, the Office finds that the Respondent caused a data breach by unlawfully disclosing the Complainant's personal data on his social media platforms.

II. WHETHER THE COMPLAINANT IS ENTITLED TO ANY REMEDIES UNDER THE ACT AND THE ATTENDANT REGULATIONS.

24. Pursuant to Regulation 14 (2) of the Enforcement Regulations, a determination shall state the remedy to which the Complainant is entitled. Further, the remedies are provided for in Regulation 14 (3) of the Enforcement Regulations.

25. The Complainants requested this Office to issue an award of compensation. Section 65 of the Act provides that a person who suffers damage by reason of a contravention of a requirement of the Act is entitled to compensation for that damage from the data controller. The Section indicates that damage included financial loss and damage not involving financial loss including distress.

26. Further, Regulation 14 (3) (e) of the Enforcement Regulations provides that the Data Commissioner may make an order for compensation to the data subject by the Respondent.

27. In considering whether to issue compensation, this Office takes into consideration the fact that there was unauthorized disclosure of the Complainant's personal data by the Respondent.

28. In this context, the Respondent is hereby ordered to pay the Complainant compensation in the amount of **Kenya Shillings Fifty Thousand (Kshs. 50,000)**.

G. FINAL DETERMINATION

29. The Data Commissioner therefore makes the following final determination: -

- i. The Respondent is hereby found liable.
- ii. The Respondent to pay the Complainant a sum of **Kenya Shillings Fifty Thousand (Kshs. 50,000)** as compensation.
- iii. The Respondent take down the Facebook and TikTok posts containing the Complainant's personal data within **seven (7) days** of the date of this Determination or an Enforcement Notice to issue.
- iv. Parties have the right to appeal this determination to the High Court of Kenya within thirty (30) days.

DATED at NAIROBI this 14th day of December 2025.



IMMACULATE KASSAIT, SC, MBS
DATA COMMISSIONER

KENYA

