



OFFICE OF THE DATA PROTECTION COMMISSIONER

ODPC COMPLAINT NO. 0568 OF 2025

ANONYMOUSCOMPLAINANT

-VERSUS-

REGIONAL CENTRE FOR MAPPING OF RESOURCES FOR DEVELOPMENT.....RESPONDENT

DETERMINATION

(Pursuant to Section 8(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. This Complaint is in respect of the Complainant's claim that the Respondent has been processing his personal information, such as name, gender, date of birth, national ID number, KRA PIN, and phone number, unlawfully without his knowledge.

B. LEGAL BASIS

2. The Constitution of Kenya 2010, under Article 31 (c) and (d) 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

KT

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 (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 pegged 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 a complaint from the Complainant on 14th April 2025. The complaint was lodged pursuant to Section 56 of the Act and Regulation 4 of the Data Protection (Complaints Handling Procedure and Enforcement) Regulations, 2021 (hereinafter the 'Enforcement Regulations') from the Complainant who is the aggrieved data subject.
7. The Respondent, Regional Centre for Mapping Resources for Development (RCMRD), is an international organization with 20-member states hosted in Kenya and processes a myriad of data, both geospatial and non-geospatial, with strict adherence to data sharing protocols.
8. Pursuant to Regulation 11 of the Enforcement Regulations, this Office notified the Respondent of the complaint filed against it *via* a letter dated 7th May 2025 referenced ODPC/CIE/CON/2/1 (283) and required their response within 21 days.
9. The Respondent responded to the notifications of the complaint *via* a letter dated 20th May 2025.

10. This determination is therefore as a result of analysis of the complaint as received and the response from the Respondent.

D. NATURE OF THE COMPLAINT

11. The Complainant alleges that the Respondent has been processing his personal information, such as name, gender, date of birth, national ID number, KRA PIN, and phone number, unlawfully without his knowledge.

E. SUMMARY OF RELEVANT FACTS AND EVIDENCE ADDUCED

i. THE COMPLAINANTS' CASE

12. The Complainant contended that he spontaneously typed his name on Google to see what information was there about himself, and to his surprise, the Respondent was displaying his name, gender, date of birth, national ID number, KRA PIN, and his phone number in plain sight of the world contrary to the law.

13. To support his complaint, the complainant:

- a) Attached a link to what appears on the Respondent's site.
- b) A screengrab of how the results appeared on the Google search results page.

ii. THE RESPONDENT'S RESPONSE

14. In its response, the Respondent stated that the online JKP platform (<http://jkpnodes.rcmrd.org/#/>) was developed for training and usage by Kenyan counties within the coastal region covering all the six counties of Lamu, Kilifi, Mombasa, Taita Taveta, Kwale and Tana River.

15. The Respondent stated that they traced the data entry to Tana River County and confirmed that it was uploaded during the training exercise, and the dataset was uploaded by the Geographic Information System (GIS) team from Tana River County during the JKP geoportal training exercise that was undertaken on 9-13th September 2024 and not the Respondent's staff. The Respondent contended that it has no access to such datasets.

16. The Respondent further stated that the data was uploaded by a trainee who failed to apply the data system protection, and the oversight is highly regrettable and the Respondent pulled down the information from the JKP site upon receipt of the notification of complaint.
17. The Respondent stated that it has no malicious intention of exposing personal information about any individual or institution and has given firm instructions to all staff to adhere to data protection protocols outlined by ODPC, which it has subscribed to in 2025.
18. The Respondent further stated that the geoportals were designed for use by specific county governments in the coastal region of Kenya, and each county independently manages its own geoportal.
19. The Respondent admitted that the information that the Complainant found could be accessed from the site databases through a search using exact unique keywords such as an individual's name, mobile number, or any other information that replicates what exists in the database.

F. ISSUES FOR DETERMINATION

20. The following issues fall for determination by this Office:
- i. Whether the Complainant's personal information/data was lawfully processed; and
 - ii. Whether the Complainant is entitled to any remedies under the Act and the attendant Regulations.

I. WHETHER THE COMPLAINANT'S PERSONAL DATA WAS LAWFULLY PROCESSED

21. Section 2 of the Data Protection Act defines processing as *"any operation or sets of operations which is performed on personal data or on sets of personal data whether or not by automated means such as:- (a) collection, recording, organization, structuring; (b) storage, adaptation or alteration; (c) retrieval, consultation or use; (d) disclosure by transmission, dissemination, or otherwise*

making available; or (e) alignment or combination, restriction, erasure or destruction."

22. From the above definition, it is evident that at all material times the Respondent was processing the Complainant's personal data.

23. Having established that indeed all the while the Respondent was processing the Complainant's personal data, we now turn to the question on whether the Complainant's personal data was lawfully processed.

24. Section 30 of the Data Protection Act provides the lawful bases for processing personal data. It provides:-

30. Lawful processing of personal data

(1) A data controller or data processor shall not process personal data, unless

(a) the data subject consents to the processing for one or more specified purposes;

or

(b) the processing is necessary-

(i) for the performance of a contract to which the data subject is a party or in order to take steps at the request of the data subject before entering into a contract;

(ii) for compliance with any legal obligation to which the controller is subject;

(iii) in order to protect the vital interests of the data subject or another natural person;

(iv) for the performance of a task carried out in the public interest or in the exercise of official authority vested in the controller;

(v) the performance of any task carried out by a public authority;

(vi) for the exercise, by any person in the public interest, of any other functions of a public nature;

(vii) for the legitimate interests pursued by the data controller or data processor by a third party to whom the data is disclosed, except if the processing is unwarranted in any particular case having regard to the harm and prejudice to the rights and freedoms or legitimate interests of the data subject; or

(viii) for the purpose of historical, statistical, journalistic, literature and art or scientific research.

(2).....

25. The above-stated bases are the lawful instances upon which a data controller, the Respondent herein, should have processed the Complainant's data.

26. It was the Complainant's position that the Respondent was processing his personal data, including his name, gender, date of birth, national ID number, KRA PIN, and his phone number, without his knowledge.

27. It was the Respondent's position that in as much as the data had been obtained from Tana River County, the said data was inadvertently not subjected to the necessary data system protection procedures. This inadvertent oversight made it possible for the data to be accessed from the site databases through a search using exact unique keywords such as an individual's name, mobile number, or any other information that replicates what exists in the database.

28. Section 25 of the Act further provides for principles of data protection. It states that:-

"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;*

- f) accurate and, where necessary, kept up to date, with every reasonable step being taken to ensure that any inaccurate personal data is erased or rectified without delay;*
- g) kept in a form which identifies the data subjects for no longer than is necessary for the purposes which it was collected; and*
- h) not transferred outside Kenya, unless there is proof of adequate data protection safeguards or consent from the data subject*

29. From the Respondent's response and the evidence adduced before this office, it is evident that the above principles of data protection were not followed by the Respondent as a data controller of the impugned complainant's personal data.

30. Further, the Respondent, by its submissions, admitted that the information that the Complainant's personal data could be accessed from the site databases through a search using exact unique keywords such as an individual's name, mobile number, or any other information that replicates what exists in the database. From the complaint, the Complainant used the above parameters and found that the Respondent was processing his data.

31. That being said, it therefore follows that the Respondent processed the Complainant's personal data unlawfully as it did not comply with the principles for data protection.

32. As such, this Office therefore finds that the Complainant's personal data was not processed lawfully.

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

33. 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.

34. Section 58 of the Act as read together with Regulations 14 and 16 of the Data Protection (Complaints Handling Procedure and Enforcement) Regulations, 2021, contemplate, as a remedy, the issuance of enforcement notices against an entity

that has failed or is failing to comply with any provisions of the Act and the attendant regulations thereto.

35. The Office takes cognizance that despite the unlawful processing of the Complainant's personal data, the Respondent took the following mitigation measures to address the complaint as follows:

a. The datasets have been removed from the site, and an attempt to conduct a search of the Complainant or any other potential Complainant would not yield any results.

b. A formal request has been sent to the Tana River Geographic Information System (GIS) section on the need to adhere and conform to the data protection guidelines before uploading of any data sets into their geoportal system.

36. As such, the Office has confirmed the above measures were implemented by the Respondent and therefore an Enforcement Notice shall not issue against the Respondent in the circumstances.

G. FINAL DETERMINATION

37. In the ultimate, the Data Commissioner therefore makes the following final determination;

- i. The Complaint is dismissed.
- ii. Parties have the right to appeal this determination to the High Court of Kenya within thirty (30) days.

DATED at **NAIROBI** this 12th day of July 2025.


IMMACULATE KASSAIT, MBS
DATA COMMISSIONER

