



OFFICE OF THE DATA PROTECTION COMMISSIONER

ODPC COMPLAINT NO. 1532 OF 2025

MARGARET MANYANGECOMPLAINANT

-VERSUS-

BRITES MANAGEMENT SERVICES LIMITEDRESPONDENT

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 Complainant lodged a complaint with the Office on 9th October 2025. She avers that the Respondent processed her personal data without her consent by sharing her CV with a third party.

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 as '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 (hereinafter as '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 9th October 2025. The complaint was lodged pursuant to Section 56 of the Act and Regulation 4 of the Enforcement Regulations by the Complainant, who was an aggrieved data subject.
7. Pursuant to Regulation 11 of the Enforcement Regulations, the Office, notified the Respondents of the complaint filed against them *vide* a letter dated 21st October, 2025 and referenced ODPC/CIE/CON/2/1 (763). In the Notification of the Complaint, the Respondent was informed that if the allegations by the Complainant were true, they were in violation of various provisions of the Act. Further, the Respondent was asked to provide this Office with the following:
 - a. A response to the allegations made against them by the Complainant;
 - b. Any relevant materials or evidence in support of their response above
 - c. A contact person who can provide further details as regards to this complaint
 - d. A detailed procedure on how data subjects can exercise their data protection rights.
 - e. The mitigation measures adopted or being adopted to address the complaint to the satisfaction of the complainant and to ensure that such occurrence mentioned in the complaint does not take place again;

- f. The lawful basis relied upon to process the Complainant's personal data and,
 - g. Any other relevant information they wish the Office to consider.
8. On 4th November 2025, the Respondent submitted to the Office an email Response to the Notification of Complaint.
9. Upon receipt of the aforementioned correspondences and documents, investigations were conducted as required by Regulation 13(1) of the Complaints Handling Procedures, 2021.
10. This determination is therefore as a result of analysis of the complaint as received and investigations conducted by the Office.

D. NATURE OF THE COMPLAINT

11. The Complainant avers that the Respondent processed her personal data without her consent by sharing her CV with a third party.

E. SUMMARY OF RELEVANT FACTS AND EVIDENCE ADDUCED

i. THE COMPLAINANT'S CASE

12. The Complainant stated that she submitted her CV to the Respondent on 7th October 2024 in a quest to secure a Legal Assistant Job position.
13. The Complainant stated that on 10th October 2024 she received a message from the Respondent stating that she had been invited for an interview scheduled for 11th October 2024.
14. The Complainant further stated that on 18th June 2025, a year later, she received a message from the Respondent informing her that she had been invited for another interview for the same job position. The message was succeeded by a phone call from an agent of the Respondent informing her of the same.
15. The Complainant communicated to the Respondent that the interview was on short notice and thus did not attend.
16. About two weeks later, the Complainant received a phone call from a third-party entity (a law firm) informing her that they would like to engage her in the capacity

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of a legal assistant. The law firm further revealed that they received her CV from the Respondent.

17. The Complainant sought the following remedies from this Office.

- i. Compensation for the emotional distress and inconvenience caused by unauthorized sharing of her CV with third parties;
- ii. An order for the Respondent to implement a clear and functional mechanism for obtaining consent from individuals before sharing their personal data with third parties.

18. The Complainant provided screenshots of emails inviting her for interviews as well as a printout of the third party's email containing her CV and cover letter, received from the Respondent.

ii. THE RESPONDENTS' RESPONSE

19. The Respondent replied to the Notification of Complaint *via* email wherein they stated that their core business is job recruitment and that in the course of their business, they place candidates with their clients (prospective employers).

20. The Respondent attached a snapshot of an automated email response that indicates that they do recruitment on behalf of prospective employers. They also attached a candidate agreement form executed by the Complainant whose contents were specific to money-sharing with a named employer.

F. ISSUES FOR DETERMINATION

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

- i. Whether there was a violation of the Complainant's rights under the Act and attendant regulations;
- ii. Whether the Respondent unlawfully processed the Complainant's data;
- iii. Whether the Respondent fulfilled the duty to notify under Section 29 of the Act; and
- iv. Whether the Complainant is entitled to any remedies under the Act and the attendant Regulations.

I. WHETHER THERE WAS A VIOLATION OF THE COMPLAINANT'S RIGHTS UNDER THE ACT

22. Section 26 (a) of the Act provides data subject with the right to be informed, stating, "*A data subject has the right to be informed of the use to which their personal data is to be put.*"

23. In this case, the Complainant had a right to be informed that her personal data would be shared with prospective employers, prior to the actual processing. The Complainant stated that she only consented to the sharing of her personal data with one specific prospective employer. The Respondent did not demonstrate that the Complainant was informed that her personal data would be shared with any other entity.

24. Based on the above, this Office finds that the sharing of the Complainant's personal data with third parties without informing her first, constitutes a direct violation of the Complainant's right to be informed of the use to which her personal data is to be put, under Section 26 (a) of the Act.

II. WHETHER THE RESPONDENT UNLAWFULLY PROCESSED THE COMPLAINANT'S DATA.

25. Section 30 of the Act provides the permitted lawful bases for processing of personal data. This section further provides that any further processing of personal data shall be in accordance with the purpose of collection.

26. The Respondent was obligated to establish a lawful basis for the processing of the Complainant's personal data – particularly the lawful basis for sharing her personal data with third parties.

27. By the Complainant's account, she was not aware that her personal data had been shared with other third parties, until she started receiving interview invitation emails from third parties. She asserted that she did not consent to having her personal data shared with other third parties, beyond what was mutually agreed.

28. The Respondent did not establish any lawful basis for the sharing of the Complainant's personal data with other third parties, as required by Section 30 of the Act. The automated email response that indicates that they do recruitment on behalf of prospective employers does not demonstrate a lawful basis for processing.

29. In light of the above, the Office finds that the Respondent processed the Complainant's personal data without a lawful basis.

III. WHETHER THE RESPONDENT FULFILLED THE DUTY TO NOTIFY UNDER SECTION 29 OF THE ACT.

30. Section 29 of the Act provides for the duty to notify and provides as follows –

A data controller or data processor shall, before collecting personal data, in so far as practicable, inform the data subject of—

(a) the rights of data subject specified under section 26;

(b) the fact that personal data is being collected;

(c) the purpose for which the personal data is being collected;

(d) the third parties whose personal data has been or will be transferred to, including details of safeguards adopted;

(e) the contacts of the data controller or data processor and on whether any other entity may receive the collected personal data;

(f) a description of the technical and organizational security measures taken to ensure the integrity and confidentiality of the data;

(g) the data being collected pursuant to any law and whether such collection is voluntary or mandatory; and

(h) the consequences if any, where the data subject fails to provide all or any part of the requested data. [Emphasis supplied]

31. The Respondent did not provide any evidence to demonstrate that they fulfilled this duty to notify as stipulated in Section 29 hereinabove.

32. The purported emails to the Complainants containing links to the Respondent website did not fulfil the aforementioned requirements.

33. As such, it is the finding of this Office that the Respondent failed to fulfil the duty to notify as set out in Section 29 of the Act.

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

34. 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.

35. The Complainant 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 includes financial loss and damage not involving financial loss including distress.

36. 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.

37. In considering whether to issue compensation, this Office takes into consideration the fact that the Complainant's right to be informed of the use to which their personal data will be put under Section 26 (a) of the Act was infringed upon by the Respondent. The Office further takes into account the unlawful processing of the Complainant's personal data.

38. In this context, the Respondent is hereby ordered to pay the Complainant **Two Hundred and Sixty Two Thousand, Five Hundred Shillings (KES 262,500)** for the infringement of her rights under the Act and for the unlawful processing of her personal data.

39. The Office further notes that the Respondent is not a registered data handler as required by the Act and hereby directs the Respondent to register with this Office as a Data Handler within fourteen (14) days of the date of this determination, failure to which Enforcement Notice shall issue against the Respondent.

G. FINAL DETERMINATION

40. 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 Two Hundred and Sixty Two Thousand, Five Hundred (KES 262,500)** as compensation.
- iii. Parties have the right to appeal this determination to the High Court of Kenya within thirty **(30)** days.

DATED at **NAIROBI** this 7th day of January 2026.



IMMACULATE KASSAIT, SC, MBS
DATA COMMISSIONER