

This is a summary of the decision of the Commissioner.

The Data Protection Office received a complaint from Complainant (Company X) against Respondent (Company Y) alleging that:

1. Following the resignation of Company Y as corporate service provider, Company X's physical files and documents were handed over on 22 August 2023.
2. While reviewing the files Company X discovered a notice of cessation to hold office as director for Company Z, which did not relate to them.
3. Company X informed Company Y of the issue by email on 28 September 2023 and expressed that such an occurrence was unacceptable from a corporate service provider, given the sensitivity of client files and confidentiality obligations under the Data Protection Act.
4. Company X further requested a written confirmation from Company Y that none of their documents had been misplaced, filed incorrectly, or shared with any unauthorised third party.

Following the statement provided by Company X, the DPO wrote to the company to request for further statements on the following:

- i. How the 'Notice of Cessation to hold office' is tantamount to an offence under the Data Protection Act with respect to processing of personal data?
- ii. Is there a contractual obligation that Company Y has not complied with when ignoring the 'Notice of Cessation to hold office' as Director for Company Z?
- iii. Do you have any concrete evidences to support your allegation that documents have been misplaced/filed incorrectly and/or shared by Company Y?
- iv. As controller, how did you ensure that client files and confidential information are processed according to acceptable safeguards by Company Y?

The DPO received the reply of Company X, wherein it was mentioned that a Notice of Cessation of Director of Company Z was found in their files. The document had been handed over to them by Company Y following the latter's resignation as company secretary of Company X. The Notice contained personal information, including the name and NIC number of an individual. Company X further informed that Company Y was sent a written confirmation stating that none of their documents had been misplaced, filed incorrectly, and/or shared with unauthorised third parties.

By way of a letter, this office informed Company Y on the further declarations made by Company X and was requested to provide clarifications on the statements and on the queries provided in the letter.

Subsequently, Company X was informed on the reply of Company Y and was also informed that that based on the enquiry conducted, it is observed that:

- a. The Notice of Cessation of Director of Company Z has been found in the files of Company X and this mishap happened due to both companies having the same beneficial owner.
- b. It was a case of misfiling by one of Company's Y employees.
- c. Company Y has reassured us that it was an unfortunate situation from their side. They have already implemented appropriate security and organisational measures to prevent the occurrence of such incidents.

Based on the enquiry, there was no intentional motive by Company Y for the misfiling.

The Complainant was informed that if the company has further issues, they can inform this office within 21 days, otherwise the complaint will be closed.

The Data Protection Commissioner has decided as follows:-

In view of the above, the enquiry is closed to the satisfaction of all parties under section 6 of the Data Protection Act 2017 (DPA).