

This is a summary of the decision of the Commissioner.

IN THE MATTER OF:-

Complainant {Employees' Union of a company}

VERSUS

Respondent {Thecompany}

The Data Protection Office received a complaint from Complainant against Respondent regarding the use of fingerprints for attendance purposes. Complainant stated that

1. The employees never gave official approval to give their fingerprints. Employees were not even asked if they are consensual to give their fingerprint. No options were presented to them.
2. As from the beginning they were asked to give their fingerprint though they were reluctant to do so. But because employees were afraid to go against the management, they had to give in.
3. Employees were asked to give their fingerprints without being informed as to where and how these will be used.
4. Basic principles of data protection have never been explained to any of the staff.
5. Staff who don't properly input their fingerprint are constantly bullied by the person in charge of the administration.
6. Now the staff have mutually decided, through the intermediary of Respondent to permanently revoke any permission if any, even oral or by non-response, to delete and destroy the database of their fingerprints.

This office opened an enquiry and informed Respondent that the use of fingerprint for attendance purposes requires the consent of employees under section 22 of the Data Protection Act(DPA) and the processing of such data should be guided by the provisions contained in Part IV of the DPA. Respondent was also informed that for cases where a consent form has been signed by the employees, it may continue to use the fingerprint system. However, in other cases where the consent of employees has not been obtained, alternative means of taking attendance should be provided. This office received a reply from Respondent informing that it will issue an official circular to all employees to have their consent on the use of Biometric Attendance; employees who accept to use the Biometric Attendance will continue to use the process while those will be against the use of Biometric Attendance, alternative attendance methodology will be used such as bar code cards. Consequently, this office contacted Respondent by phone who affirmed that corrective measures have not yet been implemented. Therefore, this office wrote to Respondent to know whether the measures mentioned in their correspondence have been implemented and if not the case, to give an indication of the schedule of the implementation of the measures. Subsequently, Respondent informed this office that a consent form has been prepared and will be presented to the employees and confirmation has been obtained from the supplier of the Biometric Attendance apparatus that the apparatus can also be used with a card system. So, for employees who refuse to sign the consent form, the actual Biometric Attendance Apparatus will be upgraded so that it can also be used with a card system. This office wrote to Complainant to ensure

that remedial actions have been implemented but received no reply from Complainant. As a result, this office conducted a site visit to verify implementation of corrective measures. This office confirmed that employees were asked to give their consent to biometric attendance. The biometric attendance apparatus was upgraded so that it can be used with a card system. So, those who refused to use finger system were given the option of card system as alternative. Statement was also collected from a representative of Employees Union which confirmed that Respondent has no objection to the use of the new card system.

The Data Protection Commissioner has decided as follows:-

In view of the above, this enquiry has been successfully concluded and no offence was found proven in breach of the Data Protection Act.