

This is a summary of the decision of the Commissioner.

The Data Protection Office received a complaint from Complainant (college) by way of a letter against Respondent (press) for alleged false and malicious information reported by the Respondent.

Before starting an enquiry with Respondent, the Data Protection Office wrote a letter to Complainant to request the latter to lodge an official complaint by filling in the official complaint and declaration form and to provide a copy of the said article. This office also informed Complainant that on completion of enquiry, where the investigation has revealed that an offence has been committed under the Data Protection Act 2004, the matter is then referred to the police and if as per his letter, he intended to give a statement to the Police, this office will thus not initiate an enquiry to avoid parallel investigation.

Since the Data Protection Office (DPO) did not get any reply regarding the letter sent to Complainant, this office thus called the Rector of the institution by phone where we were informed that the College is awaiting a reply from Bureau Education Catholique (BEC) and to put the complaint in pending status.

This office called Complainant by phone to have a status on the matter, the Acting Rector informed us that she would talk with the Rector, who is currently on leave and then would revert back to DPO to provide a status.

This office made another phone call to Complainant where the Acting Rector informed us that the college has decided to go ahead with the complaint and that they would fill in the official complaint form and send to the Data Protection Office.

As this office did not receive the official complaint, a letter of reminder was sent to Complainant. The Data Protection Office received the official complaint and declaration form from Complainant by end of November 2017 where the latter declared that:

- “1. As manager of the college, he took notice on an article in the press regarding Prévoc students of the college.*
- 2. The article has caused lots of harm and prejudice to the management and staff of the institution.*
- 3. Both B.E.C and P.S.E.A are aware of this case. In addition, the M.E.S, Mauritius Examination Syndicate is responsible for all inputs of marks and final results for pre-vocational year 3.*
- 4. There have been exchanges of correspondence with all concerned authorities concerning a supposed case of ‘alleged forgery’ as forwarded by the union.*
- 5. As at date, all the concerned authorities i.e. SeDEC, MES, PSEA have seen no such case of alleged forgery. All have been based on enquires and solid evidences to support.*
- 6. A strict enquiry in all confidentiality, following procedures was made by SeDEC this year. As a date, there is no case of alleged forgery.*

7. *The management of the college is making an urgent appeal to the Director of DPU to make an in-depth enquiry into this matter. This is to identify the culprit behind this irresponsible act of malicious of false allegations made by the press.*
8. *The college is fully protected by the DPU. It is unacceptable that confidential information concerning examination and marks of prévoc students of the college been leaked in the press and made public. It is imperative that the DPU does its best to bring to justice the culprit of this act.*
9. *All correspondences are annexed. The management has not made any statement to the police.*
10. *The management shall fully collaborate with the DPU to provide all information. The SeDEC can be contacted as well as the M.E.S and PSEA by the Data Protection Unit."*

After going through the statement and documents provided by Complainant, this office issued a letter to Complainant. The purpose of this letter was to inform Complainant that this office enforces the Data Protection Act which applies to the processing of personal data and that the office has observed that no student could be identified from the said press article which under such circumstances could not thus contain personal data.

Complainant was also requested to provide this office with evidence to substantiate its allegation (where students are identifiable) and submit same within 21 days of receipt of the letter failing which the enquiry will be closed. Complainant did not respond to the letter.

The Data Protection Commissioner has decided as follows:-

The definition of personal data in the Data Protection Act 2017 is clear and straightforward and reads as follows:- 'Any information relating to a data subject'. Therefore, an enquiry by this office can only be triggered should there be evidence that an individual's data has been jeopardised, in this case, students' personal information namely their marks and assessments, have been tampered with, which is not the case here. However, should the cases of forgery and/or false and malicious denunciation to the press be substantiated, the relevant enquiring body would then be the Commissioner of Police. Thus, no breach of the Data Protection Act could be established.