

REF.NO:-DPO/DEC/12

This is a summary of the decision of the Commissioner:

My office received a complaint against a Respondent, being an ex-employee of Complainant's company, for allegedly forwarding emails to himself without seeking proper authorisation from management. Respondent is also accused of having disclosed personal data of clients to a third party, which allegedly, is a competitor to the company. Two excel sheets which contained personal data of existing and potential clients is said to have been forwarded to the personal mailbox of Respondent and to the corporate business email of the third party without the latter having made such a request. Complainant provided all documentary proofs and email trails to substantiate his accusations.

My office investigated the complaint on the basis of the unauthorised disclosure of personal data to a third party. Respondent was contacted for his version and all the email trails were scrutinised. Respondent provided his statements for the exact dates and times the emails were sent and the motives for sending the emails. Respondent said that by the nature of his previous work experiences and previous dealings, he had gathered contact details of people from their business cards, yellow pages and publicly available references as well as from professional registered bodies and he sent these for his personal use and also for helping out the novice working for the third party company .

My office also gathered further evidences regarding the Complainant's allegations by contacting the concerned third party to this case. The third party responded by saying that he had never requested the excel sheets from Respondent.

It has been proven beyond reasonable doubt by the Complainant that Respondent has breached section 29(1) of the Data Protection Act whilst disclosing the two excel sheets containing personal data of clients to the third party for the purpose he described which is not compatible with the purposes for which the data were collected.

The excel sheets although compiled by Respondent before and during his term of employment at Complainant's company were information pertaining to the business of Complainant and cannot be claimed to be the exclusive personal property or creation of Respondent which he can distribute freely to third parties even for a good cause and in good faith.

It is clear that Respondent should have exercised proper caution in handling confidential information in his possession and should not have disclosed personal information relating to the business of Complainant to an unauthorised third party, irrespective of the fact that the latter may be a competitor or not with Complainant's line of business and although he contends that he did not act in bad faith.

I am referring the case under section 20 of the Data Protection Act to the Police for further investigation to establish whether such an offence may indeed have been committed by Respondent under section 29(1) of the Data Protection Act and advise prosecution, if required.