

IN THE MATTER OF:-

Complainant

VERSUS

Respondent

The circumstances of this complaint are as follows:-

On 13th of April 2011, complainant lodged an official complaint under section 11 of the Data Protection Act, to this office against respondent for alleged invasion of his privacy rights through the use of CCTV cameras. The complainant further alleged that CCTV cameras have been placed in such a position affecting his private life through the monitoring of his movements from and to his dwelling house. Complainant also provided a schema of the alleged positioning of the camera systems where he resides.

The enquiring officers scheduled a site visit on 20th of April 2011 at respondent's premises with her consent. On site, they could confirm the installation of cameras placed on the walls on both of the buildings of the college and conducted an enquiry with regard to the use of the cameras in conformity with the provisions of the Data Protection Act namely:

- Justification of the purpose for using these cameras;
- Positioning of cameras with respect to the location of the dwelling house of the complainant;
- Types of camera systems used;
- Projected view as can be seen on the ground;
- Positioning to private properties and public areas such as roads and neighbourhood;
- Signage of the presence of cameras for public information.

Respondent further informed the enquiring officers that following a petition which was done by her neighbour to the Private Secondary Schools Authority, she decided to install the cameras to deter vandalism from students, trespassing of her pupils to neighbouring houses and littering on the school compound. She also highlighted that her neighbours previously reported broken window panes by balls played by her students, from the college compound and litter from stray dogs. For the purpose of gathering such evidence, she therefore opted for the installation of video surveillance cameras.

Following the site visit, an analysis of the positioning, coverage and focus of the concerned cameras was carried out by the enquiring officers. It was found that the two cameras focusing slightly beyond the boundary walls for passerby and vehicles were in fact long range surveillance cameras which could potentially provide a view outside the college premises.

In her statement dated 24th June 2011, respondent confirmed to the enquiring officers that she has no malicious intention to invade the privacy rights of complainant and/or neighbours and fixed camera systems have been placed at the college for security purposes only. She further stated that immediate measures for compliance will be taken, as soon as possible, for reorienting all cameras to focus within the premises of the college only and sign boards have already been placed subsequent to the site visit effected on 20 April 2011 by the enquiring officers.

Based on a second site visit conducted by the enquiring officers on 27th June 2011, the following observations were noted by them, as shown by the respondent:

- Several visible sign boards have been placed for indication of the presence of CCTV systems at the entrance and walls of both buildings.
- Respondent showed the enquiring officers the camera views on screen.
- She also showed the enquiring officers that cameras, which are of dome type, are not filming in the direction of the dwelling house of complainant.
- However, two long range cameras could visibly show video sequences captured slightly on the street of (.....) and images of people and passing vehicles as noticed by the enquiring officers on screen.

An enforcement notice was therefore served on the respondent on the 5th July 2011 by this office under section 12 of the Data Protection Act whereby corrective measures were imposed so that all cameras are focused within the boundaries of the college. The deadline for the implementation of corrective measures of the enforcement notice was specified as 30th July 2011. The respondent has given a second statement on 22nd July 2011 whereby she stated that all the cameras are now fixed and focused correctly.

A site visit was again conducted after the deadline date on 3rd August 2011 by the enquiring officers, for checking compliance by respondent with the enforcement notice.

Enquiring officers have noted that the respondent had taken all necessary measures for proper signage and all cameras are correctly focused within the perimeters of the college only and are fixed such that their orientation cannot be displaced which stands to mean that no video recording outside the college premises can take place.

The two long range cameras were inspected and seen to focus within the walls of the institution and this was evidenced by camera images and filming shown to the enquiring officers by the operator. The dome cameras were also seen to focus on the stairs and the corridor of the first floor of the so called 'specialist rooms block' of the building.

The operator of the camera system showed all of the other cameras' images and enquiring officers did not detect any particular filming of complainant's dwelling house and his premises.

The enquiring officers have also noted that no images of public members and vehicles on Impasse (.....) and neighbourhood were being captured. The respondent was also made aware that CCTV systems must be used with utmost care and any further infringement to jeopardise any individual's freedom of movement and violation of the processing of his/her personal data is liable to prosecution under the Data Protection Act.

The Data Protection Commissioner has decided as follows:-

The enquiry has revealed that respondent has implemented corrective measures to safeguard privacy rights namely the posting of proper signage to inform all persons accessing the college's premises of the presence of CCTV cameras and the fixing of the mentioned cameras in such a way so as to avoid any possible viewing of premises outside the college in order to prevent any further potential infringement of privacy rights of individuals and violations of sections 22, 23, 24, 25, 26, 27, 28 & 29 and Part VI of the Data Protection Act.

The terms of the enforcement notice served upon respondent have been observed by her. The latter is further called upon to observe all the relevant sections of the Data Protection Act, as mentioned above, applicable to the protection of the processing of personal data in the context of the collection of the personal information of those individuals within the school compound. Non-compliance with these sections may result in the commission of an offence under the Act and lead to prosecution by this office.

MrsDrudeishaMadhub

Data Protection Commissioner

Data Protection Office

Prime Minister's Office

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Port Louis

05.08.11