

## **This is a summary of the decision of the Commissioner.**

The Data Protection Office received a complaint from Complainant against Respondent (a company) regarding the use of fingerprints for attendance purposes. In his statement, Complainant declared that:

1. His manager was forcing him to give his fingerprint details for attendance purposes. He also mentioned that his Manager did not inform him beforehand by any means and that he was informed by the latter that he will not be paid at the end of the month if he did not give the biometric data.
2. He did not want to lose his job, but he did not want his biometric data to be stored and used.

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 such as bar code employee card or other means such as signing in a register book. Respondent was thus requested to inform this office of the measures taken within 21 days of receipt of this letter.

Respondent replied to this office by providing a copy of a letter from its supplier, explaining that the process of capturing and analysing fingerprints on the Supplier's device range of Biometric devices entails the conversion of the physical image by automated algorithm into a binary code ("1", "0") also called template and when used for Access Control and/or Time & Attendance purpose, the image of the fingerprint is discarded and what remains cannot be reversed to create a fingerprint image. Respondent requested some extension to have the consent of all employees.

Respondent provided to this office a list of employees with their respective signatures. After an analysis made, this office wrote to Respondent to inform the company that four of its employees did not provide their consent for the collection of their fingerprints for attendance purposes. Respondent was also reminded that where the consent of employees has not been obtained, an alternative method for attendance should be provided.

This office received a letter from Respondent where the latter informed this office that a manual time sheet has been set up for the person who had not provided their consent for the collection of their fingerprints for attendance purposes. A copy of the manual time sheet was also attached with this letter.

The Data Protection Office wrote to Complainant to inform him on the reply of Respondent. He was requested to clarify with Respondent if he wanted his fingerprints to be used for attendance purposes or not. Complainant was also requested to notify this office in writing by providing all evidence if he has any other issues regarding this complaint before 20<sup>th</sup> June 2016. Failure to which the enquiry will be closed.

After a deep analysis of the list of employees provided by the Respondent regarding consent for collection of fingerprints for attendance purposes, this office has noticed that:

- i. Two staff has signed in both OK and Non OK Columns.
- ii. Twelve staff have neither signed OK nor Non OK Columns.

This office thus wrote to Respondent to inform the company on the above and to request Respondent to clarify with the above employees if they want their fingerprints to be used for attendance purposes or not. Respondent was also requested to provide within 21 days the measures taken for the above 2 cases.

Respondent replied to the above letter and stated that the referred person was no longer working for the company and that the Branch Manager was not in Mauritius. Respondent also stated that:

***“By the way, the two person signed both Ok and Non Ok because it was their choices”.***

The two person who have signed in both OK and Non OK columns do not work for Respondent anymore. Out of the twelve staff who have neither signed in Column OK nor column Non OK, only three staff are still working for Respondent. One of the staff is the branch manager who was not in Mauritius and the other two staff have provided their consent.

It is to be noted that Complainant has not replied to our letter and does not work for Respondent anymore.

In light of the above, the enquiry is closed since Complainant has not responded so far. However, the enquiry revealed that measures were taken to the satisfaction of this office to remedy the situation.