OFFICE OF THE DATA PROTECTION COMMISSIONER

ODPC COMPLAINT NO. 2990 OF 2026

BENJAMIN KEMEI KIPKOECH .....COMPLAINANT

-VERSUS-

MU-84 SACCO .....RESPONDENT

DETERMINATION

(Pursuant to Section 8(1)(f) and 56 of the Data Protection Act, 2019 and Regulation 14 of the Data Protection (Complaints Handling Procedure and Enforcement) Regulations, 2021)

A. INTRODUCTION

1. The Complainant lodged a complaint with the Office against the Respondent alleging that the Respondent, through its officials, published and circulated his personal financial information, disclosed his savings and loan position, and posted the same on a general members' WhatsApp platform accessible to numerous members.

B. LEGAL BASIS

2. Article 31(c) and (d) of the Constitution of Kenya provides for the right to privacy. Consequently, as an effort to further guarantee the same, the Data Protection Act, 2019 (hereinafter known as 'the Act') was enacted.

3. The Office of the Data Protection Commissioner (hereinafter as 'this Office' and/or 'the Office') was established pursuant to Section 5 of the Act and is mandated with the responsibility of regulating the processing of personal data; ensuring that the processing of personal data of a data subject is guided by the principles set out in Section 25 of the Act; protecting the privacy of individuals; establishing the legal and institutional mechanism to protect personal data and

providing data subjects with rights and remedies to protect their personal data from processing that is not in accordance with the Act.

4. Section 8(1)(f) of the Act provides that the Office can receive and investigate any complaint by any person on infringements of the rights under the Act. Furthermore, Section 56(1) of the Act provides that a data subject who is aggrieved by a decision of any person under the Act may lodge a complaint with the Data Commissioner in accordance with the Act.

5. This determination is premised on the provisions of Regulation 14 of the Data Protection (Complaints Handling Procedure and Enforcement) Regulations, 2021 (hereinafter as 'the Enforcement Regulations') which states that the Data Commissioner shall, upon the conclusion of the investigations, make a determination based on the findings of the investigations.

C. BACKGROUND OF THE COMPLAINT

6. This Office received a complaint from the Complainant on 30th July 2026. The complaint was lodged pursuant to Section 56 of the Act and Regulation 4 of the Enforcement Regulations by the Complainant, who was an aggrieved data subject.

7. Pursuant to Regulation 11 of the Enforcement Regulations, the Office, notified the Respondent of the complaint filed against him *vide* a letter dated 16th September, 2026 and referenced ODPC/CIE/CON/2/1 VOL.2 (638). In the Notification of the Complaint, the Respondent was informed that if the allegations by the Complainant were true, they were in violation of various provisions of the Act. Further, the Respondent was asked to provide this Office with the following:

    a. A response to the allegations made against them by the Complainant;

    b. A contact person who could provide further details as regards this complaint;

    c. Any relevant materials or evidence in support of their response;

    d. The lawful basis relied upon to process the Complainant's personal data;

e. An elaborate representation of how data subjects can exercise their rights in relation to data protection;

f. The mitigation measures adopted or being adopted to address the complaint to the satisfaction of the Complainant and the mitigation measures adopted or being adopted to ensure that such occurrences mentioned in the complaint do not take place again, if any; and

g. Any other relevant information they wished the Office to consider.

8. On 12th October 2026, the Respondent submitted to the Office a Response to the Notification of Complaint.

9. Upon receipt of the aforementioned correspondences and documents, investigations were conducted as required by Regulation 13(1) of the Complaints Handling Procedures, 2021.

10. This determination is therefore as a result of analysis of the complaint as received and investigations conducted by the Office.

D. NATURE OF THE COMPLAINT

11. It is the Complainant's assertion that the Respondent, through its officials, published and circulated his personal financial information, disclosed his savings and loan position, and posted the same on a general members' WhatsApp platform accessible to numerous members.

E. SUMMARY OF RELEVANT FACTS AND EVIDENCE ADDUCED

i. THE COMPLAINANT'S CASE

12. The Complainant is a member of the Respondent and maintains savings and loan facilities with the Respondent.

13. On or about 22nd April 2026, the Complainant submitted a request to the Respondent seeking:

    i. utilization of his savings to offset an outstanding loan; and

    ii. payment of any resultant balance.

14. The said request was made in confidence and within the SACCO leadership.

15. Without the Complainant's consent or lawful justification, the Respondent, through its officials, proceeded to *inter alia*:

    i. publish and circulate the Complainant's personal financial information;

    ii. disclose his savings and loan position;

    iii. post the same on a general members' WhatsApp platform accessible to numerous members.

16. According to the Complainant, the disclosure was unwarranted and contrary to the fiduciary relationship between the Complainant and the officials. The publication elicited reactions from some members whose net effect was to disparage the character and person of the complainant. He states that the disclosure was not for any legitimate decision-making process, nor was it necessary for SACCO governance.

17. The Complainant states that the publication exposed him to embarrassment, distress, and reputational harm.

18. He maintains that the disclosed data included financial data (savings and loan status) and identifiable personal information linked to the Complainant.

19. The Complainant sought the following remedies from this Office:

    i) A declaration that the Act has been violated;
    ii) Compensation;
    iii) Orders compelling the Respondent to cease unlawful processing;

ii. THE RESPONDENT'S RESPONSE

20. The Respondent submitted a response to the notification dated 12th October 2026 in which they averred as follows:

21. The Respondent appreciated the mandate of the Office of the Data Protection Commissioner in safeguarding the right to privacy and protecting personal data pursuant to Article 31 of the Constitution of Kenya, 2010, and the Data Protection Act, 2019. The Respondent stated that they are committed to cooperating with

this Office and providing the necessary clarification regarding the circumstances surrounding the complaint.

22. The Respondent stated that the letter forming the subject of the complaint was received from the Complainant's Advocate in the ordinary course of communication relating to a matter concerning the Complainant's demand seeking the Sacco to offset his deposits against his outstanding loan facilities and alleged discriminatory interest computation.

23. Following receipt of the said letter dated 22nd April, 2026, the Respondent's management on 30th April, 2026 considered the issues raised therein and resolved that the letter be shared with members of the SACCO through its members' WhatsApp group for purposes of deliberation and obtaining members' views on the issue presented.

24. In implementing the management resolution, the Respondent's official communication number 07****4 was used to circulate the letter in its entirety, as received from the Complainant's Advocate, without redaction or removal of any information contained therein.

25. The Respondent acknowledges that, notwithstanding the internal purpose for which the letter was circulated, sharing the entire letter may have raised legitimate concerns regarding the handling and confidentiality of the Complainant's personal information. As such, the Respondent regrets the concern and dissatisfaction occasioned by the circulation of the letter.

26. The Respondent clarified that the decision was made in the context of an internal SACCO matter and was not in any way motivated by malice, an intention to embarrass the Complainant, or a desire to expose his personal information to the general public. All the recipients are members of the SACCO, and the circulation was undertaken pursuant to the management's decision to obtain their views on the issue raised.

27. Nevertheless, the Respondent recognized that internal Circulation and management authorization did not, on their own, dispense with the obligation to comply with the principles and requirements of the Data Protection Act, 2019.

The Respondent was therefore willing to cooperate fully with the Office to address the concerns raised and implement appropriate safeguards to prevent similar concerns arising in the future.

28. Upon service of the ODPC'S letter dated 16th September, 2026 requiring the Respondent's response, the Respondent's management made efforts to approach the Complainant with a view to resolving the matter amicably and maintaining a cordial relationship with him as a member of the SACCO.

29. On the 24th September, 2026 and subsequently on 28th September, 2026, the Vice Chairperson, together with the Chairperson and one member visited the Complainant in an attempt to express the Respondent's willingness and readiness to issue a formal written apology to the Complainant in view of the concerns arising from the circulation of the said letter. Unfortunately, the efforts made did not result in an agreed resolution, as the Complainant has remained unwilling to accept the proposed amicable settlement.

30. Notwithstanding the foregoing, the Respondent remained willing to tender an unconditional apology for the concern occasioned by the circulation of the letter and to take reasonable corrective measures.

31. The Respondent submitted that its willingness to apologize and improve its internal procedures demonstrated its commitment to accountability, good faith and the protection of members' personal information.

F. ISSUES FOR DETERMINATION

32. In light of the above, the following issues fall for determination by this Office:

    i. Whether the Respondent fulfilled his obligations under the Act

    ii. Whether the Complainant is entitled to any remedies under the Act and the attendant Regulations.

I. WHETHER THE RESPONDENT FULFILLED HIS OBLIGATIONS UNDER THE ACT

33. In addressing this issue, the Office will address the following questions:

a. Did the Respondent process the Complainant's personal data in accordance with the principles of data protection?

b. Did the Respondent lawfully process the Complainant's personal data?

Did the Respondent process the Complainant's personal data in accordance with the principles of data protection?

34. Section 25 of the Act, states that a data controller or processor must ensure that personal data is processed lawfully, fairly, and in a transparent manner. Lawful processing must be grounded on one of the legal bases provided under Section 30 of the Act, such as consent, contractual necessity, or legitimate interest that does not override the data subject's rights and freedoms.

35. While the Respondent may have initially lawfully obtained the Complainant's personal data for the limited purpose of assessing the Complainant's financial position in relation to a financial obligation, the subsequent publication of that document in a public forum constituted a separate act of processing. This new use was not connected to the original purpose for which the data was provided, and there is no evidence that the Complainant consented to, or was informed of, such disclosure.

36. Further, under the data minimization and purpose limitation principles (Sections 25(c) and (d)), personal data should be processed only to the extent necessary for the intended purpose. Posting the Complainant's financial position to an entire WhatsApp group, even if intended done innocently as claimed by the Respondent, exceeded what was reasonably necessary to achieve that aim. This was in violation of the data minimization and purpose limitation principles.

Did the Respondent lawfully process the Complainant's personal data?

37. Section 30 of the Act stipulates that a data controller or data processor shall not process personal data unless the data subject consents to the processing for one or more specified purposes. In this particular case, the Respondent posted the

Complainant's Financials on a WhatsApp group without the Complainant's consent.

38. The Respondent bears the burden of proof of establishing a data subject's consent to the processing of all or part their personal data and for a specified purpose. Therefore, the Respondent was required to obtain explicit consent from the Complainant prior to using his personal data for purposes beyond those originally stated at the time of collection or, in the alternative, provide the appropriate lawful bases under Section 30.

39. Despite stating it was for purposes of assessing the Complainant's financials in order to advise them whether they were in a position to meet their financial obligations, the lawful basis for processing under Section 30 still remained unclear.

40. This Office therefore finds that the Respondent failed to get the requisite consent to post the Complainant's personal data and therefore did not lawfully process the Complainant's personal data.

II. WHETHER THE COMPLAINANT IS ENTITLED TO ANY REMEDIES UNDER THE ACT AND THE ATTENDANT REGULATIONS.

41. Pursuant to Regulation 14(2) of the Enforcement Regulations, a determination shall state the remedy to which the Complainant is entitled. Further, the remedies are provided for in Regulation 14(3) of the Enforcement Regulations.

42. The Complainant requested this Office to issue an award of compensation. Section 65 of the Act provides that a person who suffers damage by reason of a contravention of a requirement of the Act is entitled to compensation for that damage from the data controller. The Section indicates that damage included financial loss and damage not involving financial loss including distress.

43. Further, Regulation 14 (3) (e) of the Enforcement Regulations provides that the Data Commissioner may make an order for compensation to the data subject by the Respondent.

44. In considering whether to issue compensation, this Office takes into consideration the nature of the personal data that as unlawfully processed, the context of the

publication and the fact that the Respondent did not fulfill their obligations under the Act

45. In this context, the Respondent is hereby ordered to pay the Complainant **Kenya Fifty Thousand (KES 50,000)** for unlawful processing of personal data.

G. FINAL DETERMINATION

46. The Data Commissioner therefore makes the following final determination: -

i. The Respondent is hereby found liable.

ii. The Respondent to pay the Complainant a sum of **Kenya Shillings Fifty Thousand (KES 50,000)** as compensation.

iii. Parties have the right to appeal this determination to the High Court of Kenya within thirty (30) days.

DATED at **NAIROBI** this 6th day of November 2026.



IMMACULATE KASSAIT, SC, MBS
DATA COMMISSIONER