



ENFORCEMENT NOTICE IN TERMS OF SECTION 41 OF THE DATA PROTECTION ACT 2022 - THE ROYAL SCIENCE TECHNOLOGY PARK (RSTP)

March 2025



**ESWATINI
DATA PROTECTION
AUTHORITY**



ESWATINI CIRT
ESWATINI COMPUTER
INCIDENT RESPONSE TEAM



ESWATINI COMMUNICATIONS COMMISSION
UNIVERSAL
ACCESS SERVICE FUND



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ENFORCEMENT NOTICE IN TERMS OF SECTION 41 OF THE DATA PROTECTION ACT 2022 - THE ROYAL SCIENCE TECHNOLOGY PARK (RSTP)

I. BACKGROUND

- 1.1. The Data Protection Act, 2022 (hereinafter referred to as the Act) provides for the collection, processing, disclosure, and protection of personal data. Section 5 of the Act designates the Eswatini Communications Commission as the Eswatini Data Protection Authority (hereinafter referred to as the EDPA), charged with the responsibility to administer the Act and enforce compliance thereto.
- 1.2. The EDPA received a complaint filed in terms of Section 34(a) of the Act alleging a contravention of the Act. The particulars of the complaint are detailed herein under:

2. PARTICULARS OF COMPLAINT

- 2.1 On 26th November 2024, a complaint of a personal data compromise was filed by **X** (herein after referred to as the “**Complainant**”) against Royal Science Technology Park (the “**Organisation**”).
- 2.2 The Complainant had requested personal information from Royal Science Technology Park (the “**Organisation**”).
- 2.3 When the request was not fulfilled for two months, the **Complainant** escalated the matter and copied the Chairperson of the Organisation's Board of Directors.
- 2.4 The Complainant notified the EDPA that, in response to the request, the documents were sent via email on 19th October 2024.

2.5 The Complainant alleges that another email was sent, this time copying a wider audience of seven people, including staff members from RSTP and others. This action granted access to confidential personal information, as shown hereunder, in violation of the Data Protection Act, 2022.

From:

Sent: Saturday, 19 October 2024 8:21 am

To:

Cc:

Subject:

Good Day

These are the documents sent to yesterday, included here again for the benefit and appreciation of everybody.

Trust all is in order and please do not hesitate to reach out should you need any assistance.

2.6 The Complainant submitted that the email contained sensitive data

2.7 The Complainant submitted that including a wide audience in the initial email request did not constitute consent for sharing the personal data. The Complainant also submitted that the additional RSTP staff members that were not included in the original email and were added without consent.

3. REPRESENTATIONS BY RSTP

3.1 On 26th November 2024, the EDPA acting in accordance with Section 35(1)(a) of the Act directed the Organisation to make a written representation in response to the allegations filed by the Complainant.

3.2 On 5th December 2024, the Organisation submitted that it was under the impression that since the Complainant had included the other individuals in the initial email request, they assumed that these were family members of the Complainant.

4. THE EDPA'S CONSIDERATION

4.1 The Organisation is a "Data Controller" as envisaged by the Act with an obligation under Section 14(1) to "...secure the integrity of personal information in its possession or under its control by taking appropriate, reasonable technical and administrative measures to prevent –

4.1.1 *loss of, modification and damage to or unauthorized destruction of personal information; and*

4.1.2 *unlawful access to or processing of personal information."*

4.2 Section 14(2) enjoins the Data Controller to take "reasonable measures to –

a) *identify all reasonably foreseeable internal and external risks to personal information in its possession or under its control.*

b) *establish and maintain appropriate safeguards against the risks identified.*

c) *regularly verify that the safeguards are effectively implemented; and*

d) *ensure that the safeguards are continually updated in response to new risks or deficiencies in previously implemented safeguards."*

4.3 The Organisation processes both personal and sensitive personal information at a significant scale and therefore incurs a greater obligation to ensure that it has in place all corresponding technical and organisational measures to protect the personal data in its control.

5. THE EDPA'S FINDINGS

5.1 The sharing of personal information through the email amounts to processing in terms of the Act.

- 5.2 The Organisation failed to provide reasons and purpose for copying the 7 individuals in the email.
- 5.3 The submission by the Organisation that it assumed that the individuals copied in the email were family members is irrational and untenable as it was clear that the email addresses belonged to RSTP staff members and others.
- 5.4 Even if the submission that these were family members is upheld, such personal information should have been shared with the express consent of the Complainant.
- 5.5 All data subjects have a right to access their personal information held by an organisation/entity. However, only the data subject should be given access to their personal information.
- 5.6 The Complainant through an email dated 19th October 2024 expressed concern about the Organisation copying a wider audience and no actions were taken to address the concern.
- 5.7 The HR Personnel who sent the email was negligent in sharing the personal information with a wider audience without the consent of the Complainant and thus the sharing was unauthorised, uncalled for and in contravention of the Act.
- 5.8 The HR Personnel failed to take precautions against foreseeable harm and take all necessary steps to ensure that only authorized personnel had access to the personal information.
- 5.9 It is common cause that to date, the recipients have access to the personal information on their email, albeit, for no lawful purpose or basis and for an indefinite period.
- 5.10 The fact that the disclosure affected 3 data subjects, whose personal information was accessed and disclosed to 7 individuals without any legal basis is considered by the EDPA to be a significant violation of the Act.

5.11 The Organisation is obligated under Section 17 of the Act to notify the EDPA and the Data Subject of the data compromise. However, the Organisation failed to notify the EDPA as well as the Complainant about the personal data compromise thus violating Section 17(1) of the Act.

5.12 The EDPA has determined that Royal Science Technology Park (RSTP) has breached the provisions of Section 14(1)(b) of the Act in that:

5.12.1 It has failed and/or neglected to “...*secure the integrity of personal information in its possession or under its control by taking appropriate, reasonable technical and administrative measures to prevent unlawful access to or processing of personal information*”

5.12.2 The Organisation has failed in terms of Section 14(2) of the Act, to “*take reasonable measures to –*

- (a) identify all reasonably foreseeable internal and external risks to personal information in its possession or under its control.*
- (b) establish and maintain appropriate safeguards against the risks identified.*
- (c) regularly verify that the safeguards are effectively implemented; and*
- (d) ensure that the safeguards are continually updated in response to new risks or deficiencies in previously implemented safeguards.”*

6. THE EDPA’S DECISION

6.1 The EDPA, in the exercise of its powers under Section 41(2) of the Act, hereby **imposes a warning** to Royal Science Technology Park (RSTP) for the violations of the Act as enunciated above.

6.2 The Enforcement Notice shall be valid for a period of **one (1)** year from the date of issue subject to Royal Science Technology Park (RSTP) not committing the same or similar breach within the Enforcement Notice period.

6.3 In light of the foregoing and in terms of Section 41(1)(a), the EDPA hereby directs Royal Science Technology Park (RSTP) to do the following:

- 6.3.1 Issue an apology to the Complainant **within 48 hours** of receipt of this Enforcement Notice and provide evidence thereof to the EDPA.
- 6.3.2 Ensure that the unauthorized recipients deleted the email containing the personal information, which is the subject of the complaint, **within 48 hours** of receipt of this Enforcement Notice and provide evidence thereof to the EDPA.
- 6.3.3 Conduct a Data Protection Impact Assessment (DPIA) for the Human Resource Department to ensure compliance with lawful information processing standards and measures.
- 6.3.4 Develop policies, procedures and controls to protect the transfer of personal information through the use of all types of communication facilities. This should consider procedures designed to protect transferred information from interception, copying, modifying, misrouting and destruction.
- 6.3.5 Conduct regular training sessions for employees on data protection to emphasize the importance of handling personal data responsibly. Attendance registers should be maintained as evidence of participation.
- 6.3.6 Develop an information security policy which includes information classification and handling procedures and should be socialized with all employees.
- 6.3.7 Develop an information security incident management policy to ensure consistent and effective approach to the management of data protection incidents, including communication of personal data breaches.

6.4 The Royal Science Technology Park (RSTP) shall within **three (3) months** of receipt of the Enforcement Notice, submit a comprehensive report to the EDPA of progress in implementing the measures listed in paragraph 6.3.3 to 6.3.7 above.

7. RIGHT TO APPEAL

7.1 The Royal Science Technology Park (RSTP) has the right to appeal this decision.

Date of decision.....2025

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