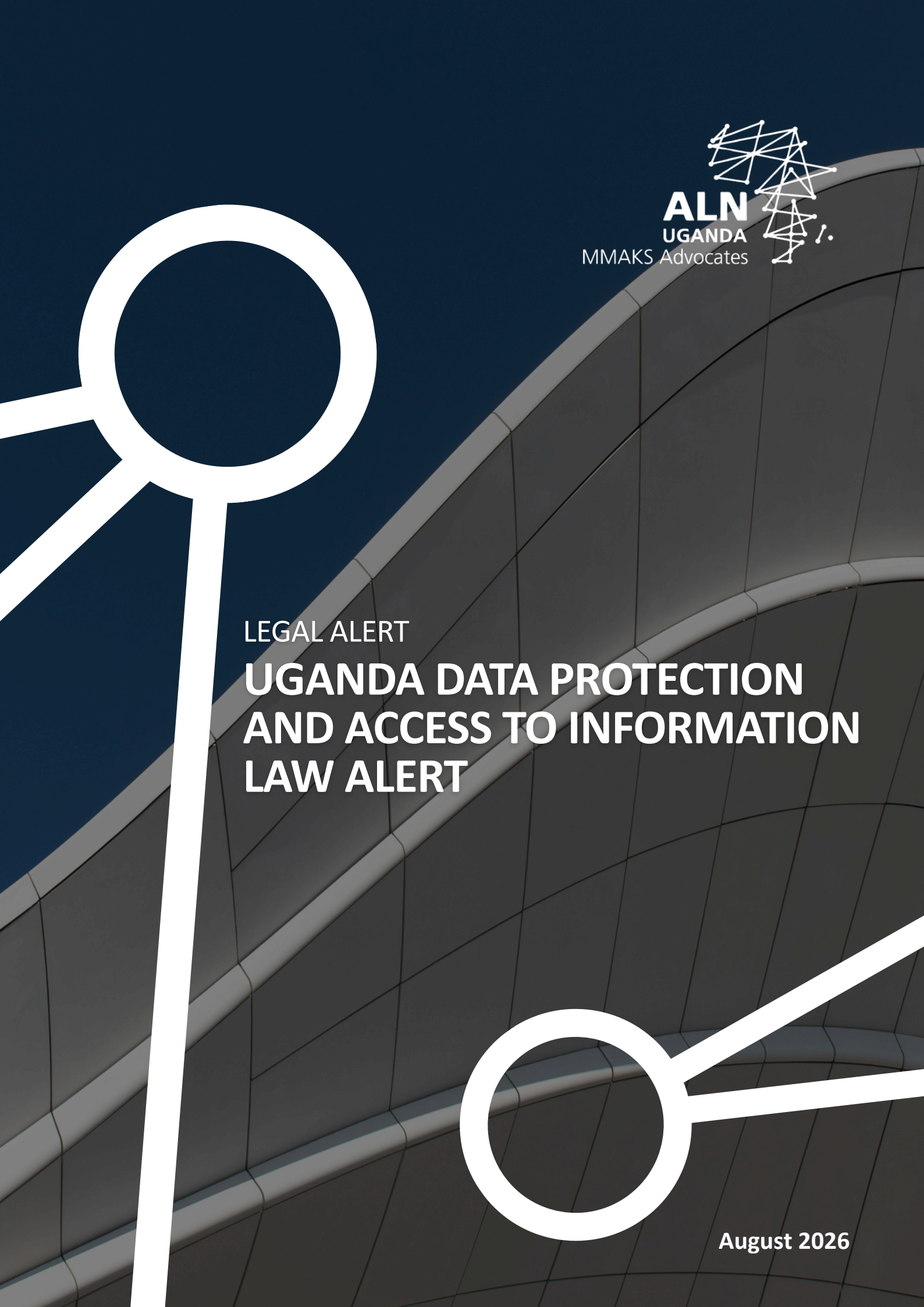

LEGAL ALERT

UGANDA DATA PROTECTION AND ACCESS TO INFORMATION LAW ALERT

August 2026

EXAMINATION SCRIPTS ARE PERSONAL DATA: THE HIGH COURT SETS ASIDE AN ORDER COMPELLING UNEB TO DISCLOSE A CANDIDATE'S SCRIPTS

In a Judgment delivered on 7th August 2026 in *Uganda National Examinations Board vs Vicky Tina Laker,*[1] the High Court of Uganda at Kampala (Civil Division) (Justice Bonny Isaac Teko) allowed the appeal of the Uganda National Examinations Board (UNEB) in its entirety, set aside an order of the Chief Magistrates Court of Nakawa which had compelled UNEB to release a parliamentary aspirant's Uganda Advanced Certificate of Education examination scripts to a rival aspirant, quashed the award of UGX 12,000,000 in general damages made against it and awarded UNEB the costs of both courts.

The Judgment is significant in three respects. It settles that a complaint against the decision of an information officer lies before a Chief Magistrate as the holder of that office, and not merely before a Chief Magistrates Court. It adopts into Ugandan law the reasoning that a candidate's handwritten examination answers are personal data. And it gives content to the two cumulative conditions that must be satisfied before the public interest override displaces the privacy exemption.

The Court confirmed that the right of access to information under Article 41 of the Constitution and section 4 of the Access to Information Act, Cap 95 *("ATIA")* is not absolute and yields to the privacy exemption in section 25 of that Act and to section 7 of the Data Protection and Privacy Act, Cap 97 *("DPPA").*

The Facts

Lanyero Christine Awany was nominated to stand for election as Member of Parliament for Nwoya District in the 2026 general elections. The Respondent, Vicky Tina Laker, was an aspirant for the same seat. Doubting the authenticity of Ms Awany's claimed qualifications, she wrote to UNEB seeking verification. UNEB replied in writing confirming that its records showed that a person of that name had sat the 2024 Uganda Advanced Certificate of Education examinations under the index number given.

The Respondent's lawyers then demanded access to the underlying examination scripts. UNEB declined on two grounds, namely that the scripts contained the personal data of the candidate and could only be released with her consent under the DPPA, and that the Uganda Certificate of Education scripts were in any event no longer in its possession, having been destroyed in 2013 under its policy of retaining examination scripts for two years.

The Respondent brought a complaint in the Chief Magistrates Court of Nakawa, which was heard by a Principal Magistrate Grade I. In January 2026 that court ordered disclosure of the Uganda Advanced Certificate of Education scripts and awarded the Respondent UGX 12,000,000 in general damages, with costs. UNEB appealed on five grounds.

[1] Civil Appeal No. 008 of 2026, arising out of Nakawa Chief Magistrates Court Miscellaneous Cause No. 0272 of 2025.

The Court's Analysis

1)Jurisdiction: "Chief Magistrate" denotes an office and not a court

Section 36 of the ATIA permits a person to lodge a complaint "with the Chief Magistrate" against the decision of an information officer to refuse a request for access. The Court held that this language names a specific judicial office and that the choice was deliberate. Where the Act intends to refer to the institution it uses the defined term "court", which is defined to mean the Chief Magistrates Court and the High Court and is used elsewhere in the same Part. Had Parliament intended a magistrate of any grade sitting in that court to hear the complaint, the plainer word "magistrate" was available. Section 36 uses neither alternative.

The Respondent's reliance on *In the Matter of an Application by Kibunga Godfrey, Miscellaneous Cause No. 002 of 2025* did not assist her, that decision having addressed the different question whether a first complaint lies before the Chief Magistrates Court or may be brought directly to the High Court. Nothing on the record showed that the Principal Magistrate Grade I had been conferred the powers of a Chief Magistrate, and the Respondent, who had invoked that court's jurisdiction, bore the burden of establishing that it was properly seized of the complaint. *Following Macfoy vs United Africa Co. Ltd [1961] 3 All ER 1169*, the proceedings below were a nullity.

2)Examination scripts are personal data

The Court adopted the reasoning of the Court of Justice of the European Union in *Nowak vs Data Protection Commissioner, Case C-434/16*, holding it to be sound and directly applicable. A candidate's written answers are linked to the candidate as a person, since they reflect her knowledge, competence and thought processes, and in a handwritten script they carry her handwriting as well. Scripts accordingly fall squarely within the personal information which an information officer may refuse to disclose under section 25(1) of the ATIA, none of the exceptions in section 25(2) having been shown to apply, and within the data which section 7 of the DPPA protects from processing without consent. It was not disputed that the candidate's consent was never sought.

The Court rejected the argument that UNEB was obliged to issue a third party notice under section 34 of the ATIA before it could rely on confidentiality. That provision obliges an officer who intends to disclose a record affecting a third party to notify that party first. It does not require an officer who has decided to refuse disclosure on privacy grounds to notify the very person whose privacy the refusal protects. Nor could the Respondent invoke the deemed refusal in section 17, which does not apply to a request that was in fact answered.

3)The public interest override under section 33

Section 33 of the ATIA displaces the privacy exemption only where two conditions are both met, namely that the disclosure would reveal evidence of a substantial contravention of or failure to comply with the law, or an imminent and serious public safety, public health or environmental risk, and that the public interest in disclosure is greater than the harm contemplated by the provision that would otherwise apply.

The rationale recorded below, that the candidate had subjected herself to public scrutiny by seeking parliamentary office and that voters were entitled to know they were electing a person with the qualifications she claimed, spoke only to a general public interest in verifying candidates. It said nothing about evidence of a substantial contravention of the law and did not weigh that interest against the privacy harm the exemption exists to prevent. The Court added that UNEB had already confirmed that a candidate of that name sat the examinations, which went a material distance toward satisfying the public interest relied upon without requiring release of the scripts.

4)General damages

Applying *Stanbic Bank Uganda Ltd vs Kiyimba Mutale, Civil Appeal No. 02 of 2010 and Bank of Uganda vs Kabuye [2023] UGSC 51,* the Court held that general damages are compensable only where a legal wrong has been established and that an appellate court will interfere with an award founded on a wrong principle. The premise of the award, that UNEB had unlawfully refused access, had not been sustained. As to the Uganda Certificate of Education scripts, UNEB's uncontroverted evidence that they had been destroyed in 2013 under a documented retention policy was decisive, a public body not being liable in damages for failing to produce a record that no longer exists.

Key Takeaways

Examination scripts, marked answer books and examiner comments are personal data of the candidate. Examination bodies, regulators and professional institutes should treat third party requests for them as engaging section 25 of the ATIA and the DPPA rather than as ordinary access requests.

Information officers should answer requests promptly, in writing and with reasons. UNEB's refusal survived because it was reasoned and evidenced. Public bodies should also consider whether a narrower confirmation of the kind UNEB gave here meets the requester's legitimate objective without releasing the underlying record.

A requester who relies on section 33 must plead and prove both limbs. An assertion of general public interest, even one grounded in electoral accountability, will not by itself displace a privacy exemption.

Complaints under section 36 should be placed before a Chief Magistrate and the record should reflect that. Where such a matter is allocated to a magistrate of a lower grade, any conferral of the powers of a Chief Magistrate should be pleaded and proved, failing which the entire proceeding is at risk. The Judgment is a first instance decision of the High Court and remains open to appeal.

The Uganda National Examinations Board was represented by our Associates, **Derrick Kizito Kunyiga** and **Daniel Muyambi.**

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