

Complaint of refusal of full insight

Date: 15-07-2019

Decision

Private companies

The Danish Data Protection Agency has ruled in a case concerning a school where a former employee complained that the school refused to give him full insight into a parent inquiry, which contained statements from the parent and other persons about complaints. In the case, the Danish Data Protection Agency took the opportunity to express criticism and issue an order to the school.

Journal number: 2018-31-0846

Summary

The Danish Data Protection Agency has made a decision in a case concerning a school, where a former employee complained that the school refused to give him full insight into a parent inquiry, where a parent, among other things, told about the person's impression of complaints.

In the case in question, the school had refused to give complainants full insight into the parents' inquiry, as the school believed that the sender of the letter could be subjected to harassment or the like from complainants if complainants became aware of the sender's identity.

In its decision, the Danish Data Protection Agency included emphasis that complainants have the right to access information about themselves and that this also included information that other persons had said something about complaints, including the names of the persons. The information could not be exempted from insight with reference to the Data Protection Act, section 22, subsection. 1, as the Danish Data Protection Agency had no basis for assuming that there was an imminent danger that private interests would suffer significant damage.

Thus, in the Authority's view, the school had not sufficiently provided complainants with insight into information about itself under Article 15 of the Data Protection Regulation, which gave the Authority cause for criticism.

On that basis, the Danish Data Protection Agency issued an order to the school to provide complainants with insight into the entire parental inquiry, with the exception of a telephone number.

Decision

The Danish Data Protection Agency hereby returns in the case, where complainants on 27 September 2018 have complained to the Authority about School X's processing of personal data about him.

The Danish Data Protection Agency has understood the complainant's inquiry as a complaint that he has not been given full insight into the personal data that School X has processed about him in connection with his dismissal.

The Danish Data Protection Agency must also note that the Authority can only take a position on data protection law issues. With this decision, the Danish Data Protection Agency has therefore not taken a position on e.g. questions about any libel or breach of confidentiality.

1. Order

After a review of the case, the Danish Data Protection Agency finds that there are grounds for expressing criticism that School X has not sufficiently provided complainants with insight into information about himself, cf. Article 15 of the Data Protection Regulation [1].

The Danish Data Protection Agency also finds grounds for issuing an order to School X to provide complainants with insight into the information, with the exception of a telephone number. Complaints must be notified to the insight as soon as possible and no later than 4 weeks from today's date. The injunction is granted pursuant to Article 58 (1) of the Data Protection Regulation. 2, letter c.

According to the Data Protection Act [2] § 41, para. 2, no. 5, it is punishable by a fine or imprisonment for up to 6 months for failing to comply with an order issued by the Danish Data Protection Agency pursuant to Article 58 (1) of the Data Protection Regulation. 2, letter c.

School X is asked to notify the supervisor when complaints have gained insight.

Below is a more detailed review of the case and a justification for the Danish Data Protection Agency's decision.

2. Case presentation

It appears from the case that School X on 19 September 2018 sent complainants a written notice of termination and in this connection sent a copy of a parent inquiry which had had an impact on the school's decision.

School X had crossed out a number of pieces of information in the copy of the parent inquiry that the complainants received, which is why the complainants on 21 September 2018 requested to receive a copy of the inquiry without underlining.

In this connection, School X notified complainants on 24 September 2018 that the school would not provide complainants with

insight into the extracted information, as the school believed that the information could be exempted from the right of access. It appears from the case that the parent inquiry was sent by a parent, who tells about his impression of complaints, i.a. complainant's pedagogical skills. In addition, the parent describes in the letter what other people have told about complaints.

2.1. School X's remarks

School X has generally stated that the information can be exempted from the right of access with reference to the Data Protection Act, section 22, subsection. 1.

School X has stated that the school assessed that the sender of the letter could be subjected to harassment and the like from complainants, and that there was therefore an imminent danger that private interests would suffer harm if complainants became aware of the sender's identity.

School X has further stated that the case at the time when complainants requested insight was ongoing and current, so disclosure of information about the sender's identity would expose the sender to current danger.

School X has stated that the school has crossed out information about positions of trust on the sender's colleague, name of the sender's workplace and department, name of the sender's managers, name and telephone number of the sender's colleague.

School X finally states that the information in question refers to the sender of the letter.

2.2. Complainant's remarks

Complainants have stated that this is information that concerns him and that he needs to gain insight into the entire letter so that he can relate to the content.

Complainants have further stated that when he reads the parental inquiry, he does not get the impression that the sender of the letter feels harassed or feels a current danger.

Justification for the Danish Data Protection Agency's decision

The Danish Data Protection Agency finds that several of the deleted information in the parental inquiry are covered by the complainant's right of access, cf. Article 15 of the Data Protection Regulation.

The Danish Data Protection Agency has emphasized that the right of access pursuant to Article 15 of the Data Protection Regulation implies that the data subject has the right to gain access to information concerning the person concerned (own access).

Initially, it is noted that the information about another person's telephone number is not covered by the complainant's right of

access, as the information only relates to another person.

The information that other persons have said something about complaints, on the other hand, is considered by the Danish Data Protection Agency to be information concerning complaints. The information about who has said something about the complaints, including the person's name, as well as the person's statement will thus be covered by the complainant's right of access.

The information about the persons 'positions of trust will also be covered by the complainants' right of access, as the information is relevant information in relation to who has commented on the complaints.

The Danish Data Protection Agency does not find that the information can be exempted from the right of access, cf. the Data Protection Act, section 22, subsection. 1.

It follows from the Data Protection Act, section 22, subsection 1, that Article 15 of the Regulation does not apply if the data subject's interest in the information is found to have to give way to decisive considerations of private interests, including the interests of the data subject himself.

The use of the term "decisive" in the provision means that if there is an imminent danger that private interests will suffer significant damage, there may be an exception to the right of access. [3]

The Danish Data Protection Agency has emphasized that School X is not seen to have provided information that could give reason to believe that complainants would expose the sender of the letter to harassment or the like. The Danish Data Protection Agency thus finds no basis for assuming that there would be an imminent danger that private interests would suffer significant damage, which is why the information cannot be exempted as a result of section 22 (1) of the Data Protection Act. 1.

In the opinion of the Danish Data Protection Agency, School X is thus obliged to provide complainants with insight into all deleted information with the exception of the mentioned telephone number.

On that basis, the Danish Data Protection Agency finds grounds for criticizing the fact that School X has not, to the extent necessary, provided complainants with insight, cf. Article 15 of the Data Protection Regulation.

The Danish Data Protection Agency also finds grounds for issuing an order to School X to provide complainants with insight into the information, with the exception of the mentioned telephone number.

[1] Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of individuals

with regard to the processing of personal data and on the free movement of such data and repealing Directive 95/46 / EC
(General data protection regulation).

[2] Act No. 502 of 23 May 2018 on supplementary provisions to the Regulation on the protection of individuals with regard to
the processing of personal data and on the free movement of such data (the Data Protection Act).

[3] Bill to Act No. 502 of 23 May 2018, Bill No. L 68, the special remarks to § 22.