

Complaint of lack of insight

Date: 20-08-2020

Decision

Private companies

This was in line with the data protection rules, as an insurance company did not give a previous customer insight into all the documents that he believed he was entitled to receive.

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Summary

The Danish Data Protection Agency handles many complaints where the data subject believes that he has not gained sufficient insight into his personal data. As an example of this, the Danish Data Protection Agency made a decision in August 2020 in a case where a citizen complained that he had not received all the personal data that his former insurance company Velliv, Pension & Livsforsikring A / S (Velliv), processed about him.

The citizen had i.a. complained to the Danish Data Protection Agency that Velliv, in connection with answering his requests for insight, had not provided the name of the medical consultant who had prepared a medical consultant assessment of complaints. The Danish Data Protection Agency did not find grounds for initiating a complaint, as the name of the medical consultant in the Data Inspectorate's view as the clear starting point did not constitute personal information about complaints, and as complainants in their inquiries to the Authority had not stated circumstances that gave grounds for deviating from this starting point.

The complainant then again contacted the Danish Data Protection Agency and stated that he still believed that there was information to which he was entitled, which Velliv had not given him insight into.

Velliv informed the Danish Data Protection Agency that the company had failed to send an internal working document, which contained the company's legal assessments of the case, as well as correspondence with Velliv's lawyer, which was relevant for the preparation of a forthcoming lawsuit notified by complainants. In addition to legal assessments of the case, the working document according to the information contained i.a. extracts of medical information and a performed observation of complaints which had previously been handed over to complainants in complete versions.

In its decision, the Danish Data Protection Agency assumed that the personal data contained in the internal working document

had already been accessed by complaints, and that the material, including the correspondence with the lawyer, did not contain information on complaints covered by his right of access. In this connection, the Danish Data Protection Agency referred to the fact that the data controller may, depending on the circumstances, refuse insight into e.g. a note assessing whether a particular lawsuit against a customer can be won.

You can read more about the right to access and the exceptions to it in the Danish Data Protection Agency's guidelines on the rights of data subjects.

Decision

The Danish Data Protection Agency hereby returns to the case, where on 13 February 2020 you complained to the Authority that Velliv, Pension & Livsforsikring A / S (hereinafter "Velliv") has not provided you with insight into all information that Velliv processes about you.

Decision

After reviewing the case, the Danish Data Protection Agency finds that Velliv's processing of personal data has taken place in accordance with the rules in the Data Protection Regulation [1], cf. Article 15.

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 your insurance coverage at Velliv was terminated on 1 February 2019. The cancellation was then brought before the Board of Appeal for Insurance, which upheld Velliv's termination of your insurance.

At the beginning of December 2019, you requested insight into the correspondence between Velliv and you. Subsequently, you requested insight into all material that Velliv processes about you. Velliv sent the complete case files in printed form by letter dated 16 January 2020.

On 12 January 2020, you contacted the Danish Data Protection Agency with a complaint that Velliv had refused to disclose the name of the specialist medical consultant who, among other things, had prepared a medical consultant assessment of you.

On 13 February 2020, you contacted the Danish Data Protection Agency again with a complaint that Velliv had not complied with your request for insight into the internal documentation in your case.

By decision of 5 March 2020, the Danish Data Protection Agency refused to initiate an appeal in connection with your appeal, as the medical consultant's name is not covered by your right of access. Furthermore, the Danish Data Protection Agency did

not find grounds to conclude that Velliv processed information about you that you had not received insight into.

On 25 March 2020, you again contacted the Danish Data Protection Agency with a request to reopen the case. On that basis, the Danish Data Protection Agency assessed that there was a basis for initiating a case with regard to the question of whether Velliv had disclosed all information about you.

On 2 April 2020, the Danish Data Protection Agency requested Velliv for an opinion on the case, which Velliv issued on 23 April 2020.

On 1 May 2020, you submitted comments on Velliv's statement.

2.1. Your comments

You have generally stated that you have not gained full insight into the personal data that Velliv has processed about you in the period from 6 February 2018 to 10 January 2019.

In this connection, you have stated that after 6 February 2018, Velliv initiated a comprehensive investigation of you, where you, among other things, was observed for twice three days and examined on social media, which also appears from a case presentation from Velliv of 9 January 2019.

You claim that as a result of this investigation, Velliv must have processed information about you and that you have the right to insight into this information. You also claim that Velliv may process additional information about you that you have not gained insight into, including minutes of telephone conversations. You are i.a. has been informed by an employee at Velliv that she would make a record of your telephone conversation. This report does not appear from the material that you have received from Velliv or Velliv's lawyer.

You have also stated that you believe that you have the right to insight into Velliv's employees' job descriptions.

2.2. Velliv, Pension & Livsforsikring A / S 'comments

Velliv has generally stated that your request for access has been answered adequately, as there is no further material or information about you that is covered by the right of access pursuant to Article 15 of the Data Protection Regulation. According to Velliv, the request for access was received on 2 December 2019 and replied on 16 January 2020 by sending the dossiers in printed form.

Velliv has stated that in connection with the response to the request for access, Velliv excluded information that is not covered by the right of access, cf. section 22 of the Data Protection Act.

Velliv has stated that Velliv, pursuant to section 22 of the Data Protection Act, exempted information about you contained in an internal working document with Velliv's legal assessments for use in Velliv's preparation of the lawsuit that you have notified. In Velliv's view, the information contained in the legal assessments is not covered by the right of access, as this is not personal information, but an assessment of the burden of proof, etc.

Velliv has further stated that the internal working document also contains extracts from the medical files and the medical consultant's answers, minutes of your answers to Velliv, a summary of files obtained from internet examinations and the performed observation of you, and that this material has been accessed in complete editions. .

Velliv has stated that the working document in question thus does not contain additional personal information which is covered by your right of access.

Velliv has further stated that the correspondence between Velliv and Velliv's lawyer regarding the preparation and presentation of evidence in the case is exempt from the right of access.

Velliv also states that the names and job descriptions of Velliv employees do not constitute personal information about you and are therefore not covered by your right of access under Article 15 of the Data Protection Regulation.

Velliv has also stated that there are no further notes or written communication between Velliv and you that you have not already gained insight into. Velliv has pointed out in this connection that not in all cases notes are made regarding telephone conversations with customers. Velliv has emphasized that no further material from the completed investigation is stored, in addition to the material that you have gained insight into. Velliv has stated that during the actual observation, recordings have been deleted that either do not show information about you. or which are useless, e.g. due to vibrations. Thus, these recordings do not exist.

Justification for the Danish Data Protection Agency's decision

3.1.

Pursuant to Article 15 (1) of the Data Protection Regulation 1, the data subject has the right of access to the processing of information that is considered to be information about the person in question himself.

The term "personal data" is defined in Article 4 (1) of the Data Protection Regulation as any kind of information about an identified or identifiable natural person. Information about other persons, including name and job title, is thus not covered by the right of access under Article 15 of the Data Protection Regulation.

3.2.

It follows from the Data Protection Act [2] § 22, para. Article 15 of the Regulation does not apply if the data subject's interest in the information is found to give way to overriding reasons relating to private interests, including the interests of the data subject himself.

Of the special remarks to section 22, subsection 1, appears i.a. that the data controller may, depending on the circumstances, refuse insight into e.g. a memorandum assessing whether there is a prospect of a particular lawsuit against a customer being won. [3]

It appears from the case that the internal working document and the correspondence with Velliv's lawyer partly contain extracts of information about you, which has been accessed to you in complete versions, and partly legal assessments for use in the notified lawsuit, which does not contain personal information about you.

3.3.

After a review of the case, the Danish Data Protection Agency finds that Velliv was entitled to exempt the internal working document and correspondence with Velliv's lawyer, cf. section 22 (1) of the Data Protection Act. 1.

The Danish Data Protection Agency has hereby emphasized that Velliv has stated that the personal information contained in the material in question has already been accessed by you, and that the material also does not contain information about you which is covered by the right of access.

The Danish Data Protection Authority also finds that there is no basis for overriding Velliv's information to the Authority that Velliv does not in addition process further information about you covered by the right of access than the personal data that has already been given insight into.

The Danish Data Protection Agency also notes that it is not possible to gain insight into information that the data controller has deleted.

On that basis, the Danish Data Protection Agency does not find grounds for expressing criticism of Velliv, as Velliv's processing of personal data has taken place within the framework of the rules in Article 15 of the Data Protection Ordinance and section 22 (1) of the Data Protection Act. 1.

[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 additional provisions to the Regulation on the protection of natural persons in connection with

with the processing of personal data and on the free exchange 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.