

Supervision of Kolding Municipality

Date: 07-08-2020

Decision

Public authorities

Journal number: 2019-423-0226

Summary

In August 2020, the Danish Data Protection Agency completed a planned written inspection at Kolding Municipality. The audit focused on the municipality's compliance with the rules on the duty to provide information when using control measures towards employees. The audit also focused on whether Kolding Municipality's compliance with the duty to provide information complied with the regulation's basic principle of transparency, which, among other things, implies that the data controller must provide employees with easily accessible and prior information about the control measures applied.

On the basis of the audit carried out, the Danish Data Protection Agency has had occasion to express serious criticism of Kolding Municipality's processing of personal data.

The Danish Data Protection Agency's concluding statement states, among other things, that Kolding Municipality has to a large extent complied with the duty to provide information orally to the municipality's employees.

In addition, it appears that Kolding Municipality's compliance with the duty to provide information has been deficient because the municipality has not provided employees with sufficient information about the purpose of the processing of personal data, the legal basis for the processing of personal data, the affected categories of personal data and the time the data will be stored. or if this is not possible, the criteria used to determine this period.

You can read the Danish Data Protection Agency's guidelines on data protection in connection with employment relationships [here](#).

You can read the Danish Data Protection Agency's guide on data subjects' rights [here](#).

Decision

1. Written supervision of Kolding Municipality's processing of personal data

Kolding Municipality was among the authorities that the Danish Data Protection Agency in the autumn of 2019 had chosen to supervise in accordance with the Data Protection Ordinance [1] and the Data Protection Act [2].

The Danish Data Protection Agency's audit was a written audit which focused on Kolding Municipality's compliance with the duty to provide information in connection with control measures towards employees, cf. Articles 13 and 14 of the Regulation. Article 5, paragraph 1, letter a, which according to the Authority's assessment i.a. implies that the data controller must provide employees with easily accessible - prior - information about the control measures used.

By letter dated 9 September 2019, the Danish Data Protection Agency notified the Authority of Kolding Municipality and in this connection requested the municipality for an opinion.

Kolding Municipality has then by letters of 24 October 2019 and 5 May 2020 made statements for use in the case.

Following the audit of Kolding Municipality, the Danish Data Protection Agency finds reason to conclude:

That Kolding Municipality's fulfillment of the duty to provide information has to a large extent taken place orally to the municipality's employees.

That Kolding Municipality's compliance with the duty to provide information has been deficient, including in that the municipality has not provided employees with sufficient information about the purpose of the processing of personal data, the legal basis for the processing of personal data, the affected categories of personal data and the time the information will be stored, or if this is not possible, the criteria used to determine this time period.

The Data Inspectorate finds in relation to pkt. 1, that Kolding Municipality's processing of personal data - in that the municipality has to a large extent complied with its duty to provide information orally - has not taken place in accordance with the Data Protection Ordinance, Article 12, para. 1, 2. pkt.

In addition, the Danish Data Protection Agency finds in relation to pkt. 2, that Kolding Municipality's processing of personal data has not taken place in accordance with Articles 13 and 14 of the Data Protection Ordinance. principle of transparency in Article 5 (1) of the Regulation. 1, letter a.

Overall, the Danish Data Protection Agency thus finds grounds for expressing serious criticism that Kolding Municipality's processing of personal data has not taken place in accordance with Article 12 (1) of the Data Protection Ordinance. 1, 2nd sentence, Articles 13 and 14 and Article 5, para. 1, letter a.

2. Kolding Municipality's use of control measures towards employees

Kolding Municipality has initially stated that the municipality has implemented various types of technical and organizational measures in accordance with Article 32 of the Data Protection Ordinance, which may involve the processing of personal data

about the municipality's employees. The municipality has noted that the fact that the measures involve a processing of the employees' personal data does not necessarily mean that the municipality processes the personal data for the purpose of checking the employees.

Kolding Municipality has subsequently stated that the municipality makes use of the following measures, which are potentially suitable for - and therefore can be used to - control the municipality's employees, but without this being the purpose of the implementation of the measures or an expression of the actual use of the measures:

TV surveillance

GPS tracking of municipal vehicles

Logging of employees' use of the Internet and the email system

Logging of employees' use of subject systems

Logging in connection with access restrictions to physical locations (access control)

Kolding Municipality has also stated that the municipality basically exercises trust-based management, which is why it is the municipality's policy and aspired 'work culture' that employees are not controlled when the implemented technical and organizational measures are in themselves assessed as sufficient.

Regarding TV surveillance, Kolding Municipality has stated that TV surveillance has been set up at selected locations in the municipality for crime prevention and security-creating reasons.

In relation to GPS tracking, Kolding Municipality has stated that selected vehicles are equipped with GPS tracking, and that this is necessary for crime prevention purposes and work-related needs. In this connection, Kolding Municipality has elaborated on the work-related needs that form the basis for the installation of GPS tracking in some of the municipality's vehicles. Kolding Municipality has further stated that the municipality's purpose of installing GPS tracking in the vehicles in question is not to monitor the employees' position for control, but that GPS tracking instead serves practical purposes that are directly related to the vehicles' function.

Regarding logging of employees' use of the Internet and e-mails, Kolding Municipality has stated that the municipality logs incoming and outgoing e-mail correspondence as a technical security measure in order to identify and block viruses, malware and other IT security threats.

With regard to logging of employees' use of professional systems, Kolding Municipality has also stated that this measure

serves a security purpose. In this connection, Kolding Municipality has stated that this is the same form of logging that the municipality was obliged to introduce pursuant to section 19 of the current Executive Order on Safety [3]. In addition, Kolding Municipality has stated that it is exceptional that the municipality accesses the logging for the purpose of controlling the employees' behavior, as the municipality has implemented procedures for allocating access rights to employees, which thereby minimizes the need for control of the employees.

Regarding logging in connection with access control, Kolding Municipality has stated that the municipality in several places uses personal access cards as an alternative to physical keys, and that the logging thereof takes place for security reasons. In continuation of this, the municipality has stated that within the elderly care, a specific key system is used by some of the municipality's citizens, where the employees receive an electronic key that gives access to the citizens' homes. The logging that takes place in the key system is used, for example, in cases of care failure as documentation of when the municipality has taken care of the citizens in accordance with the municipality's obligations. In continuation of this, Kolding Municipality has stated that it is technically difficult to use the logging for individual control of employees, which supports that the system in question is not intended to constitute a control measure against employees.

Based on the information about logging the key system in elderly care, the Danish Data Protection Agency assumes that this is not a control measure covered by this supervision. The Danish Data Protection Agency has hereby emphasized what Kolding Municipality stated that the logging that takes place in the key system is used as documentation of when the municipality has taken care of the citizens in accordance with the municipality's obligations, and that the logging in the key system is not used to control employees. With this supervision, the Danish Data Protection Agency has thus not taken a position on Kolding Municipality's compliance with the duty to provide information in connection with any processing of personal data as part of the municipality's logging of the key system within elderly care.

3. Procedures, etc. in relation to the fulfillment of the duty to provide information and prior information on control measures

Kolding Municipality has generally stated that all employees in the employment contract are made aware that the municipality, as part of personnel administration, can implement control measures.

In connection with the employment, the employees will be given a general notification about the processing of personal data in connection with personnel administration. In addition, Kolding Municipality has chosen to inform employees about the use of control measures locally in connection with the employees' introduction to the workplace.

In this connection, Kolding Municipality has stated that the municipality employs around 8,000 employees, who are spread over a large geographical area and who belong to various professions within e.g. childcare, education, elderly care, renovation, health, integration, job creation and more. It is thus Kolding Municipality's opinion that information about control measures implemented locally at the individual employee's workplace, and how they are configured and specifically used, can not be provided on a general level if the information is to be adequate and appear transparent and meaningful for employees across the municipality's departments. In addition, there may be cases where the same measure in one place can serve a purely security purpose, whereas in other places it may serve the purpose of checking whether the employee complies with the municipality's internal guidelines.

Kolding Municipality has stated that the local information about the use of control measures largely takes place orally on the basis of a specific assessment, as the municipality has experienced that the supplementary and often in-depth oral dialogue provides the greatest understanding of the individual employee.

In relation to the preparation of procedures, etc. Kolding Municipality has stated that the municipality - considering that the municipality in each case makes a concrete assessment of how the municipality best provides employees with information about the processing of personal data that takes place in connection with the use of control measures - has only to a limited extent prepared written procedures, etc. for the municipality's compliance with the rules on the duty to provide information in connection with control measures towards employees.

Kolding Municipality has in continuation of this stated that the municipality has prepared some general guidelines regarding the municipality's basic principles for the implementation of television surveillance, where it i.a. states that affected employees must be informed of the purpose and extent of television surveillance before the surveillance is established at or around a workplace. The municipality has sent a copy of these guidelines to the Danish Data Protection Agency.

Kolding Municipality has also stated that the municipality's Children, Education and Labor Market Administration has prepared a plan for the introduction of new employees, which contains a provision that employees must be informed about the municipality's rules for compliance with data protection legislation during the first week of employment. , rules for IT security and at the same time be informed about measures that may involve monitoring of employees. Kolding Municipality has sent a copy of this procedure to the Danish Data Protection Agency.

The Danish Data Protection Agency must generally recommend that Kolding Municipality prepare some more specific

procedures, etc. for the authority's compliance with the rules on the duty to provide information and prior information in connection with control measures towards employees, where it i.a. should state how and at what time employees must be informed of the processing of personal data that takes place in connection with the individual control measures.

Review of Kolding Municipality's notification of the processing of personal data and supplementary information on control measures

Kolding Municipality has stated [4] that the authority makes use of a number of control measures - which can be used for both operational, safety and control purposes - towards the authority's employees. The Danish Data Protection Agency cannot rule out that these are used for control purposes against the authority's employees, which is why this has been taken into account in the review of the submitted material.

In general, Kolding Municipality has stated [5] that all employees in the employment contract are made aware that the municipality, as part of personnel administration, can implement control measures. In this connection, the employees will also be given a general notification about the processing of personal data in connection with personnel administration. In addition, employees - when they are to be introduced locally at the workplace - receive details of the control measures used at the place in question.

In connection with the audit, Kolding Municipality has sent a copy of an employment contract as well as a copy of the general notification of the processing of personal data.

It appears from the submitted employment contract that Kolding Municipality - as part of the employee's employment - carries out electronic processing of the employee's information, and that the processing takes place as part of the municipality's payroll and personnel administration. In addition, it appears that this is information for use in payroll, personnel administration, tax, pension, etc., but that at some point in the employment relationship it may also become relevant to process information about sick leave and health conditions and any criminal offenses. In conclusion, it appears that the employee can contact HR to gain insight into the information registered about him or her.

Following a review of the employment contract, it is the Data Inspectorate's assessment that the employment contract does not contain information that Kolding Municipality can make use of control measures against employees. In this connection, the Danish Data Protection Agency emphasizes that employees are only given information that - as part of personnel administration - information about any criminal offenses can be processed, and that it does not appear that this information

could possibly be collected in connection with the municipality's use of control measures against employees.

From the general notification regarding the processing of personal data, it initially appears that Kolding Municipality is data responsible for the personal data that is processed in connection with the employee's employment with the authority.

Furthermore, the notification states that Kolding Municipality's purpose in processing the employees' personal data is that the employees are paid the correct salary, and that the employment otherwise follows employment law, collective agreement and personnel policy rules. In addition, the municipality uses the employees' information for, for example, tasks regarding working environment, username in various municipal IT systems, etc.

In addition, the notification contains a general indication of possible legal basis for Kolding Municipality's processing of the employees' personal data, just as the notification contains a number of examples of categories of personal data that the municipality can process about the employees.

The notification also contains information about any categories of recipients of information that is processed as part of the employees' employment, and general information about how the information is stored and when the information is deleted.

Regarding the deletion of personal information, it appears that Kolding Municipality stores the information until it is no longer relevant for the municipality to be able to document that, for example, the employees' salaries and pensions have been paid correctly.

Finally, the notification contains information about the right to request access to and correction or deletion of personal data as well as the right to data portability, just as the notification contains information about the data protection adviser's contact information and the possibility to complain about the municipality's processing of personal data.

Following a review of the general notification regarding Kolding Municipality's processing of employees' personal data in connection with personnel administration, the Data Inspectorate's assessment is that the notification does not contain specific information about Kolding Municipality's processing of personal data in connection with the use of control measures against employees. The Danish Data Protection Agency has emphasized that it does not appear from the notification, including neither the purpose description nor the other content, that Kolding Municipality makes use of control measures towards employees, and that personal information about the employees is therefore processed in this regard.

However, the Danish Data Protection Agency has noted that Kolding Municipality - as part of ongoing work with the municipality's compliance with Articles 13 and 14 of the Data Protection Ordinance in connection with employment

relationships - has expanded the above-mentioned notification of processing personal data to employees. Kolding Municipality has stated that the notification has been updated after the date of the Data Inspectorate's notification of the inspection to the municipality on 9 September 2019. The Data Inspectorate has thus not taken a position on the content of the expanded notification in this decision, but has noted that Kolding Municipality has updated the content of this.

Below, Kolding Municipality's answers regarding the information that the municipality provides about the use of the individual control measures are reviewed, including e.g. in connection with the local introduction to the workplace. It is noted in this connection that the Danish Data Protection Agency, in reviewing this information, has assumed that employees are familiar with information about the contact information on the municipality's data protection adviser, any recipients or categories of recipients of personal information, and the right to request insight and correction or deletion of personal data as well as the right to data portability and the right to lodge a complaint with the Danish Data Protection Agency, as this information is, in the Authority's assessment, immediately sufficiently specific in the general notification of processing of personal data.

4.1. Regarding information on TV surveillance

Kolding Municipality has generally stated that the municipality is covered by the Act on Television Surveillance [6] and follows the requirements for the duty to provide information therein, including via signage. In this connection, the municipality has sent three examples of signage to the Danish Data Protection Agency.

Based on the submitted examples of signage, the Danish Data Protection Agency can conclude that the signs only contain information about the fact that television surveillance is carried out. The signs thus consist primarily of an image of a surveillance camera. As far as two signs are concerned, in addition to a picture of a surveillance camera, a telephone number is also stated at the control center as well as Kolding Municipality's name and coat of arms.

Kolding Municipality has stated that the municipality - in addition to the signage - primarily observes its duty to provide information orally to employees in connection with the introduction to the local workplace. In this connection, Kolding Municipality has referred to the municipality's general guidelines for television surveillance, which state that affected employees must be informed of the purpose and scope of television surveillance before the surveillance is established at or around a workplace. [7]

With regard to TV surveillance at Kolding Municipal Music School, the municipality has stated that the employees at the music school, among other things, is informed about the TV surveillance in the music school's information manual. Kolding

Municipality has sent a copy of the information manual to the Danish Data Protection Agency.

It appears i.a. of the music school's information manual, that TV surveillance has been set up in certain places at the music school in order to prevent and assist in solving any theft or vandalism at the school. Furthermore, it appears that only the service manager administers and has access to the TV surveillance, and that the TV surveillance is automatically deleted every 24 hours.

Kolding Municipality has also sent a note sheet regarding TV surveillance to the municipality's waste disposal department, which contains the information that has been given orally to the waste disposal department's employees at an employee meeting on 17 December 2018.

It appears i.a. of the note sheet that the TV surveillance at the recycling site is used for the prevention and investigation of theft and vandalism, as well as for the prevention and investigation of violence and threats against employees and must create security. In the case of specific personnel cases that have arisen in other ways, video recordings can be used in the case. Furthermore, it appears that the recordings from the TV surveillance are stored for 30 days.

Regarding the review of recordings from the TV surveillance, it appears, among other things, that everyone connected to the recycling sites can review live images and recordings. If the recordings are to be reviewed for episodes that are expected to involve staff, the union representative has the right to be present.

In conclusion, the note sheet states that staff are not permitted to use television surveillance to monitor colleagues for their own gain, and that surveillance is a work tool and may not be used by management to monitor employees.

Private and public authorities that carry out television surveillance of places or premises where there is general access to, or of workplaces, must, according to the Television Surveillance Act, provide information about the surveillance by signage or in another clear manner. In addition to the requirement for signage, the rules of the Data Protection Regulation and the Data Protection Act on the duty to provide information to data subjects apply.

It thus follows from section 3 b of the Television Surveillance Act that the provision in Article 14 of the Data Protection Ordinance applies regardless of any signage pursuant to sections 3 and 3 a of the Act. to the requirements of Article 14 of the Data Protection Regulation.

Based on the information provided, the Danish Data Protection Agency assumes that the information in the information manual for Kolding Municipal Music School constitutes the written information that the employees at the music school have received

regarding television surveillance.

It is the Data Inspectorate's understanding that Kolding Municipality - in addition to the information in the information manual - observes its duty to provide information regarding TV surveillance orally to the music school's employees, including in connection with the introduction to the local workplace. As Kolding Municipality has not sent documentation for the information that the municipality provides orally to the music school's employees about TV surveillance, the Danish Data Protection Agency has only taken a position on the content of the information manual in relation to Kolding Municipality's compliance with the information obligation to music school employees.

After a review of the submitted information manual for Kolding Kommunale Musikskole, it is the Data Inspectorate's assessment that the music school's employees are not given sufficiently clear information about the purpose of the processing of personal data. The Danish Data Protection Agency has emphasized that, in the Authority's view, it is not sufficiently clear from either the information manual or the general notification of the processing of personal data provided to all municipal employees in connection with employment that information processed in connection with television surveillance, can also be used for control purposes against employees

In addition, the Danish Data Protection Agency's assessment is that employees are not given information about the legal basis for the processing and the affected categories of personal data. In this connection, the Danish Data Protection Agency has emphasized that the legal basis for processing personal data in connection with the use of television surveillance as a control measure does not appear in the information manual, just as the legal basis is not sufficiently clear from general notification of personal data processing. The same applies in relation to the affected categories of personal data.

On this basis, the Danish Data Protection Agency finds that the variable information on the processing of personal data in connection with television surveillance, which Kolding Municipality provides to the music school's employees via the information manual, does not meet the requirements of Article 14 (1) of the Data Protection Ordinance. 1, letters c and d. Considering that the control purpose, in the opinion of the Danish Data Protection Agency, has not been sufficiently transparent for the employees, the audit also finds that Kolding Municipality's information about TV surveillance of the music school's employees has not lived up to the basic principle of transparency in Article 5 (1). 1, letter a. In this connection, the Danish Data Protection Agency must also emphasize that it is the Authority's assessment that the principle of transparency i.a. implies that the data controller must provide employees with easily accessible - prior - information about the control measures

used, including in particular about the control purpose.

With regard to the use of television surveillance at Kolding Municipality's waste disposal department, the Danish Data Protection Agency assumes that the content of the submitted note sheet constitutes the information that at least the employees who attended the employee meeting on 17 December 2018 were given around the processing of personal data that takes place in connection with the use of television surveillance as a control measure.

After a review of the submitted note sheet, it is the Data Inspectorate's assessment that the employees who attended the waste disposal department's employee meeting on 17 December 2018 have not been given information about the legal basis for the processing of personal data that takes place in connection with the use of monitoring as a control measure and that employees have not been provided with information on the categories of personal data concerned.

In this connection, the Danish Data Protection Agency has emphasized that the legal basis for the processing of personal data in connection with the use of television surveillance as a control measure does not appear in the memorandum, nor that the legal basis is sufficiently clear from the general notification of processing of personal data. The same applies in relation to the affected categories of personal data.

On this basis, the Danish Data Protection Agency finds that the oral information on the processing of personal data in connection with television surveillance, which Kolding Municipality has provided to the employees who attended the waste disposal department's employee meeting on 17 December 2018, does not meet the requirements in the Data Protection Ordinance 14, para. 1, letters c and d.

It is after a review of Kolding Municipality's response to the Data Inspectorate's understanding that the municipality to a large extent observes its duty to provide information regarding TV surveillance orally to the municipality's employees, including in connection with the introduction to the local workplace.

The Danish Data Protection Agency finds it regrettable that Kolding Municipality has not been able to demonstrate the information that the municipality generally provides orally [8] to the employees affected by TV surveillance as a control measure, and that Kolding Municipality has only been able to demonstrate the oral information that has been given to the employees who attended the staff meeting in the waste disposal department on 17 December 2018.

Given that TV surveillance is an intrusive form of processing of personal data, the Danish Data Protection Agency must emphasize the importance of informing all employees concerned about the processing of personal data that takes place in

connection with the use of TV surveillance as a control measure in accordance with Article 14.

4.2. Regarding information about GPS tracking of the municipality's vehicles

Kolding Municipality has stated that all employees with access to GPS-tracked vehicles have received oral information about the tracking prior to the introduction of the measure in connection with holding orientation meetings. In addition, the municipality has stated that new employees are informed orally about the GPS tracking in connection with the local introduction to the workplace.

In this connection, Kolding Municipality has sent a copy of an e-mail correspondence of 11 December 2018 between two employees regarding the installation of GPS tracking. In the correspondence, an employee is made aware that the installation of GPS tracking requires that all drivers are individually made aware of the installation, and that DA (Danish Employers' Association) and LO (National Organization in Denmark) have made an agreement that this must happen no later than 6 weeks before it is launched. The employee in question then confirms that he or she has held a meeting with the affected employees, where they have been made aware of the installation of GPS tracking, and that the person in question reckons that an oral briefing is sufficient.

In addition, Kolding Municipality has sent two documents regarding the framework for the use of GPS data collection for the operations department's and service section's vehicles, which have been discussed and approved at employee meetings in the relevant departments on 31 October 2012 and 19 December 2018, respectively.

With regard to GPS tracking in the operations department's vehicles, it appears from the documents that the purpose of the data collection is to be able to document where and at what time the slippery road was controlled, and that data collection is also used for theft protection of the operations department's vehicles. Furthermore, it appears that the GPS recordings - in specific personnel cases - can be used in the event of gross negligence or criminal offenses.

With regard to GPS tracking in the service section's vehicles, it appears from the documents that the purpose of the data collection is to be able to continuously track where the individual technician is geographically in order to be able to select the technician who is geographically closest in connection with execution. of acute tasks. Furthermore, it appears that data collection is used for theft protection of the service section's vehicles, and that the GPS recordings - in specific personnel cases - can be used in the event of gross negligence and criminal offenses.

Regarding access to recordings from the GPS data collection, it appears, among other things. of the documents that the

management prior to an inspection in connection with specific personnel matters must inform the shop steward that an inspection is carried out and state the reason for the inspection, and that such inspection must be carried out in the presence of a shop steward. In addition, it appears that inspections are only carried out if there is a concrete and justified suspicion of improper use of the vehicle in relation to a factual work task. When clarifying specific personnel matters, recordings will be reviewed by the manager and the shop steward before personnel actions are taken by the management, which may have personnel legal consequences for one or more employees.

Finally, the documents state that the employees are informed that in specific cases the GPS log can be used to control the employees' traffic with the vehicle, and that the signage must be clear and visible from the driver's seat.

Kolding Municipality has sent an example of signage being installed in the vehicles in which GPS tracking is installed. The signage consists of a sticker that only says "GPS".

In the opinion of the Data Inspectorate, as the personal data is collected from the employee himself when the employee uses the vehicles in question, it is the Authority's assessment that notification of the processing of personal data in connection with GPS monitoring must meet the requirements of Article 13 of the Data Protection Regulation [9].

Based on the information provided, the Danish Data Protection Agency assumes that the information in the submitted documents regarding the framework for the use of GPS data collection for the vehicles of the operations department and the service section constitutes the information that at least the employees who attended the operations department and service section meetings given about the processing of personal data that takes place in connection with the municipality's use of GPS tracking as a control measure.

Following a review of the submitted documents, the Danish Data Protection Agency's assessment is that the employees who attended the employee meetings on 31 October 2012 and 19 December 2018, respectively, have not been provided with information on the legal basis for the processing of personal data that takes place in connection with the use of GPS tracking as a control measure.

In addition, the Danish Data Protection Agency's assessment is that the employees in question have not been given sufficient information about the period during which the information will be stored, or if this is not possible, the criteria used to determine this period.

In this connection, the Danish Data Protection Agency has emphasized that the legal basis for the processing of personal data

in connection with the use of GPS tracking as a control measure does not appear in the submitted documents, and that the legal basis is not sufficiently clear from the general notification of processing of personal data. which is handed out to all municipal employees in connection with the employment. The same applies in relation to how long the information is stored. The Danish Data Protection Agency has also emphasized that this information - in the Authority's view - is necessary to ensure fair and transparent processing as far as the employees are concerned.

On this basis, the Danish Data Protection Agency finds that the oral information on the processing of personal data in connection with GPS tracking, Kolding Municipality has provided to the employees who have participated in the employee meetings in the operations department and service section on 31 October 2012 and 19 December 2018, does not meet the requirements of Article 13 (1) of the Data Protection Regulation 1, letter c and para. 2, letter a.

The Danish Data Protection Agency finds it regrettable that Kolding Municipality has not been able to demonstrate the information that the municipality provides orally [10] to those employees who are affected by GPS monitoring as a control measure and who have not attended the employee meetings on 31 October 2012 and 19 December 2018.

4.3. Regarding information about logging employees' use of the Internet and the e-mail system

Kolding Municipality has initially stated that the municipality's Children, Education and Labor Market Administration has prepared a plan for the introduction of new employees, which contains a provision that employees must be informed about the municipality's rules for compliance with data protection legislation during the first week of employment. , rules for IT security and at the same time be informed about measures that may involve monitoring the employees. In this connection, Kolding Municipality has stated that this introduction entails an information on logging the employees' use of the Internet and the e-mail system.

In addition, Kolding Municipality has stated that in a guide to the municipality's central journaling system, all municipal employees are informed that the incoming and outgoing e-mails that employees journal in the municipality's journaling system will to a large extent be available to other employees. Kolding Municipality has sent a copy of the guidelines in question to the Danish Data Protection Agency.

In addition, Kolding Municipality has stated that the municipality on 6 September 2019, ie. before the Danish Data Protection Agency's notification of the audit, has shared an article on the municipality's intranet entitled "Digital Tracks: Are we monitored via computer and mobile?", which explains how employees' behavior is generally logged. The municipality then has 10

September 2019, ie. after the date of the notice of supervision on 9 September 2019, updated the content of the article.

In connection with the audit, Kolding Municipality has only sent a copy of the updated article of 10 September 2019. When asked, the municipality stated in a telephone interview of 26 March 2019 that the original article of 6 September 2019 has been overwritten in connection with the update. , and that the municipality has therefore not been able to send a copy of the original article to the Danish Data Protection Agency.

Given that Kolding Municipality has not been able to send a copy of the original article to the Danish Data Protection Agency, the updated article is reviewed as an immediate extension of this. The Danish Data Protection Agency must note, however, that the Authority finds it regrettable that Kolding Municipality has not been able to demonstrate how the municipality - prior to the notification of the audit - has fulfilled the duty to provide information in connection with logging employees' use of the Internet and e-mail system. September 6, 2019.

The updated article of 10 September 2019 states, among other things, that the digital tracks that employees set aside when they use computers, tablets and telephones will only exceptionally be looked at by management. Thus, management will only look at the digital tracks if there is a reasonable suspicion of serious breaches of the rules, or where to settle a civil case. Furthermore, it appears from the article that the employees' activities are constantly logged when the employees use the municipality's IT systems. This means, among other things, that the employees' e-mails are saved for posterity, and that the employees' movements on the Internet are registered, etc.

In continuation of this, it appears that the majority of the digital tracks are deleted quickly again, but that when it comes to certain subject systems, including i.a. the municipality's central journaling system, there is a legal requirement that several years back in time you must be able to see who has been inside the systems.

It also appears that most logging is done for practical and safety reasons, so that the municipality can measure the load on systems and troubleshoot if problems arise. For example, the monitoring programs will sound the alarm if the municipality is hacked, or if an employee has clicked on a website that could pose a danger to the municipality's network. If the monitoring programs sound the alarm, the municipality can see which employee has been on a page with potentially dangerous content. In such cases, the employee in question will be contacted.

Finally, there is an indication of what the employees may use their equipment for, including for example whether the employees may go on Facebook or check private emails.

As the Data Inspectorate's opinion is collected from the employee himself, when he or she uses resp. the Internet and the e-mail system, the Authority's assessment is that notification of the processing of personal data in connection with the logging of the use of the Internet and the e-mail system must comply with the requirements of Article 13 of the Data Protection Regulation.

After a review of the material submitted by Kolding Municipality, including the guidelines on the municipality's central journaling system and the article of 10 September 2019, it is the Data Inspectorate's assessment that employees are not given information about the legal basis for the processing. In addition, it is the Data Inspectorate's assessment that employees will not be given information about the period during which the log information will be stored, or if this is not possible, the criteria used to determine this period.

In this connection, the Danish Data Protection Agency has emphasized that the legal basis for the processing of personal data in connection with the use of logging of employees' use of the Internet and the e-mail system is not sufficiently clear from the general notification of processing of personal data handed out to all municipal employees. In connection with the employment, just as the legal basis is not described in the other submitted material. The same applies in relation to how long the information is stored. The Danish Data Protection Agency has also emphasized that this information - in the Authority's view - is necessary to ensure fair and transparent processing as far as the employees are concerned.

On this basis, the Danish Data Protection Agency finds that the information on the processing of personal data in connection with logging of employees' use of the Internet and e-mail system, which Kolding Municipality has provided to employees, does not meet the requirements of Article 13 (1) of the Data Protection Regulation. 1, letter c and para. 2, letter a.

With regard to Kolding Municipality's reference to the fact that there is a legal requirement that the municipality several years back in time must be able to see who has been inside the systems, including the municipality's journalisation system, the Data Inspectorate must note that it is not clear, if this is a reference to Article 32 of the Data Protection Regulation. If this is the case, the Authority shall point out that 1, depends on a risk assessment, how long it is necessary for security reasons to store the log information, which in the opinion of the Authority should appear more clearly in the article.

4.4. Regarding information about logging the employees' use of professional systems

Kolding Municipality has stated that the municipality's employees are informed about logging the employees' use of professional systems in the guide on the municipality's central journaling system. In this connection, Kolding Municipality has

sent a copy of the guidelines in question to the Danish Data Protection Agency.

Regarding logging of the employees' use of professional systems, it is stated in the instructions that all cases and documents are logged, so that the IT department can always find out who has been involved in a given case or document. In continuation of this, the employee is made aware that you must send an e-mail to the case manager if you have been in a case or a document by mistake.

In addition, Kolding Municipality has stated that the municipality has an information letter on the municipality's intranet regarding IT security, where employees are informed that random checks can be made on the logging in professional systems. Kolding Municipality has sent a copy of the intranet page to the Danish Data Protection Agency.

It appears from the submitted copy of the intranet page that the page was created 21 days ago and that the intranet page was downloaded as a pdf file on 3 October 2019. It is against this background that the Data Inspectorate's understanding that the intranet page has been created around the September 12, 2019, i.e. after the date of notification of the supervision.

Considering that Kolding Municipality has stated that the municipality i.a. fulfills its duty to provide information about the logging of employees' use of professional systems through the relevant intranet page, the content of the intranet page is reviewed as an immediate extension thereof. The Danish Data Protection Agency must note, however, that the Authority finds it regrettable that Kolding Municipality has not been able to demonstrate how the municipality - prior to the notification of the audit - has fulfilled the duty to provide information in connection with logging employees' use of professional systems.

From the submitted intranet page, it appears regarding logging of the employees' use of professional systems that the employee may only have access to the IT system that he or she needs, and that the employee must contact his or her local manager if it turns out that the person in question have access to cases that are not needed.

In addition, it appears, among other things, that the employees' use of the IT systems is logged. Some things are logged as a result of legislation, others are logged for practical reasons, so that the IT department can measure the load on the systems if technical problems arise. The IT department can thus gain access to the systems the employee has used, if needed.

Furthermore, it appears i.a. of the intranet site that the employee's local manager will regularly make a random check on the logging to ensure that the employee does not look in the citizens' personal data for no valid reason.

In the opinion of the Data Inspectorate, as the personal data is collected from the employee himself when the employee uses the professional systems, it is the Authority's assessment that notification of processing of personal data in connection with

logging employees' use of professional systems as a control measure must comply with Article 13 of the Data Protection Regulation.

After a review of the material submitted by Kolding Municipality, including the guidelines on the municipality's central journaling system and the intranet page regarding IT security, it is the Data Inspectorate's assessment that employees are not given information about the legal basis for the processing. In addition, it is the Data Inspectorate's assessment that employees will not be given information about the period during which the log information will be stored, or if this is not possible, the criteria used to determine this period.

In this connection, the Danish Data Protection Agency has emphasized that the legal basis for processing personal data in connection with the use of logging of employees' use of professional systems is not sufficiently clear from the general notification of processing of personal data handed out to all municipal employees in connection with employment. , and that the legal basis is not described in the other submitted material. The same applies in relation to how long the information is stored. The Danish Data Protection Agency has also emphasized that this information - in the Authority's view - is necessary to ensure fair and transparent processing as far as the employees are concerned.

On this basis, the Danish Data Protection Agency finds that the information on the processing of personal data in connection with logging of employees' use of professional systems that Kolding Municipality has provided to employees does not live up to the requirements of Article 13 (1) of the Data Protection Ordinance. 1, letter c and pcs., 2, letter a.

4.5. Regarding access control information

Kolding Municipality has generally stated that the municipality's employees are to a large extent informed orally that the use of handed out personal access cards and electronic keys involves logging, including in connection with the handing out of the access cards and the electronic keys.

In connection with this, Kolding Municipality has referred to the Children, Education and Labor Market Administration plan for introduction of new employees, which contains a provision that employees during the first week of employment must be informed about the municipality's rules for compliance with data protection legislation. IT security and at the same time be informed about measures that may involve monitoring the employees. In this connection, Kolding Municipality has stated that this introduction means that employees are informed about the logging associated with the use of access cards.

In addition, Kolding Municipality - with regard to the use of key cards at Kolding Municipal Music School - has stated that the

employees at the music school, among other things. be informed in writing about the logging of the key card in the music school's information manual. Kolding Municipality has sent a copy of the information manual to the Danish Data Protection Agency.

It appears i.a. of the music school's manual that in connection with employment at the music school, an electronic key card is handed out, and that the use of the key card is logged and saved in order to prevent and assist in solving any theft or vandalism at the music school. Furthermore, it appears that it is G4S and thus Kolding Municipality that operates the key card system, but that it is G4S that is responsible for deleting the information within the applicable deadlines. In continuation of this, it appears that user data is deleted upon termination of employment.

As the Data Inspectorate considers personal data to be collected from the employee himself when the employee uses his access card or electronic key, it is the Authority's assessment that notification of processing personal data in connection with access control as a control measure must comply with the requirements of Article 13 of the Data Protection Regulation.

Based on the information provided, the Danish Data Protection Agency assumes that the information in the information manual for Kolding Municipal Music School constitutes the written information that the employees at the music school have received regarding logging in connection with access control.

It is the Data Inspectorate's understanding that Kolding Municipality - in addition to the information contained in the information in the information manual - observes its duty to provide information regarding access control orally to the municipality's employees, including in connection with the introduction to the local workplace. As Kolding Municipality has not submitted documentation for the information that the municipality provides orally to the municipality's other employees about access control, the Data Inspectorate has only taken a position on the content of the submitted information manual in relation to Kolding Municipality's compliance with the information obligation to music school employees.

After a review of the submitted information manual for Kolding Kommunale Musikskole, it is the Data Inspectorate's assessment that employees are not given sufficiently clear information about the purpose of the processing of personal data.

The Danish Data Protection Agency has emphasized that, in the Authority's view, it is not sufficiently clear from either the information manual or the general notification of the processing of personal data provided to all municipal employees in connection with employment that information processed in connection with logging in connection with access control, can also be used for control purposes against employees.

In addition, the Danish Data Protection Agency's assessment is that employees are not given information about the legal basis for the processing. In this connection, the Danish Data Protection Agency has emphasized that the legal basis for processing personal data in connection with the use of access control as a control measure does not appear in the information manual, just as the legal basis is not sufficiently clear from general notification of processing personal data.

On this basis, the Danish Data Protection Agency finds that the variable information on the processing of personal data in connection with logging in connection with access control, which Kolding Municipality provides to the music school's employees, does not live up to the requirements of Article 13 (1) of the Data Protection Ordinance. 1, letter c.

Considering that the purpose of the control, in the opinion of the Danish Data Protection Agency, has not been sufficiently transparent for the employees, the audit also finds that Kolding Municipality's information about access control to the music school's employees has not lived up to the basic principle of transparency in Article 5 para. 1, letter a. In this connection, the Danish Data Protection Agency must also emphasize that it is the Authority's assessment that the principle of transparency i.a. implies that the data controller must provide employees with easily accessible - prior - information about the control measures used, including in particular about the control purpose.

In addition, the Danish Data Protection Agency must generally note that the Authority finds it regrettable that Kolding Municipality has not been able to demonstrate the information that the municipality generally provides orally [11] to the employees affected by access control as a control measure, and that Kolding Municipality has only been able to demonstrate the written information that has been given to the staff of the music school.

4.6. Oral observance of the duty to provide information

It generally appears from Kolding Municipality's response to the written inspection that the municipality to a large extent observes its duty to provide information to the municipality's employees, including in connection with the employees' local introduction to the workplace and in connection with employee meetings held in connection with the establishment of measures.

It follows from Article 12 (1) of the Regulation 1, that the data controller shall take appropriate measures to provide any information referred to in Articles 13 and 14 on processing to the data subject in a concise, transparent, easily understandable and easily accessible form and in a clear and simple language. The information is provided in writing or by other means, including, if appropriate, electronically. When requested by the data subject, the information may be provided orally, provided

that the identity of the data subject is verified by other means.

The Danish Data Protection Agency thus finds that Kolding Municipality - by largely observing its duty to provide information to the municipality's employees regarding the processing of personal data in connection with the municipality's use of control measures, including in connection with the local introduction to the workplace - has not complied with Article 12 of the Data Protection Regulation. , PCS. 1, 2. pkt.

However, the Danish Data Protection Agency has noted that Kolding Municipality has expanded the general written notification of the processing of personal data about employees in connection with personnel administration, so that the notification now contains more specific information about the use of control measures.

4.7. Application of exemption provisions to the duty to provide information

In connection with the written inspection, the Danish Data Protection Agency has asked whether Kolding Municipality has in some cases assessed that an exception can be made from the duty to provide information in connection with the use of control measures towards employees.

Kolding Municipality has generally stated that the authority informs the employees in advance about the use of control measures in connection with the local introduction to the workplace. However, in a single case - in connection with the concrete application of a control measure - the municipality has assessed that it was necessary to make use of the exemption provisions in section 22 (1) of the Data Protection Act. 2, as there was a concrete suspicion of a crime and where the purpose would be wasted, unless the employee was first informed of the investigation subsequently.

The Danish Data Protection Agency has no comments on this.

5. Conclusion

Following the audit of Kolding Municipality, the Danish Data Protection Agency finds reason to conclude in summary:

That Kolding Municipality's fulfillment of the duty to provide information has to a large extent taken place orally to the municipality's employees.

That Kolding Municipality's compliance with the duty to provide information has been deficient, including in that the municipality has not provided employees with sufficient information about the purpose of the processing of personal data, the legal basis for the processing of personal data, the affected categories of personal data and the time the information will be stored, or if this is not possible, the criteria used to determine this time period.

The Data Inspectorate finds in relation to pkt. 1, that Kolding Municipality's processing of personal data - in that the municipality has to a large extent complied with its duty to provide information orally - has not taken place in accordance with the Data Protection Ordinance, Article 12, para. 1, 2. pkt.

In addition, the Danish Data Protection Agency finds in relation to pkt. 2, that Kolding Municipality's processing of personal data has not taken place in accordance with Articles 13 and 14 of the Data Protection Ordinance. principle of transparency in Article 5 (1) of the Regulation. 1, letter a.

Overall, the Danish Data Protection Agency thus finds grounds for expressing serious criticism that Kolding Municipality's processing of personal data has not taken place in accordance with Article 12 (1) of the Data Protection Ordinance. 1, 2nd sentence, Articles 13 and 14 and Article 5, para. 1, letter a.

[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 on the processing of personal data and on the free movement of such data and on the repeal of 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] Executive Order 2000-06-15 no. 528 on security measures for the protection of personal data processed by the public administration, as amended.

[4] See Section 2 of the Decision

[5] See section 3 of the Decision

[6] Statutory Order no. 1190 of 11 October 2007 on television surveillance with subsequent amendments.

[7] See section 3.1 of the Decision.

[8] See section 4.5 of the Decision. concerning Kolding Municipality's oral observance of the duty to provide information.

[9] Reference is made to the Danish Data Protection Agency's guidelines on data protection in connection with employment relationships, section 7, which can be accessed on the Authority's website:

<https://www.datatilsynet.dk/generelt-om-databeskyttelse/vejledninger/>

[10] See section 4.5 of the Decision. concerning Kolding Municipality's oral observance of the duty to provide information.

[11] See section 4.5 of the Decision. concerning Kolding Municipality's oral observance of the duty to provide information.