

## Supervision of Odense Municipality's processing of personal data

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Decision

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Summary

In 2019, the Danish Data Protection Agency carried out a planned inspection at Odense Municipality. The audit focused on the municipality's compliance with the rules on the data subject's right of access, cf. Articles 15 and 12 of the Data Protection Regulation.

In connection with the audit, the Danish Data Protection Agency has expressed criticism that Odense Municipality's processing of personal data had not taken place in accordance with Article 12 (1) of the Regulation. 3.

The Danish Data Protection Agency's concluding statement states, among other things, that Odense Municipality's handling of requests for access has generally taken place in accordance with Article 15 of the Regulation, but that in three cases the municipality has responded to a request for access later than one month after receiving the request.

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

Decision

Odense Municipality was among the public authorities that the Danish Data Protection Agency had selected for supervision in the spring of 2019. The Danish Data Protection Agency's planned supervision of Odense Municipality focused in particular on the authority's compliance with the data subject's right of access, cf. Article 15 and Article 12 of the Data Protection Ordinance. At the request of the Danish Data Protection Agency, Odense Municipality had filled in a questionnaire before the inspection visit and submitted this together with additional material to the inspection. The actual inspection visit took place on May 20, 2019.

Decision

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

That Odense Municipality has to a certain extent prepared guidelines, procedures, etc. for the municipality's compliance with Article 15 of the Data Protection Regulation.

That Odense Municipality has to a certain extent prepared templates that can help to ensure and facilitate the municipality's compliance with Article 15 of the Data Protection Ordinance.

That Odense Municipality has received and responded to 9 requests for insight in the period 25 May 2018 to the time of notification of the supervision, and that the municipality in three of the cases did not respond to a request for insight in accordance with the deadlines in Article 12 (1). 3

In relation to point 3, the Danish Data Protection Agency finds grounds for expressing criticism that Odense Municipality's processing of personal data has not taken place in accordance with the rules in Article 12 (1) of the Data Protection Ordinance. 3.

Below is a more detailed review of the information that has emerged in connection with the audit and a justification for the Danish Data Protection Agency's decision.

## 2. Odense Municipality's guidelines and procedures

Prior to the inspection visit, Odense Municipality has sent a copy of the municipality's procedures and guidelines, which were in force on the date of notification of the inspection, regarding the handling of access requests in accordance with Article 15 of the Data Protection Regulation.

In relation to the municipality's general procedure for handling requests for access, Odense Municipality has stated that requests for access are typically sent to the municipality's data protection adviser, who then forwards the requests to the individual administrations with a view to the individual administrations collecting the information about the data subject. systems. The administrations are given a period of 14 days to submit the information on the data subject to the data protection adviser. The data protection adviser then reviews the information from the individual administrations and responds to the request.

Odense Municipality has prepared procedures for each of the municipality's five administrations. The procedures include information on how the employees in the individual administrations must seek information about the data subject, including which systems may be relevant to search in, just as the procedures contain information on who is responsible for handling access requests internally in the administrations in question.

It appears from one of the submitted procedures that "the person who has requested access is contacted in order to find out whether it is specific areas that access to documents is requested".

When asked about this, Odense Municipality stated during the inspection visit that this must be understood as meaning that the municipality usually contacts the citizen in order to clarify whether he or she wants access to documents or insight, as it is the municipality's experience that the citizen is not aware of the difference between the two concepts and set of rules. However, the municipality does not request clarification in cases where it is clear from the inquiry that the citizen wants insight in accordance with Article 15 of the Data Protection Regulation, including in cases where the citizen wants all information about himself disclosed.

The Danish Data Protection Agency then asked how the municipality behaves in cases where the citizen has not returned with a clarification.

Odense Municipality stated that the municipality has not yet experienced that a citizen has not returned with a clarification, but that the municipality will, if necessary, respond to the request in accordance with the deadlines that follow from Article 12 of the regulation.

During the inspection visit, the Danish Data Protection Agency asked why the procedures submitted for the administrations' handling of requests for access did not contain specific information about the rules on access, including Articles 15 and 12 of the Regulation.

Odense Municipality confirmed that the municipality has not prepared specific information about the rules for the individual administrations and stated that the municipality has only prepared the submitted procedures in relation to the general handling of requests for insight, as the employees in the administrations are not responsible for answering the requests for insight.

On that basis, the Danish Data Protection Agency asked how Odense Municipality ensures that the employees in the administrations are familiar with the rules on insight, including that the employees are able to identify requests for insight when these are received.

Odense Municipality stated that there has been training of the employees in the individual administrations.

Furthermore, the municipality stated that the employees are aware that inquiries about both insight and access to documents must be forwarded to the Law Office and / or the data protection adviser, who is then responsible for the further handling of the request.

The Danish Data Protection Agency generally has no comments that Odense Municipality's procedures state that there is a specific department or person who must answer all requests from the data subjects, because the employees in this department

or the person in question have special prerequisites in relation to the handling of the data protection rules. However, the Danish Data Protection Agency must emphasize the importance of all employees being familiar with this procedure, so that there is no doubt about who in the organization is to observe the data subjects' rights, and where requests for insight from the data subjects must be sent, including in those cases where a request is not sent directly to the Data Protection Advisor. Odense Municipality can with advantage - if the municipality has not already done so - prepare some procedures, guidelines, etc. concerning the Jura Office's and the data protection adviser's handling of access requests, which contains more concrete information about the regulation's rules on access in order to support the municipality's observance of the data subject's right of access.

With regard to the deadlines that are standardly given to the individual administrations, reference is made to pkt. 4.2. below.

### 3. Odense Municipality's standard texts

Some of the procedures that have been prepared for the municipality's administrations contain standard letters that the administration in question can use in connection with the internal handling of access requests.

An administration has prepared a standard text that can be used when information about the data subject is to be sought internally in the administration. The standard text is used to request a system administrator to investigate whether the data subject is involved in cases or professional systems for which he or she is responsible.

Another administration has prepared a similar standard text, in which the system administrator is asked to submit any contribution to the request for insight within 14 days. The system administrator is also asked to inform about and justify if situations arise that result in a longer case processing time.

After a review of the submitted procedures, including standard letters, the Danish Data Protection Agency cannot immediately establish that Odense Municipality has prepared templates, etc., which can be used in connection with the municipality's communication with the data subject, including, for example, answering requests for access in accordance with Article 15, notification of extension of the answer to the data subject in accordance with Article 12 (2) of the Regulation. Or by requesting additional information for the purpose of identifying the data subject pursuant to Article 12 (3) of the Regulation. 6.

The Danish Data Protection Agency must therefore recommend that Odense Municipality - if the municipality has not already done so - prepare templates etc. that can be used in connection with the municipality's communication with the data subject, including especially for use by the Law Office and the data protection adviser. the response to the data subject's requests and

the communication with the data subject in general.

#### 4. Odense Municipality's handling of requests for insight

4.1. Odense Municipality has informed the Danish Data Protection Agency that the municipality has received and responded to 9 requests for insight in the period from 25 May 2018 to 16 April 2019. Odense Municipality has sent a copy of the responses to the Danish Data Protection Agency prior to the inspection visit.

The Danish Data Protection Agency generally has no comments on Odense Municipality's responses to the 9 requests for insight, cf. Article 15 of the Data Protection Ordinance.

In three of the cases, however, Odense Municipality has responded to the request later than 1 month after receipt of the request.

Odense Municipality thus received on 17 June 2018 a request for insight, which the municipality replied on 9 August 2018, ie. 1 month and 23 days after receipt of the request.

In this case, Odense Municipality notified the data subject on 25 June 2018 that the response would be extended as a result of the summer holiday period with the municipality, and that the data subject could expect a response to the request in August.

It is clear from Article 12 (1) of the Regulation 3, that a request may be extended if deemed necessary in view of the complexity and number of the request. The Danish Data Protection Agency finds that Odense Municipality has not complied with the time limit in Article 12 (1) of the Regulation when replying to this request for insight. 3, as the municipality, based on the information provided, has not extended the response due to the complexity and number of the request, but only as a result of the summer holiday period with the municipality.

In addition, Odense Municipality has on 25 September 2018 received a request for insight, which the municipality replied on 6 November 2018, ie. 1 month and 12 days after receipt of the request. Odense Municipality has stated as a reason for this that the municipality by mistake had not attached the documents in the original answer to the data subject, which was sent on 10 October 2019. The error was due to Digital Post containing a restriction on how many - and how large - files it is possible to attach.

It is here that the Danish Data Protection Agency's assessment that Odense Municipality has not complied with the deadline in Article 12 (1) of the Regulation. 3, as the request for insight was answered by mistake 1 month and 12 days after receipt.

However, the Danish Data Protection Agency has noted that the delay in the reply with regard to one request for insight was

due to the fact that Odense Municipality had not attached the documents to the data subject in the original reply by mistake.

Odense Municipality has also received a request for insight on 12 February 2019, to which the municipality responded in four parts. The first part of the answer was sent to the data subject on 19 March 2019. The second part of the answer was sent on 21 March 2019. The third part of the answer was sent on 22 March 2019, and the last part of the answer was sent on March 25, 2019. The request for insight was thus finally answered 1 month and 13 days after receipt of the request.

Odense Municipality has stated that the response to this request was extended, as the request included many documents, and that it was not possible for the municipality to get through all the documents within the deadline, so the request must be considered complicated. Odense Municipality notified on 21 March 2019, ie. 1 month and 9 days after receipt of the request, the registrant about the extension of the response, including that the extension was due to the complexity of the request and that the registrant would receive the information on an ongoing basis as the municipality got them completed. Odense Municipality finally answered the request on 6 November 2018, ie. 1 month and 12 days after receipt of the request.

The Danish Data Protection Agency has no comments on Odense Municipality's assessment of the complexity of the request. However, it is the Data Inspectorate's assessment that Odense Municipality has not complied with the deadline in Article 12 (1) of the Regulation. 3, as the data subject was only notified of the extension of the reply 1 month and 9 days after receipt of the request.

4.2. In reviewing the submitted examples of responses to requests for insight, the Danish Data Protection Agency was able to establish that three out of 9 requests - as described above - were answered later than 1 month after receipt of the request, and that the other requests were answered exactly within 1 month after the reception.

When asked, Odense Municipality stated during the inspection visit that the municipality is aware that the answers are generally close to the deadline, but that this is due to the municipality spending an average of around 137 man-hours per day. request for insight.

As previously described, the individual administrations are given a deadline of 14 days to collect information about the data subject in the relevant systems. The data protection adviser then spends about a week preparing a response for the data subject. When asked about this, Odense Municipality stated that the administrations are given a deadline of 14 days to collect information, as this is typically very extensive material, and that there are generally many systems that must be searched for information about the data subject.

The Danish Data Protection Agency should generally note that requests for access must be answered without undue delay and in all cases no later than one month after receipt of the request, cf. Article 12 (1) of the Regulation. However, the data controller has the option of extending the response to the request by a further two months if the request proves to be complicated.

In the opinion of the Danish Data Protection Agency, a request for insight cannot be said to have been answered without undue delay if the municipality's administrations are by default given a deadline of 14 days to seek information about the data subject, and if the administrations in the specific case do not need 14 days. .

The Danish Data Protection Agency must therefore recommend that Odense Municipality reconsider whether it is necessary by default to give the administrations a deadline of 14 days to seek information about the data subject, including in cases where a request cannot be considered complicated.

4.3. Odense Municipality has informed the Danish Data Protection Agency that the municipality has received requests for insight where there was doubt about the identity of the natural person, and where the municipality has therefore been forced to request further information in order to confirm the data subject's identity, cf. Article 12 (1) of the Regulation 6.

As an example of this, Odense Municipality has stated that the municipality typically receives requests for insight from an unsecured e-mail, where the only information about the data subject's name and e-mail address appears. In such situations, the municipality has contacted the data subject and requested an address or a civil registration number, so that the person in question can be looked up in the civil registration register and in the municipality's systems as well as for use by Digital Post.

The Danish Data Protection Agency has no comments on this.

## 5. Conclusion

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

That Odense Municipality has to a certain extent prepared guidelines, procedures, etc. for the municipality's compliance with Article 15 of the Data Protection Regulation.

That Odense Municipality has to a certain extent prepared templates that can help to ensure and facilitate the municipality's compliance with Article 15 of the Data Protection Ordinance.

That Odense Municipality has received and responded to 9 requests for access in the period 25 May 2018 to the time of notification of the audit, and that the municipality in three of the cases did not respond to a request for access in accordance

with the deadlines in Article 12 (1) of the Data Protection Regulation. 3

In relation to section 3, the Danish Data Protection Agency finds grounds for expressing criticism that Odense Municipality's processing of personal data has not taken place in accordance with the rules in Article 12 (1) of the Data Protection Ordinance.

3.

The Danish Data Protection Agency then considers the audit to be completed and does not take any further action on that occasion.

[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).