

Supervision of the preparation of lists in Holstebro Municipality

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Decision

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Summary

In August 2020, the Danish Data Protection Agency completed a planned inspection at Holstebro Municipality. The audit focused on the municipality's compliance with the requirement to keep records of treatment activities, including in particular whether the municipality's records could be used for the purposes on which the requirement to keep records is based.

Following the audit of Holstebro Municipality, the Danish Data Protection Agency found reason to conclude that certain sections of the municipality's directories raised some challenges in relation to the underlying purposes of maintaining directories.

Based on the overall experience from the three completed inspections regarding the preparation of lists, the Danish Data Protection Agency has found an opportunity to update the guidelines on lists from January 2018.

You can read the Danish Data Protection Agency's guide to listing [here](#).

Decision

Holstebro Municipality was among the authorities that the Danish Data Protection Agency in the autumn of 2018 had chosen to supervise in accordance with the Data Protection Ordinance [1] and the Data Protection Act [2].

The Danish Data Protection Agency's planned audit of Holstebro Municipality focused on the municipality's compliance with the requirement to keep records of processing activities in accordance with Article 30 of the Data Protection Regulation.

At the request of the Danish Data Protection Agency, Holstebro Municipality had - before the inspection visit - submitted the municipality's lists to the inspection. The actual inspection visit took place on 25 October 2018.

The Data Protection Regulation's requirement to keep records of processing activities is to a large extent related to the Regulation's principle of accountability. This principle requires both that the data controller ensures that the processing of personal data is in accordance with the Regulation and that the data controller is able to demonstrate that the Regulation is complied with, in accordance with Article 5 (1) of the Regulation. And Article 24 (2). The list must be drawn up in order to

demonstrate compliance with the Regulation [3] and must be made available to the Danish Data Protection Agency upon request so that it can be used for supervision in accordance with Article 30 (1). 4.

One of the Data Inspectorate's focus points for the audit of Holstebro Municipality was thus whether the municipality's records could be used for the purposes on which the requirement to keep records of processing activities is kept.

Following the audit of Holstebro Municipality, the Danish Data Protection Agency finds a summary reason to conclude that the preparation of certain sections of the municipality's records raised some challenges in relation to the underlying purposes of keeping records.

Based on the experiences from the inspections regarding the preparation of lists, the Danish Data Protection Agency has therefore found reason to update the guidelines on lists from January 2018 [4].

Below is a more detailed review of some of the points that were discussed during the inspection visit to Holstebro Municipality.

Categories of data subjects and categories of personal data

Pursuant to Article 30 (1) of the Data Protection Regulation 1, letter c, a list must contain a description of the categories of data subjects and the categories of personal data.

1.1. Categories of registered

Prior to the inspection visit, the Danish Data Protection Agency had noted that Holstebro Municipality's registers generally contained a list of the categories of data subjects about which the municipality processes information.

In some registers, for example, "family members" were listed as categories of registered persons. During the inspection visit, the Danish Data Protection Agency asked in more detail what each of the specified categories covered.

It was then the Data Inspectorate's opinion that those present could not state this with certainty, but that they could only make a qualified guess as to what the listed categories covered. Holstebro Municipality referred, however, to the fact that the municipality's employees in the individual areas would be able to explain exactly what the specified categories of registered persons covered.

The Danish Data Protection Agency therefore stated during the inspection visit that Holstebro Municipality can advantageously specify several of the specified categories of data subjects in order to ensure that it is not only the municipality's employees in the individual areas who can provide more information about the categories.

1.2. Categories of personal information

Prior to the inspection visit, the Danish Data Protection Agency had noted that Holstebro Municipality's lists generally contained fields in which the municipality could check whether Article 6 information, Article 9 information and Article 10 information were processed in connection with the specific processing activity.

During the inspection visit, however, the Danish Data Protection Agency was able to establish that neither those present nor the inspection could see from the records which specific Article 6 information, Article 9 information and Article 10 information that the municipality processes in connection with the processing activities in question. When asked about this, Holstebro Municipality stated, however, that the municipality's employees in the individual areas to which the lists relate would be able to specify the categories of information in the lists in question.

In this connection, the Danish Data Protection Agency referred to the Authority's (now earlier) guidelines on inventories from January 2018, which state that the data controller must be able to specify which specific types of Article 9 information are processed.

During the inspection visit, it was therefore discussed that Holstebro Municipality - in the opinion of the Data Inspectorate - can advantageously prepare its lists in such a way that all categories of personal information are specified in more detail, including to ensure that it is not only the municipality's employees. individual areas that can provide more information about the categories.

Link between categories of data subjects and categories of information

After a review of the submitted lists, it was not clear to the Danish Data Protection Agency which categories of personal data Holstebro Municipality processes about the individual categories of data subjects. For example, the Danish Data Protection Agency could not deduce from the records whether the municipality processes Article 9 information on all of the categories of data subjects listed in the individual directories, or whether this was only the case for some of the specified categories of data subjects.

When asked about this, Holstebro Municipality stated that the persons present would not be able to state from the lists which categories of personal data the municipality processes about the individual categories of data subjects, and that this would at best be qualified guesses.

Against this background, the Danish Data Protection Agency stated during the inspection visit that, in view of the purposes of the record requirement, the Authority's assessment is that a list of processing activities must contain a clear link between which

categories of personal data are processed about the individual categories of data subjects. The Danish Data Protection Agency's updated guidance on inventories from August 2020 is in accordance with this.

Categories of recipients to whom the information is or will be passed on

Pursuant to Article 30 (1) of the Data Protection Regulation 1, letter d, a list shall include information on the categories of recipients to whom the personal data are or will be transferred, including recipients in third countries or international organizations.

Prior to the inspection visit, the Danish Data Protection Agency had noted that Holstebro Municipality's lists generally contained a list of the companies, authorities, etc. to which personal data is or could be passed on.

Holstebro Municipality stated during the inspection visit that the municipality had submitted revised lists to the Danish Data Protection Agency on 18 October 2018, as the municipality - based on an update of KL's lists - had updated its lists so that data processors are now also entered in the field for categories of recipients. personal information is or will be passed on to.

During the inspection visit, the Danish Data Protection Agency stated that - in the Data Inspectorate's opinion - it is important to distinguish between when information is handed over to data processors and when information is passed on to other independent data controllers, as there are different forms of exchange of personal data. requirements.

After a review of the submitted lists, it was not clear to the Danish Data Protection Agency which categories of personal data, including which categories of data subjects, could be passed on to the recipients that the municipality had stated in the list.

When asked about this, Holstebro Municipality stated that the persons present would not be able to state this based on the lists.

In this connection, the Danish Data Protection Agency's assessment is that a list - if personal data is or will be passed on - must contain information about which categories of personal data are or will be passed on to the recipient in question. In connection with this, it must also be stated which categories of data subjects the information in question relates to. The Danish Data Protection Agency has therefore updated the guidelines on inventories so that the edition from August 2020 is in accordance with this.

4. Deadlines for deleting the different categories of information

Pursuant to Article 30 (1) of the Data Protection Regulation 1, letter f, a list shall, if possible, include the expected time limits for deletion of the various categories of information.

Prior to the inspection visit, the Danish Data Protection Agency had noted that in Holstebro Municipality's directories there was a reference to the recommended deletion deadlines in the municipalities' subject system, KLE.

Asked about the lists' references to the recommended deletion deadlines in KLE, Holstebro Municipality demonstrated during the inspection visit how to quickly look up in KLE during certain treatment activities and then see the recommended deletion deadline.

During the inspection visit, the Danish Data Protection Agency stated that, in the Authority's assessment, it was sufficient that the municipality had stated a reference to the recommended deletion deadlines in KLE.

5. Description of the technical and organizational security measures

Pursuant to Article 30 (1) of the Data Protection Regulation A list shall, if possible, include a general description of the technical and organizational security measures referred to in Article 32 (1) (g). 1.

Prior to the inspection visit, the Danish Data Protection Agency had noted that Holstebro Municipality in the lists generally referred to the municipality's information security policy.

During the inspection visit, the Danish Data Protection Agency generally had no comments on the fact that Holstebro Municipality in the lists referred to the municipality's information security policy with regard to a general description of the technical and organizational security measures.

However, the Danish Data Protection Agency stated that the municipality can advantageously state this in the list if special measures are implemented - in addition to the general security measures - e.g. in relation to security in Citizen Service Centers, in municipal libraries or in connection with the processing of personal data via television surveillance, etc.

6. TV surveillance as a treatment activity

Prior to the inspection visit, the Danish Data Protection Agency had noted that it did not appear from Holstebro Municipality's records whether the municipality processes personal data in connection with television surveillance.

When asked about this, Holstebro Municipality stated that TV surveillance is carried out in the municipality.

The Danish Data Protection Agency pointed out that this processing of personal data should appear in the registers which relate to the municipal area where television surveillance is carried out. In addition, the Authority pointed out that if the TV surveillance is set up for the purpose of crime prevention, the municipality should also be aware that information about criminal offenses is potentially processed and that this should be stated in the list.

7. Conclusion

Following the audit of Holstebro Municipality, the Danish Data Protection Agency finds a summary reason to conclude that the preparation of certain sections of the municipality's records raised some challenges in relation to the underlying purposes of keeping records.

The Danish Data Protection Agency has generally noted that there were several sections in Holstebro Municipality's directories where neither those present from the municipality nor the Danish Data Protection Agency were able to see through the processing activities solely from the directories. Although Holstebro Municipality stated that the municipality's employees in the areas to which the lists relate could elaborate on the contents of the lists, the Data Inspectorate is of the opinion that the lists should be prepared in such a way that the requested information can be clearly deduced directly from the lists.

However, the Danish Data Protection Agency may also conclude that the preparation of certain sections of Holstebro Municipality's registers - including the sections of the registers concerning deletion deadlines and technical and organizational security measures - provides a good overview for both the municipality and the Danish Data Protection Agency.

The requirement to keep records of processing activities is - as mentioned above - largely related to the regulation's principle of accountability.

The responsibility is expressed by the data controller both having to comply with the rules of the regulation and at the same time be able to demonstrate that this is in fact the case. It is thus up to the data controller to have an overview of the processing activities that he carries out and to be able to demonstrate to e.g. the supervisory authority that the treatment activities in question comply with the rules of the Regulation.

Each data controller (and data processor) must thus cooperate with the supervisory authority and, upon request, make the records available to the supervisory authority so that these can be used to monitor whether the data controller complies with the processing conditions in the Regulation. The common thread in the regulation on accountability is thus implemented, among other things, in the requirement to list treatment activities in Article 30 of the Regulation.

Based on the experiences with the inspections of directories in a number of municipalities - including Holstebro Municipality - the Danish Data Protection Agency has therefore found an opportunity to update the guidelines on inventories from January 2018 [5].

This is partly due to the fact that the lists that the Danish Data Protection Agency has had for review, in the Authority's

assessment, could not be used sufficiently for the purposes behind the list requirement. In several cases, neither the municipalities nor the Danish Data Protection Agency could form an overview of the scope of the processing activities based on the content of the lists. Thus, it was also difficult for the Authority to ensure that the treatment activities in question complied with the rules of the Regulation.

It is the Data Inspectorate's assessment that an update of the guidelines contributes to inventories being prepared in a way that ensures that the inventories are concretely and practically usable for both the data controller / data processor and for the Data Inspectorate.

The Danish Data Protection Agency thus emphasizes that the requirement to draw up lists must not just become a formal requirement, and that the lists only become really substantive when they are drawn up in a way that creates a real overview of the treatments in question and forms a basic foundation for the data controller's / data processor's general compliance with the data protection rules.

[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] Cf. preamble No 80

[4] The Danish Data Protection Agency's updated guide to inventories from August 2020 can be found on the Authority's website.

[5] The Danish Data Protection Agency's updated guide to inventories from August 2020 can be found on the Authority's website.