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Regional Board Region Värmland

via e-mail

Record number:

DI-2019-7325

Your record number:

RS / 191733

Date:

2021-06-07

Decision after supervision according to

the Data Protection Regulation against

Regional Board Region Värmland

The decision of the Integrity Protection Authority

The Privacy Protection Authority (IMY) states that the Regional Board Region Värmland

(Regional Board) for an unknown period before and during the review until 31

October 2019 has processed personal data in violation of Articles 5.1 a and 13 i

the Data Protection Ordinance<sup>1</sup> by not informing healthcare seekers who called 1177<sup>2</sup> about

collection of telephone numbers and municipal ID for the purpose of ensuring that calls to 1177

was answered by the care provider MedHelp AB.

IMY decides on the basis of ch. Section 2 of the Data Protection Act<sup>3</sup> and Article 58 (2) and 83 i

the Data Protection Ordinance that the Regional Board must pay an administrative

penalty for infringements of Articles 5 (1) (a) and 13 of the Data Protection Regulation

of 250,000 (two hundred and fifty thousand) kronor.

Background

On February 18, 2019, Computer Sweden published an article entitled “2.7

million recorded calls to 1177 Vårdguiden completely unprotected on the internet”. In the article

states, among other things, that "On an open web server, completely without password protection or other security, we have found 2.7 million recorded calls to the advisory number 1177. "

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IMY initially initiated supervision of Voice Integrate Nordic AB, Inera AB and MedHelp AB.

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REGULATION (EU) 2016/679 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 27 April 2016 on the natural persons with regard to the processing of personal data and on the free movement of such data and on repeal of Directive 95/46 / EC (General Data Protection Regulation).

2 On the website 1177.se it is stated "Call telephone number 1177 for medical advice around the clock."

3 Act (2018: 218) with supplementary provisions to the EU Data Protection Regulation.

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It emerged that three regions hired MedHelp AB as care providers on 1177 and Inera AB to connect the calls to MedHelp AB. The IMY therefore initiated written supervision on June 27, 2019 against the Regional Board to control the processing of personal data

due to the fact that care seekers call 1177. Supervision was initiated at the same time against the Health and Medical Care Board Region Stockholm and the Regional Board Region Sörmland.

Justification of the decision

Legal background

National rules on health care

The tasks of the health care system are regulated in, among other things, the Health Care Act (2017: 30), HSL.

Measures to medically prevent, investigate and treat diseases and injuries

defined as health and medical care, ch. 1 § HSL. By principal is meant that region

or the municipality which according to the law is responsible for offering health and medical care to the population of the region or municipality. Within a principal's geographical area can

one or more care providers conduct business, ch. 2 § HSL. By caregiver is meant

government agency, region, municipality, other legal entity or sole trader

which conducts health and medical care activities, ch. 2 § 3 HSL. Regions and

municipalities may, while retaining leadership, conclude an agreement with someone else to

perform the tasks for which the county council or municipality is responsible, ch. 15 1 § HSL.

Anyone who has a constitutionally regulated responsibility for the provision of care is referred to as the principal.

The responsibility does not imply an obligation to run the business yourself, but the operation can

lie on someone else who is then referred to as a care provider (Bill 1981/82: 97 p. 33 f.). The

public responsibility as a principal does not imply a decision-making right over the care provider's

daily activities and it does not deprive the caregiver of the responsibility that comes with it

the role of caregiver (Bill 2016/17: 43 p. 86).

Personal data responsibility

Pursuant to Article 4 (7) of the Data Protection Regulation, a data controller means a

natural or legal person, public authority, institution or other body such as

alone or together with others determines the purposes and means of

the processing of personal data. About the purposes and means of treatment

determined by Union or national law of the Member States, it may

personal data controller or the specific criteria for how he or she is to be appointed

provided for in Union law or in the national law of the Member States.

Pursuant to Article 5 (2), data controllers shall be responsible for and be able to demonstrate that:

the principles of Article 5 (1) are complied with (the principle of liability).

Basic principles and legal basis

Pursuant to Article 5 (1) (a) of the Data Protection Regulation, personal data shall be processed in one

legal, correct and transparent in relation to the data subject (principle of legality,

accuracy and transparency). The principle of data minimization in Article 5 (1) (c) means that:

personal data must be adequate, relevant and not too extensive in relation to

the purposes for which they are treated.

In order for a processing of personal data to be legal, it is required that it has the support of someone

of the legal bases set out in Article 6 (1) of the Data Protection Regulation. At

treatment for health care purposes, it is mainly Article 6 (1) (c) (legal

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obligation) or 6.1.e (public interest or exercise of authority) which may be

applicable. According to Article 6 (3), the basis for the treatment referred to in Article 6 (1) (c)

and (e) is determined in accordance with Union law or the national law of a Member State which:

the person responsible for personal data is covered by. This means that if a caregiver

processing of personal data is necessary in order to fulfill a legal obligation or

perform a task of general interest so required for the processing to be legal that

the legal obligation or task of general interest is governed by national law

(or in Union law).

Health information constitutes so-called sensitive personal data. It is forbidden to process such personal data in accordance with Article 9 (1) of the Data Protection Regulation, if not the treatment is covered by one of the exceptions in Article 9 (2).

Registered right to information

Obligation of personal data controllers to voluntarily provide data subjects information on the processing of personal data is provided in Articles 13 and 14 i the Data Protection Regulation. It is relatively comprehensive information that should be provided to the data subjects.

Calls to 1177

The Värmland region states, among other things, the following. The region is responsible as principal according to ch. 2 § 2 HSL for health care counseling via the number 1177. It is thus the region which is responsible for offering the residents health care. MedHelp is a care provider according to ch. 2 § 3 HSL. It is thus MedHelp that conducts health and healthcare operations. Information about the caller's telephone number and municipal ID is collected from the calling person's telecom operator. The purpose of the treatment is to be able to connect the caller to the right healthcare principal. The treatment is necessary to carry out a task of general interest, Article 6 (1) (e) the Data Protection Regulation. Sensitive personal data is not processed. It is

The Regional Board of Region Värmland, which is responsible for personal data for the processing of the personal data. The processing is performed by Inera AB as a personal data assistant.

Inera's processing only refers to calling telephone numbers and municipal IDs. The regions has been conducting healthcare counseling by telephone under its own auspices since 1 November 2019 and no longer has an agreement with MedHelp.

IMY's assessment

The Regional Board could, with retained principalship according to ch. § 1 HSL end

agreement with MedHelp to perform the tasks for which the region is responsible according to HSL.

The IMY notes that no contradictory circumstance has emerged

The Regional Board's statement that the Board was responsible for personal data in accordance with Article 4 (7) i the Data Protection Regulation.

IMY assesses that the Regional Board's processing of personal data about municipal ID and telephone number was adequate, relevant and not too extensive in relation to the purpose of ensuring that calls to 1177 were taken care of by MedHelp AB. The treatment is therefore deemed to have complied with the principle of data minimization in Article 5 (1) (c) (i) the Data Protection Regulation.

The Regional Board has a task that is established in national law through HSL. The reason for processing is determined in accordance with Article 6 (3) of the Data Protection Regulation. IMY assesses that the Regional Board's processing of municipal ID and telephone number was one Integrity Protection Authority

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necessary processing of personal data in order for the board to fulfill a task of public interest and that there was legal support for the proceedings under Article 6 (1) (e).

The region's information for healthcare seekers

The Data Protection Regulation contains far-reaching obligations to provide information to registered. The person responsible for personal data is responsible for the information provided.

The Regional Board states, among other things, the following.

The Regional Board allows clear and unambiguous information about the treatment of telephone number and municipality ID are not provided and therefore consider that an extension can be made on the website 1177.se according to a text that appears in an opinion on 25

November 2020.

## IMY's assessment

On 25 June 2019, IMY received a printout from [www.1177.se](http://www.1177.se) about 1177

medical advice by telephone, which has been notified of the case. The website states that

behind 1177 Vårdguiden is the Swedish healthcare through all regions in

cooperation. 1177 is a national telephone number for healthcare advice that you can

call around the clock. Each region runs its own healthcare consulting business

either in-house or through a procured subcontractor. The conversations that are

counseling calls are recorded. The question "Who is responsible for the personal data

handled correctly? " answered as follows. "It is your healthcare provider who is responsible for that

personal data is handled in a correct and legal manner. When care is provided by a region

one or more boards in the region are ultimately responsible. In the private

care is the company or business that provides the care that is responsible. "

The obligation to provide information is extensive and a basic precondition for

individuals should be able to have knowledge of and control over how their personal data

treated. Requirement of transparency is a fundamental principle under Article 5 (1) (a) (i)

the Data Protection Regulation. Recital 60 of the Data Protection Regulation states that the principles

if fair and transparent treatment requires the data subject to be informed that

treatment takes place and the purpose of it. The person responsible for personal data should go to it

registrants provide all additional information required to ensure a fair

and open processing, taking into account the specifics of personal data processing

circumstances and context.

Pursuant to Article 12 (1) of the Data Protection Regulation, the data controller shall take

appropriate measures to provide the data subject with all information under

Articles 13 and 14 in a concise, clear, comprehensible and easily accessible form, with

use of clear and unambiguous language, in particular for information that is specifically targeted

to children. Article 13 sets out the information to be provided by the controller

provide if the personal data is collected from the data subject.

Information must be provided about, among other things, the identity of the person responsible for personal data and

contact details, the purposes of the processing for which the personal data is

intended, the legal basis for the treatment and that there is a right to

the personal data controller requests access to personal data. If appropriate

information shall be provided on contact details for the data protection officer.

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The Regional Board collected the care applicants' telephone numbers and municipal ID for

the purpose of ensuring that calls to 1177 could be taken care of by the care provider MedHelp

AB. As of November 1, 2019, the Regional Board has moved to conduct

self-care during calls to the 1177 number.

The IMY notes that Article 13 of the Data Protection Regulation provides comprehensive information

requirements for information to data subjects that the Regional Board has not provided. It is not

It is sufficient for the board on the website 1177.se to state that "It is your care provider

who is responsible for ensuring that personal data is handled correctly and legally. "

For example, there was a lack of information that the Regional Board is responsible for personal data,

about the board's contact details, about the purpose of the processing, about the legal

the basis for the treatment and that there was a right to it

personal data controllers request access to personal data. It was also missing

contact details for the data protection officer.

Because the Regional Board has not provided the necessary information to care seekers in

in connection with the collection of telephone numbers and municipal IDs for care applicants



telephone calls, which were connected to MedHelp AB, IMY states that the Regional Board has processed personal data in breach of Article 13 of the Data Protection Regulation.

The population in Värmland County was 282,885 quarter 4 2020.<sup>4</sup> Lack of information could thus affect many care seekers.

Article 5 (1) (a) of the Data Protection Regulation states that personal data must be processed in a legal, correct and transparent manner in relation to the data subject. Absence of information under Article 13 is deemed to have significantly limited the care applicant's conditions to exercise their rights. IMY therefore makes the assessment that it also is a violation of the principle of transparency in Article 5 (1) (a).

#### Choice of intervention

##### Possible intervention measures regarding information to care seekers

The IMY has a number of remedial powers available under Article 58 (2) (i) of the Data Protection Regulation, among other things, the IMY may impose on the data controller to ensure that the processing takes place in accordance with the Regulation and, if necessary, on one specifically and within a specific period.

Pursuant to Articles 58 (2) and 83 (2) of the Data Protection Regulation, the IMY has the power to impose administrative penalty fees in accordance with Article 83. Subject to the circumstances of the individual case, administrative penalty fees shall be imposed in addition to or in place of the other measures referred to in Article 58 (2).

Furthermore, Article 83 (2) of the Data Protection Regulation sets out the factors to be taken into account in the decision to impose administrative penalty fees and in the determination of the size of the fee. In the case of a minor infringement, the IMY receives according to what stated in recital 148 of the Data Protection Regulation instead of imposing a penalty fee issue a reprimand in accordance with Article 58 (2) (b). Account shall be taken of aggravating and mitigating circumstances in the case, such as the nature of the infringement, the degree of difficulty and duration as well as previous violations of relevance.

Population in the country, counties and municipalities 31 December 2020 and population changes 1 October – 31 December 2020.

Total (scb.se)

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Article 83 (7) allows Member States to lay down rules on whether and to what extent

public authorities and bodies must be able to impose administrative penalty fees.

Of ch. 6 Section 2 of the Data Protection Act states that the supervisory authority may charge one

penalty payment by an authority for infringements referred to in Article 83 (4), 83 (5) and

83.6 Data Protection Regulation. In that case, Article 83 (1), (2) and (3) shall apply.

A penalty fee must be imposed

IMY has above assessed that the Regional Board has violated Articles 5.1 a and 13 i

the Data Protection Regulation. These Articles are covered by Article 83 (5) and at a

violation of these, the supervisory authority shall consider imposing administrative

penalty fee in addition to, or instead of, other corrective measures.

In view of the fact that the established infringement concerning the lack of information has

affected a large number of care seekers, which has limited care seekers' opportunities to take

safeguard their rights, it is not a matter of a minor infringement. There is thus

no reason to replace the penalty fee with a reprimand. The Regional Board shall thus

imposed administrative penalty fees.

Determining the size of the penalty fee

General provisions

According to Article 83 (1) of the Data Protection Regulation, each supervisory authority shall ensure that:

the imposition of administrative penalty charges in each individual case is effective; proportionate and dissuasive. Article 83 (2) sets out the factors to be taken into account in determining the amount of the penalty fee applicable to the infringement. In the assessment of the size of the penalty fee, account shall be taken of, among other things, the infringement character, degree of difficulty and duration, whether it was a matter of intent or negligence, what measures have been taken to alleviate the damage they registered has suffered, the degree of responsibility taking into account the technical and organizational measures carried out in accordance with Articles 25 and 32, the nature of the supervised entity cooperated with the supervisory authority, the categories of personal data concerned; how the infringement came to the IMY's knowledge and whether there are other aggravators or mitigating factor such as direct or indirect financial gain from the proceeding.

For authorities, according to ch. 6 § 2 second paragraph of the Data Protection Act that The penalty fees shall be set at a maximum of SEK 10,000,000 for violations such as referred to in Article 83 (5) and (6). Infringements of Articles 5 and 13 are covered by it higher penalty fee under Article 83 (5).

#### Assessment of mitigating and aggravating circumstances

Everyone who is ill has the right to care around the clock. Care seekers are referred in large extent to call 1177 as a contact route to receive care, without others contact routes are emphasized.

As has been established, there are approximately 283,000 inhabitants in Värmland County. The lack of information can thus affect a large number of care seekers who call 1177.

The provisions on information mean that the Regional Board must seek care persons aware of the processing of personal data and the rights of care applicants in in connection with the Regional Board's processing of personal data.

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It is aggravating that the lack of information was extensive, lasting and concerned large number of care seekers who could contact 1177 without them receiving information about including the contact information of the Regional Board and the Data Protection Officer. The lack of such contact information limits the care applicant's opportunities to exercise their rights. It is also aggravating that information was not provided about the collection of information was provided for the purpose of ensuring that calls to 1177 are taken care of by the care provider MedHelp AB.

In order for penalty fees to be effective, dissuasive and proportionate, a weighted assessment is made in each individual case. As for the penalty fee size, IMY finds based on an overall assessment, that the Regional Board should pay one administrative sanction fee of SEK 250,000 (two hundred and fifty thousand) for it noted the lack of information to care seekers.

This decision was made by Director General Lena Lindgren Schelin after the presentation by department director Suzanne Isberg. In the handling, the unit manager has Katarina Tullstedt and lawyer Mattias Sandström participated. At the final processing also has the IT security specialist Magnus Bergström, the legal director David Törngren and unit manager Malin Blixt participated.

Lena Lindgren Schelin, 2021-06-07 (This is an electronic signature)

How to appeal

If you want to appeal the decision, you must write to the Privacy Protection Authority. Enter i the letter which decision you are appealing and the change you are requesting. The appeal shall have been received by the Privacy Protection Authority no later than three weeks from the date of the decision was announced. If the appeal has been received in time, send

The Integrity Protection Authority forwards it to the Administrative Court in Stockholm

examination.

You can e-mail the appeal to the Privacy Protection Authority if it does not contain

any privacy-sensitive personal data or data that may be covered by

secrecy. The authority's contact information can be found on the first page of the decision.

Copy to

The Data Protection Officer by e-mail.

Appendix

Appendix - Information on payment of penalty fee.