

# The Danish Veterinary and Food Administration's processing of personal data in connection with recruitment

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Decision

Public authorities

The Danish Data Protection Agency has completed a planned inspection of the Danish Veterinary and Food Administration, which dealt with the processing of information about applicants who had not been offered a position after completing the recruitment process.

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Decision

## 1. Written supervision of the Danish Veterinary and Food Administration

The Danish Veterinary and Food Administration was among the data controllers that the Danish Data Protection Agency had chosen in the autumn of 2019 to supervise in accordance with the Data Protection Ordinance [1] and the Data Protection Act [2].

The Danish Data Protection Agency's inspection was a written inspection which focused on the Danish Veterinary and Food Administration's storage and deletion of personal data about applicants - after completing the recruitment process - collected in connection with recruitment for employment where the applicant has not been employed, cf. Article 5 (1) (e) ("storage restriction"); 2 ("liability"), Article 6, Article 9 and the Data Protection Act § 8 and § 11.

By letter dated 20 August 2019, the Danish Data Protection Agency notified the Authority of the Danish Veterinary and Food Administration and requested an opinion in this connection.

By letter dated 23 September 2019, the Danish Veterinary and Food Administration sent a statement for use in the case.

Following a new consultation from the Danish Data Protection Agency on 4 November 2019, the Danish Veterinary and Food Administration sent a further statement on 20 November 2019.

## 2. The Danish Data Protection Agency's decision

After a review of the case, the Danish Data Protection Agency finds that the Danish Veterinary and Food Administration's processing of information with a view to ensuring documentation of the correct recruitment process has taken place in accordance with Article 6 (1) of the Data Protection Ordinance. Article 9 (1) (e) 2, letter f and section 11 of the Data Protection

Act.

In addition, the Danish Data Protection Agency finds that the Danish Veterinary and Food Administration's storage and deletion of personal data about applicants collected in connection with recruitment for employment where the applicant has not been employed has taken place in accordance with the rules in Article 5 (1). Article 5 (1) (e) (storage restriction) and Article 5 (1) 2 ("liability"), cf. Article 5, para. 1, letter e.

Below is a review of the circumstances of the case and a more detailed justification for the Danish Data Protection Agency's decision.

### 3. The Danish Veterinary and Food Administration's comments

#### 3.1. Basis for treatment

The Danish Veterinary and Food Administration has stated that the Agency's purpose in storing information about applicants who have not been employed is to be able to document the course of the recruitment process in the event that the Agency e.g. are met with objections of discrimination.

The Danish Veterinary and Food Administration has stated that personal data that is processed after the end of the recruitment process in order to ensure documentation of the correct recruitment process is processed on the basis of Article 6 (1) of the Data Protection Regulation. Article 9 (1) (e) 2, letter f, and the Data Protection Act § 11 and § 12, para. 2.

The Danish Veterinary and Food Administration has stated that after completing the recruitment process, the agency processes information about name, address, telephone number, e-mail address, date of birth, gender, educational background, disability, social security number, marital status, leisure activities, etc., previous employment and current position of non-applicants. been employed.

The Danish Veterinary and Food Administration thus processes information pursuant to Article 6 of the Data Protection Ordinance, including special categories of information covered by Article 9, and information on personal identity numbers pursuant to section 11 of the Data Protection Act.

#### 3.2. Storage, deletion and liability

The Danish Veterinary and Food Administration has stated that the Agency stores information about applicants in the HR Manager system for 24 months after the start of the recruitment process, after which the information processed in connection with the specific recruitment process is automatically deleted from the system. Employees in the agency who continuously

work in the system monitor and control the deletion.

In addition, the agency processes information in connection with personality tests of managers. This information is stored for six months in the People Test System after the end of the recruitment process, after which it is automatically deleted.

The Danish Veterinary and Food Administration has assessed that 24 months' retention of information after the commencement of recruitment is necessary if the Agency is to be able to document a recruitment process in connection with objections to discrimination. In connection with the retention of personality tests, the Danish Veterinary and Food Administration has assessed that retention for six months is necessary, as the actual recruitment period in connection with hiring managers typically takes longer, and the Agency therefore needs to store the information collected in connection with the test. , for up to six months after the recruitment process has ended.

The Danish Veterinary and Food Administration has sent an anonymised deletion log to the Danish Data Protection Agency and the Agency's written down procedures, statements and similar documentation regarding storage and deletion of information about applicants.

#### 4. Justification for the Danish Data Protection Agency's decision

##### 4.1. Basis for treatment

It appears from the case that all information about an applicant who has not been employed, which an applicant submits in connection with a recruitment process, is stored by the Danish Veterinary and Food Administration in the systems HR Manager and People Test System in order to ensure documentation of correct recruitment process. According to the Danish Veterinary and Food Administration, the information is processed on the basis of Article 6 (1) of the Data Protection Ordinance. Article 9 (1) (e) 2, letter f, and the Data Protection Act § 11 and § 12, para. 2.

The Danish Data Protection Agency is of the opinion that a public employer must document a specific recruitment process as part of the public authority's obligation to journalize documents. The documentation requirement may also be relevant if the authority is met with objections of discrimination.

On this basis, the Danish Data Protection Agency finds that the Danish Veterinary and Food Administration's processing of information has taken place in accordance with Article 6 (1) of the Data Protection Ordinance. Article 9 (1) (e) 2, letter f and section 11 of the Data Protection Act.

##### 4.2. Storage period

The Danish Data Protection Agency has reviewed the Danish Veterinary and Food Administration's statements of 23 September and 20 November 2019 and the appendices submitted by the Agency. In this connection, the Danish Veterinary and Food Administration has stated that information in the HR Manager is deleted after a period of 24 months after the commencement of recruitment, and the Agency has also stated that information in the People Test System is deleted after a period of six months after the end of recruitment.

The Danish Veterinary and Food Administration has assessed that 24 months' storage of information after the commencement of recruitment is necessary if the organization is to be able to document a recruitment process in connection with objections to discrimination. In connection with the retention of personality tests, the Danish Veterinary and Food Administration has assessed that retention for six months after the end of the recruitment process is necessary, as the actual recruitment period in connection with the employment of managers typically takes longer.

The Danish Data Protection Agency finds no basis for overriding the Danish Veterinary and Food Administration's assessment that it is necessary to store information about applicants for 24 months after the commencement of recruitment, when the purpose of the processing is to document how the selection has taken place in the recruitment process. The Danish Data Protection Agency also finds no basis for overriding the Danish Veterinary and Food Administration's assessment that it is necessary to keep personality tests for a period of six months after the end of the recruitment process.

In this connection, the Danish Data Protection Agency has emphasized that both the period of 24 months and the period of six months appear objective, and that the purposes in question with the processing of personal data must in part be assumed to safeguard the data subjects' own interests.

It is thus the Data Inspectorate's assessment that the storage periods in question are in accordance with the principle of "storage limitation" in Article 5 (1) of the Data Protection Regulation. 1, letter e.

#### 4.3. Deletion of personal data

The Danish Data Protection Agency has reviewed the Danish Veterinary and Food Administration's statements of 23 September and 20 November 2019 and the appendices submitted by the Agency, including an anonymised deletion log, written down procedures for deletion and the Danish Veterinary and Food Administration's description of the organization's deletion control.

The Danish Data Protection Agency finds that the Danish Veterinary and Food Administration has sufficiently documented that

the Agency deletes information about applicants in the HR Manager system after a period of 24 months after the commencement of recruitment and information about applicants in the People Test System after a period of six months after completion of recruitment.

The Danish Veterinary and Food Administration's storage and deletion of personal data on applicants collected in connection with recruitment for employment in the HR Manager and People Test System programs in cases where the applicant has not been employed is thus seen to have taken place in accordance with Article 5 of the Data Protection Regulation. , PCS. Article 5 (1) (e) (storage restriction) and Article 5 (1) 2 ("liability"), cf. Article 5, para. 1, letter e.

## 5. Conclusion

After a review of the case, the Danish Data Protection Agency finds that the Danish Veterinary and Food Administration's processing of information with a view to ensuring documentation of the correct recruitment process has taken place in accordance with Article 6 (1) of the Data Protection Ordinance. Article 9 (1) (e) 2, letter f and section 11 of the Data Protection Act.

In addition, the Danish Data Protection Agency finds that the Danish Veterinary and Food Administration's storage and deletion of personal data about applicants collected in connection with recruitment for employment, but where the applicant has not been employed, has taken place in accordance with Article 5 (1) of the Data Protection Ordinance. Article 5 (1) (e) (storage restriction) and Article 5 (1) 2 ("liability"), cf. Article 5, para. 1, letter e.

## Concluding remarks

It appears from a consent text that the Danish Veterinary and Food Administration has sent to the Danish Data Protection Agency that, on the basis of a consent, the agency processes information about applicants for use in the recruitment process itself. It appears from the consent text that applicants' information is processed for the purpose of filling advertised positions with qualified candidates. It also appears from the consent text that the legal basis for the Danish Veterinary and Food Administration's processing of personal data in connection with a recruitment process, in addition to the consent, is Article 6 (1) of the Data Protection Regulation. Article 6 (1) (b) Article 9 (1) (e) Article 9 (2) (b) 2, letter f, and the Data Protection Act § 11. In this connection, the Danish Data Protection Agency must recommend that the Danish Veterinary and Food Administration fails to base the processing of personal data in connection with a recruitment process on consent pursuant to Article 6 (1) of the Data Protection Ordinance. Article 9 (1) (a) and Article 9 (1) To the extent that the Agency can or must instead base the

processing on other relevant provisions of the Data Protection Regulation, including Article 6 (2). Article 9 (1) (e) 2, letter f, and the Data Protection Act § 11 [3].

In addition, the legal basis must appear unambiguously from the information that the Danish Veterinary and Food Administration provides to applicants in connection with a recruitment process, including possibly "Information about your rights - when you apply for a job in the Ministry of the Environment and Food". retains information on candidates who have not been recruited for the purpose of documenting the recruitment process in connection with any objections to discrimination, in accordance with Article 13 (2) of the Data Protection Regulation. 1, letter c.

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

The Danish Data Protection Agency's decisions can be brought before the courts, cf. section 63 of the Constitution.

[1] Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of individuals with regard to the processing of personal data and on the free movement of such data and repealing Directive 95/46 / EC (General data protection regulation).

[2] Act No. 502 of 23 May 2018 on 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] The Danish Data Protection Agency's guide on data protection in connection with employment relationships, December 2020, section 4.1, p. 18