

## Supervision of Carlsberg Danmark A / S 'processing of information about applicants

Date: 25-05-2020

Decision

Private companies

The Danish Data Protection Agency has completed a written audit of Carlsberg Danmark A / S with a focus on the processing of personal data in connection with recruitment. The Danish Data Protection Agency found that the processing had taken place in accordance with the rules.

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Summary

The Danish Data Protection Agency has completed a written inspection of Carlsberg Danmark A / S. The audit focused on Carlsberg's retention and deletion of personal information about applicants collected in connection with recruitment for employment where the applicant has not been employed.

The Danish Data Protection Agency found that Carlsberg's processing of information about applicants after completing the recruitment process complied with the requirements of the Data Protection Ordinance.

Carlsberg processes information about applicants for two purposes. The information was stored to ensure documentation of the correct recruitment process in the event of any complaints about, for example, discrimination. This information was retained in the light of the legitimate interest of the company.

In addition, Carlsberg stored information about applicants in order to inform about future job opportunities in the company. This information was retained on the basis of consent.

The Danish Data Protection Agency found that Carlsberg in both cases had a legal basis in Article 6 of the Data Protection Regulation for the processing.

Applicants have the option to delete their own applicant profile, thus deleting the information. If the applicant does not delete his / her applicant profile himself / herself, it will be deleted automatically after six months.

The information is stored in a recruitment system and is deleted automatically on the first of each month. Carlsberg has documented this to the Danish Data Protection Agency through an anonymised deletion log, written procedures, statements and similar documentation regarding deletion of information about applicants.

Here too, the Danish Data Protection Agency found that Carlsberg's processing of information about applicants is seen to have taken place in accordance with the rules.

## 1. Written supervision of Carlsberg Danmark A / S

Carlsberg Danmark A / S (hereinafter Carlsberg) was among the companies 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 Carlsberg'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, para. Article 5 (1) (e) ("storage restriction"); 2 ("liability"), Article 6 and 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 Carlsberg and requested an opinion in this connection.

By letter dated 16 September 2019, Carlsberg issued a statement for use in the case.

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

Following a review of the case, the Danish Data Protection Agency finds that there is no basis for criticizing Carlsberg's processing of personal data about applicants after completing the recruitment process - which is processed with a view to disclosing future job opportunities in Carlsberg - on the basis of consent, cf. Article 6 of the Data Protection Regulation. , PCS. Article 7 (1) (a) 1.

In addition, the Danish Data Protection Agency finds that Carlsberg's processing of personal data about applicants after completing the recruitment process - which is processed in order to ensure documentation for the correct recruitment process in connection with. any legal claim - has been made in accordance with the rules of Article 6 (1) of the Data Protection Regulation. 1, letter f.

In conclusion, the Danish Data Protection Agency finds that Carlsberg's storage and deletion of personal data about applicants after the end of the recruitment process has taken place in accordance with the rules in 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.

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

decision.

### 3. Carlsberg's remarks

#### 3.1. Basis for treatment

Carlsberg has stated that information on applicants who are processed with a view to informing about future job opportunities in Carlsberg is processed on the basis of Article 6 (1) of the Data Protection Regulation. 1, letter a. Carlsberg has submitted an anonymised example of the company's declaration of consent.

Carlsberg has stated that the company obtains consent from the applicant via the recruitment system SuccesFactors. When the applicant creates a profile, the applicant is at the same time asked to give his consent to the processing of personal data. In connection with the Danish Data Protection Agency's inquiry, Carlsberg has found an opportunity to review the information that the company provides to applicants when they create an applicant profile through SuccesFactors. In this connection, Carlsberg has become aware that the procedure for obtaining applicants' consent, where personal information about the applicant is processed with a view to being contacted about other job opportunities, must be updated. Carlsberg has stated that the company is working with the IT supplier to change the procedure for obtaining consent. Carlsberg has chosen to put the process of contacting applicants after completing the recruitment process for other job opportunities on hold until sufficient consent has been obtained.

Carlsberg has stated that the company - in connection with the creation of the applicant profile - requests information about name, e-mail, telephone number, address, city, country, whether the person has been employed by Carlsberg before, when he can start, expected salary, CV , last five years' work history and information on any work permit. In addition, it is voluntary for the applicant to provide information about nickname, postcode, LinkedIn Profile, how he / she heard about the position, current employer, current title, application, special projects in which the applicant has been involved, education, relevant documents (grades, references, etc.). ), username for applicant profile, password for applicant profile, notes (eg from job interview), previously applied for positions in Carlsberg (only if the job posting for the previously applied for position has not yet been deleted in the recruitment system).

The company thus only processes information covered by Article 6 of the Data Protection Regulation, and not confidential or sensitive information such as personal identity number information, cf. section 11 of the Data Protection Act, or health, cf. Article 9 of the Data Protection Regulation.

Carlsberg has stated that one of the company's purposes for storing information about applicants after completing the recruitment process is to ensure documentation for the correct recruitment process in connection with. a possible legal claim from applicants and to communicate with applicants, including applicants who keep their application profiles active after completing the recruitment process, among other things with a view to informing about future job opportunities in Carlsberg. Information about applicants who are processed in order to ensure documentation for the correct recruitment process in connection with. a possible legal claim is dealt with - according to Carlsberg - on the basis of Article 6 (1) of the Data Protection Regulation. 1, letter f.

### 3.2. Storage, deletion and liability

Carlsberg has stated that the company's retention period for information about applicants after completing the recruitment process is divided into two categories - ie. information derived from applicant profiles, and information derived from applications for specific positions in Carlsberg. If a registrant wants to apply for either a specific position in Carlsberg or apply unsolicited, he or she must create an applicant profile via Carlsberg's website, which links to the recruitment system SuccesFactors. In addition, a copy of the applicant's applicant profile is saved when an applicant applies for a specific position. Information derived from applicant profiles can be deleted by the applicant himself at any time. If the applicant does not delete his profile himself, it will be deleted automatically after the profile has been inactive for six months. Carlsberg has assessed that six months is a reasonable retention period, as Carlsberg considers an applicant to continue to have an interest in Carlsberg as a potential new employer during this period.

Information that originates from applications for specific positions in Carlsberg is processed after the end of the recruitment process in order to document how the selection has taken place in the recruitment process. The information is stored for up to six months after employment for the position in question has taken place, after which the information is deleted automatically. Carlsberg has assessed that six months is a necessary retention period if there is a complaint about the recruitment process. Information about applicants after completing the recruitment process is stored in Carlsberg's recruitment system, SuccessFactors. Deletion takes place automatically on the first of each month through setting up automatic deletion. Checking and documentation of the deletion takes place by monitoring logs in the system. Monitoring is performed by HR Services, which checks that deletion jobs have been completed correctly and log files have been created. Logging of deleted information is supported by the SuccesFactors system.

To the extent that information from the recruitment process is stored outside of SuccesFactors, Carlsberg has implemented a procedure for deleting unstructured data.

Carlsberg has sent the Danish Data Protection Agency an anonymised deletion log as well as the company'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

##### 4.1.1. Article 6, paragraph 1, letter f

It appears from the case that when an applicant applies for a specific position, a copy of the applicant's applicant profile is stored on the job advertisement in question. In connection with the creation of an applicant profile, Carlsberg processes information about name, e-mail, telephone number, address, city, country, whether the person has previously been employed by Carlsberg, when he or she can start, expected salary, CV, last five years work history and information about any work permit. In addition, it is voluntary for the applicant to provide information about nickname, postcode, LinkedIn Profile, how he / she heard about the position, current employer, current title, application, special projects in which the applicant has been involved, education, relevant documents (grades, references, etc.), username for applicant profile, password for applicant profile, notes (eg from job interview), previously applied for positions in Carlsberg (only if the job posting for the previously applied for position has not yet been deleted in the recruitment system).

The copy in question is processed in order to ensure documentation for the correct recruitment process in connection with a possible legal claim. According to Carlsberg, information is processed on the basis of Article 6 (1) of the Data Protection Regulation. 1, letter f.

It is the Data Inspectorate's opinion that an employer may find itself in a situation where it is necessary to be able to document a specific recruitment process, because the employer is met with e.g. objections to discrimination. Retention of information for this purpose will in principle be considered a factual purpose, but the employer should always consider whether there is a real need to retain information about applicants. There may be rules in the special legislation of significance for how long the information can be stored.

Therefore, information about applicants may be processed after completing the recruitment process in order to comply with requests and comply with legal requirements from the legislature or other authorities, as well as comply with applicable laws,

including the Salaried Employees Act, and employment-related requirements, according to Article 6 para. 1, letter c or - for a private data controller - Article 6, para. 1, letter f. [3]

On this basis, the Danish Data Protection Agency finds that Carlsberg's processing of information with a view to ensuring documentation of the correct recruitment process in connection with. any legal claim is in accordance with Article 6 (1) of the Data Protection Regulation. 1, letter f.

#### 4.1.2 Article 6, para. 1, letter a

The Danish Data Protection Agency assumes that Carlsberg's consent text at the Authority's notification of 20 August 2019 was the document "privacy information and consent - Applicants" submitted by Carlsberg. In connection with the creation of an applicant profile, the company processes information about name, e-mail, telephone number, address, city, country, whether the person has been employed by Carlsberg before, when he can start, expected salary, CV, last five years work history and information about any work permit. In addition, it is voluntary for the applicant to provide information about nickname, postcode, LinkedIn Profile, how he / she heard about the position, current employer, current title, application, special projects in which the applicant has been involved, education, relevant documents (grades, references, etc.). ), username for applicant profile, password for applicant profile, notes (eg from job interview), previously applied for positions in Carlsberg (only if the job posting for the previously applied for position has not yet been deleted in the recruitment system).

According to Carlsberg, information about applicants who are processed after completing the recruitment process with a view to informing about future job opportunities in Carlsberg is processed on the basis of Article 6 (1) of the Data Protection Regulation. 1, letter a.

It is the opinion of the Danish Data Protection Agency that an employer may have a factual interest in storing information about applicants for possible later employment, and that storage for this purpose can take place with the applicant's consent. [4]

Article 6 (1) of the Data Protection Regulation 1, letter a, deals with consent as a legal basis for the processing of personal data.

Article 4 (11) of the Regulation defines a valid consent. It follows that a consent is "[...] any voluntary, specific, informed and unequivocal expression of will [...]".

It is also clear from Article 7 (1) of the Data Protection Regulation 1, that if the processing is based on consent, the data controller must be able to demonstrate that the data subject has given consent to the processing of his personal data.

After a review of the case, including in particular the text of consent submitted by Carlsberg, the Danish Data Protection Agency finds that there is no basis for expressing criticism of Carlsberg's processing of personal data about applicants - which is processed with a view to disclosing future job opportunities in Carlsberg. on the basis of consent, in accordance with Article 6 (1) of the Data Protection Regulation Article 7 (1) (a) 1.

In this connection, the Danish Data Protection Agency has noted that Carlsberg, in connection with the Authority's inquiry, has carried out a review of the information that Carlsberg provides to applicants when they create an applicant profile through SuccesFactors. The Danish Data Protection Agency has further noted that Carlsberg has become aware that the procedure for obtaining consent must be updated, and that Carlsberg is working with its IT supplier to change the procedure for obtaining consent, which is why the process of contacting applicants for other job opportunities after completing the recruitment process have been put on hold.

#### 4.2. Storage period

The Danish Data Protection Agency has reviewed Carlsberg's statement of 16 September 2019 and the appendices submitted by the company. In this connection, Carlsberg has stated that information is deleted after a period of six months. Carlsberg has assessed that six months is a reasonable retention period, as the company considers an applicant to continue to have an interest in Carlsberg as a potential new employer during this period.

The Danish Data Protection Agency finds no basis for overriding Carlsberg's assessment that information about applicants after completing the recruitment process is necessary to keep for up to six months, regardless of whether the purpose of the processing is to offer the applicant another position in Carlsberg or to document how the selection took place. in the recruitment process.

In this connection, the Danish Data Protection Agency has emphasized that a period of six months appears objective and that the purposes in question for the processing of personal data must in most cases be assumed to safeguard the data subject's own interests.

It is thus the Data Inspectorate's assessment that the retention period in question is in accordance with the principle of "retention restriction" 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 Carlsberg's statement of 16 September 2019 and the appendices submitted

by the company, including an anonymised deletion log, written down procedures for deletion and Carlsberg's description of the company's control of deletion.

The Danish Data Protection Agency finds that Carlsberg has sufficiently documented that the company deletes information about applicants after completing the recruitment process after a period of six months. Carlsberg has further documented how the information is deleted and that Carlsberg checks the deletion of information about applicants after the recruitment process has ended.

Carlsberg's storage and deletion of personal data on applicants collected in connection with recruitment for employment where the applicant has not been employed is thus seen to have taken place in accordance with the rules in Article 5 (1) of the Data Protection Regulation. Article 5 (2) 1, letter e.

## 5. Conclusion

After a review of the case, the Danish Data Protection Agency finds that there is no basis for expressing criticism of Carlsberg's processing of personal data about applicants - which is processed with a view to informing about future job opportunities in Carlsberg - after completing recruitment on the basis of consent, cf. Article 6 of the Data Protection Regulation, PCS. Article 7 (1) (a) 1.

In addition, the Danish Data Protection Agency finds that Carlsberg's processing of personal data about applicants after completing the recruitment process, which is processed in order to ensure documentation of the correct recruitment process in connection with. any legal claim has been made in accordance with the rules of Article 6 (1) of the Data Protection Regulation. 1, letter f.

In conclusion, the Danish Data Protection Agency finds that Carlsberg's storage and deletion of personal data about applicants after the end of the recruitment process has taken place in accordance with the rules in 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.

[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, November 2018, section 5.3, p. 23

[4] The Danish Data Protection Agency's guide on data protection in connection with employment relationships, November 2018, section 5.3, p. 23.