

Data protection serves to protect against infection - state commissioner checks the collection of guest data in Brandenburg cafes and restaurants

How do Brandenburg cafés and restaurants actually deal with the data of their guests, which they are obliged to record during the corona pandemic? Employees of the state representatives checked 54 restaurants to find an answer to this question. They were in the districts of Dahme-Spreewald, Oberspreewald-Lausitz, Oder-Spree, Potsdam-Mittelmark and in all four urban districts.

As a result, it turned out that too many categories of data were recorded in 30 restaurants. In particular, the address was frequently asked for, which is no longer required under the current ordinance. Also, many innkeepers did not realize that either the telephone number or the e-mail address has to be given, but not both. 36 cafés and restaurants did not adhere to the deletion deadlines; 16 of them had not even deleted any data at all. We also had to realize that confidential handling of guest data was not always guaranteed. In eleven restaurants, contact details were laid out in such a way that anyone could easily take note of the information provided by other guests. Seven farms did not collect any data at all. Dagmar Hartge:

"Careful handling of guests' data is not an end in itself, but a prerequisite for the necessary trust. Only when the guests are sure that their data will not fall into the wrong hands will they provide correct and complete information. These, in turn, are necessary to enable the health authorities, if necessary, to find potentially infected people and thereby interrupt chains of infection. Restaurants that observe data protection not only show their guests that they take their personal rights seriously; they also facilitate the important task of infection control."

In all cases, the innkeepers have taken our advice and promised to avoid the defects found in the future. During their discussions, the employees of the state representatives had the impression that there was often simply a certain degree of uncertainty as to how the data should be handled. In order to facilitate practice, we provide a sample form for data collection and explanations in the form of frequently asked questions (FAQs) on our website. The aim of our unannounced audits was to sensitize those responsible for data protection-compliant handling of the collection of their guests' data. We are currently still checking whether the state representative will issue a formal warning in a few exceptional cases with serious violations or take further measures. However, sanctions are not the focus here.

On the legal situation: The current Brandenburg SARS-CoV-2 handling ordinance stipulates that restaurants, among other

things, record the contact details of their guests in an attendance list. The purpose is to trace contacts in the event of a detected infection. According to the regulation, "the first and last name and the telephone number or e-mail address of the person concerned must be given. When collecting this data, it must be prevented that data subjects gain knowledge of the personal data of other data subjects. The attendance list must be kept or saved for a period of four weeks in compliance with data protection regulations and handed over to the responsible health authority on request. After the retention period has expired, the attendance list must be destroyed or deleted."

For the restaurants, the wording of the ordinance is equivalent to squaring the circle: on the one hand, guests should sign an attendance list, but on the other hand, it must remain hidden from the eyes of other guests. The latter can hardly be realized with a list. Two thirds of the inns checked had therefore already taken the initiative to record data separately for each guest.

We also recommend such a form with our sample form. Ms. Hartge is arguing with the state government that the concept of an "attendance list" should be dispensed with for the purpose of clarification in the forthcoming revision of the SARS-CoV-2 handling ordinance.

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