

## Supervision of fulfillment of the disclosure obligation at Carelink A / S

Date: 17-03-2021

### Decision

#### Private companies

The Danish Data Protection Agency found that Carelink's compliance with the duty to provide information was in accordance with the rules.

Journal number: 2021-431-0129

### Summary

In March 2021, the Danish Data Protection Agency completed an audit of three providers who offer COVID-19 tests without prior appointment. The Danish Data Protection Agency has supervised SOS International A / S and Carelink A / S, which in January 2021 won the tender for rapid tests in the regions. The Danish Data Protection Agency has further supervised the Statens Serum Institut, which offers PCR tests without prior appointment at one of TestCenter Denmark's mobile test sites.

The inspections focused on the providers' compliance with the data protection regulation's rules on disclosure, including whether the test providers complied with the rules that notification must be given to the data subject in a concise, transparent, easy-to-understand and easily accessible form and in clear and simple language.

The Danish Data Protection Agency found that the test providers' observance of the duty to provide information was in accordance with the rules. To a single provider, however, the inspectorate recommended that the provider supplement the notification of the citizen, which took place in connection with receipt of the test result, with general information at the test site itself.

### Decision

The Danish Data Protection Agency hereby returns to the case of Carelink A / S 'observance of the duty to provide information when processing personal data in connection with COVID-19 rapid tests of citizens.

### Decision

Following a review of Carelink A / S 'statement, the Danish Data Protection Agency finds that Carelink A / S' processing of personal data has taken place in accordance with the rules in the Data Protection Regulation [1], cf. Article 12 (1). 1 and Article 13.

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

## 2. Case presentation

In connection with the public's open offer of COVID-19 tests, there has been press coverage of various actors' observance of the data protection rules.

On the basis of this, the Danish Data Protection Agency decided to investigate how the duty to provide information is observed when Carelink A / S conducts COVID-19 rapid tests of citizens.

The Danish Data Protection Agency therefore requested Carelink A / S on 4 February 2021 to state how Carelink A / S ensures that citizens are made aware of how Carelink A / S processes information about the persons in question.

On 12 February 2021, Carelink A / S issued a statement.

### 2.1. Carelink A / S 'comments

Carelink A / S has stated that the company provides a physical document with information on how the company processes personal data in connection with a COVID-19 Antigen test (lightning test). The information is handed out according to the information to all citizens who have a lightning test performed in one of Carelink A / S 'five test centers.

Justification for the Danish Data Protection Agency's decision

### 3.1.

It follows from Article 13 (1) of the Data Protection Regulation 1, that if personal data has been collected from the data subject, the data controller shall, at the time when the personal data is collected, provide the data subject with a number of information, which appears from letter a-f of the provision. In addition to the information referred to in paragraph In accordance with Article 13 (1) of the Regulation, the data controller shall provide the data subject with a range of information necessary to ensure fair and transparent processing of the data subject in accordance with Article 13 (1) of the Regulation. 2.

It also follows from Article 12 (1) of the Data Protection Regulation 1, that the data controller shall provide any information as covered by Article 13 in a concise, transparent, easy-to-understand and easily accessible form and in a clear and simple language.

### 3.2.

The Danish Data Protection Agency finds that Carelink A / S 'information on the processing of personal data contains the information that appears in Article 13 (1) of the Data Protection Regulation. 1 and 2.

By handing out the information to all citizens who are being tested in one of Carelink A / S 'five test centers, Carelink A / S also ensures that all citizens are made aware of the information in a clear, concise and easily accessible manner while collecting personal information. in accordance with Article 13 of the Data Protection Regulation, in accordance with Article 12 (2). 1.

The Danish Data Protection Agency thus finds that Carelink A / S 'information on the processing of personal data in connection with the COVID-19 Antigen Test complies with Article 12 (1) of the Data Protection Regulation. 1 and Article 13.

In conclusion, the Danish Data Protection Agency should note that Carelink A / S states in its information that the legal basis for the processing is §§ 1-2 and 4 in the Executive Order on private test providers' notification of positive results of tests for COVID-19 with a view to infection detection and compensation, cf. Article 9 (1) of the Data Protection Regulation Article 6 (2) (g) 1, letters b, c and f, cf. the Data Protection Act § 7, para. 4.

In this connection, the Danish Data Protection Agency must state that it follows from the comments on the Epidemic Act [2] that the processing of personal data that may take place pursuant to the Act is deemed to be based on Article 6 (1) of the Data Protection Regulation. 1, letters c and e, as the treatment will constitute a legal obligation or will be necessary for the sake of tasks in the interest of society.

In addition, it appears that the Epidemic Act authorizes the processing of personal data covered by the prohibition on processing in Article 9 (1). The treatment will be necessary in the interests of the public interest, in accordance with Article 9 (1). Article 9 (2) (g) and the treatment is necessary for the purpose of preventive medicine (or disease control) in accordance with Article 9 (2). Article 9 (2) (h) and in the public interest in the field of public health, in accordance with Article 9 (2). 2, letter i.

The Epidemic Act has thus created a legal basis which repeals the prohibition in Article 9 (1) of the Data Protection Regulation. 1, against the processing of special categories of personal data.

[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. 285 of 27 February 2021