

Criticism of the employer for informing a wider circle about the background for dismissal

Date: 19-12-2022

Decision

Criticism

Complaint

Basis of treatment

The Danish Data Protection Authority criticizes an employer for having informed the entire workplace about the background to an employee's dismissal.

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Summary

The Danish Data Protection Authority has made a decision in a case where an employer informed the entire workplace that an employee had been dismissed due to, among other things, cooperation difficulties.

The Danish Data Protection Authority found in the case that there was a basis for expressing criticism as a result of the fact that the employer's briefing emails went further than what was necessary for the purpose – namely to inform the relevant persons about the resignation.

In the case in question, the employer had stated that the reason for informing about the reason for the resignation was to avoid the creation of rumours. However, the Danish Data Protection Authority found that consideration for the resigning employee weighed more heavily.

The Danish Data Protection Authority attached importance to the fact that the information was given to a wider group of people and that detailed information about the background to the dismissal was passed on.

Decision

The Danish Data Protection Authority hereby returns to the case where [complainant] on [date] has complained to the Danish Data Protection Authority that [the respondent] has passed on the complainant's information to [...]

1. Decision

After a review of the case, the Data Protection Authority finds that there is a basis for criticizing the fact that the defendant's processing of personal data has not taken place in accordance with Article 6(1) of the Data Protection Regulation. 1.

Below follows a closer review of the case and a rationale for the Data Protection Authority's decision.

2. Case presentation

It appears from the file that the complainant, who was employed in a position as [...] at [...], was dismissed and released on [date]. In that connection, [the defendant's] management sent an e-mail to [...] at [...], where it, among other things, it appeared that:

[...]

Furthermore, it appears from the case that [...] on the same day received an e-mail from the management with information that the complainant had been dismissed as a result of "cooperation difficulties".

The [date] complainant approached the Data Protection Authority with a complaint about [the respondent's] sending of the e-mails in question containing information about him in connection with the complainant's resignation.

2.1 Complainant's comments

The complainant has generally stated that [the defendant's] disclosure of information about him has been in breach of the data protection legal regulations. Furthermore, the complainant has claimed that the information about him is incorrect, since the work-related cooperation difficulties were due to circumstances over which [...] at [...] has no control.

2.2 [respondent's] comments

[The respondent] has generally stated that the management in connection with the complainant's dismissal sent an email with information about this to [...].

[The respondent] has stated that the purpose of the briefing was to ensure that everyone received the same information in order to avoid stories being created.

Furthermore, [the defendant] has stated that the disclosure to [...] was not in accordance with the data protection rules, but at the same time refers to the fact that [...] is subject to a duty of confidentiality and loyalty. In this connection, [the defendant] has explained that several of the employees and [...] knew that [...] was under pressure because the management was not satisfied with his task resolution and that he had overwhelmed an employee.

[...] was only informed that the complainant had been dismissed as a result of "cooperation difficulties".

In addition, [the defendant] points out that they disagree with the complainant's claims, including that the information about the background for the complainant's dismissal is incorrect.

3. Reason for the Data Protection Authority's decision

The question of [the defendant's] disclosure of information about the background to the complainant's resignation must be assessed according to the rules in the data protection regulation, article 6, subsection 1.

It follows from the data protection regulation article 6, subsection 1, letter f, that personal data can be processed if the processing is necessary for the data controller or a third party to pursue a legitimate interest, unless the data subject's interests or fundamental rights and freedoms require protection of personal data, precedes this, in particular if the data subject is a child.

It is the Danish Data Protection Authority's assessment that [the respondent's] briefing on the reason for the complainant's resignation cannot be done with a view to avoiding the formation of rumours, as consideration for complaints precedes this.

The Danish Data Protection Authority has therefore emphasized that in an informational email about an employee's resignation from a workplace, it will not, as a rule, be necessary to provide information about the background for the resignation.

In this connection, the supervisory authority has attached importance to the fact that the briefing has taken place to a wider group of people. Furthermore, the supervisory authority has emphasized that detailed information about the reasons for the dismissal has been passed on in the briefing to [...].

Against this background, the Danish Data Protection Authority is of the opinion that the information about the complainant's resignation in the briefing to [...] goes beyond what is necessary and is in breach of Article 6, paragraph 1 of the Data Protection Regulation. 1. After an overall assessment of the specific circumstances, this gives the Data Protection Authority reason to express criticism.