

THE STATE COMMISSIONER FOR DATA PROTECTION AND FREEDOM OF INFORMATION

PRESS RELEASE

Press Office of the State Commissioner for the

Data protection and freedom of information

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Ways out of the pandemic - back to freedom

The state representative Dr. Stefan Brink: "The ones caused by the pandemic

Restrictions on civil rights protect a great good of society

Constitution – the right to life and physical

integrity.

we

to have

after

powers

the

Help fight the pandemic. Here's a reasonable one

Finding a balance with our freedom rights was and is

also the task of data protection. It

is now but

logically, basically all pandemic-related interventions

to be put to the test after the pandemic and again

to take back."

Fighting the pandemic

has been one for over two years

extraordinary societal and governmental challenge.

In order to protect health, civil rights were also introduced

restricted, such as the freedom to work, the freedom to travel, the

Freedom of assembly - and also the fundamental right to informational

Self-determination, data protection.

Wherever possible, in the course of the pandemic

Combat aimed at interfering with the informational

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Self-determination in compliance with data protection regulations and therefore gentle and

have been made legally secure.

these interventions

in

the fundamental right

on

informational

Self-determination served to fight the pandemic. After

Pandemic

to lose

you

however

their justification. Of the

State Commissioner will therefore, as soon as the pandemic is over, all pandemic-related encroachments on fundamental rights to the test place.

Among other things, he will address stakeholders in the healthcare sector (e.g. operators of test centers and pharmacies) because of there data processed in the context of fighting the pandemic, but also Reach out to other companies and public bodies that use 3G have stored evidence of their employees and customers.

Where indicated is he prompt deletion respectively blocking of this data. That is important to a

Misappropriation or even misuse of this sensitive data to prevent. Health information, such as information about pregnancies or to autoimmune diseases from

In the future, employees must not be used improperly to for example to terminate employment contracts or to be promoted to fail.

The state commissioner will also use the powers of intervention of the state, which were justified with the fight against the pandemic

Putting the test bench to the test: Due to the corona pandemic, numerous and in some cases new types of data processing are required, from Immunization status via contact details to proof of the result of a corona test. Data Collected and Stored

must be deleted if they are for pandemic control

are no longer needed.

If, from the experience of the pandemic, permanent regulations

should be necessary because, for example, in certain areas

the development of digitization is to be continued

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State representatives support them consistently and, where necessary,

accompany critically.

Developments serving and useful to citizens during

of the pandemic, such as online events at universities or

the

introduction

one

data protection compliant

digital

Educational platform for school operations as well as legally secure and

practicable home office techniques or video conferencing systems

should also be established and further developed from the point of view of the LfDI. Of the

State representative will all data protection compliant digital

Support solutions intensively and also consistently on the

Use of appropriate technical and organizational measures

penetrate.

State Commissioner Brink: "The pandemic has shown how important it is

and useful digitization can be. We should definitely go too

the pandemic, digital development continues at full speed

and establish data protection-compliant solutions at an early stage."

Further information:

Areas in which interference with informational self-determination
took place:

Contact data collection for tracking due to

Corona regulations

It must be ensured that for contact data collection according to the

CoronaVO obligated (e.g. in gastronomy) those recorded

delete data again. If the data was recorded analogously,

to dispose of them in accordance with data protection and not in the

to throw household rubbish. If the data was recorded digitally,

to delete or delete them in accordance with data protection regulations

to overwrite. The state representative will randomly

Carry out checks on those who are obliged to record contact data.

As far as universities contact details for face-to-face events

students have recorded, it must be ensured that these too

be deleted in a timely manner in accordance with data protection regulations.

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Private sector (3G workplace)

After the abolition of § 28b IfSG ("3G rule in the workplace")

exists subject to the healing/care industry (cf. §§ 23a, 20a, 36

IfSG) no longer a legal basis for collecting the vaccination/

Tested/recovered status by employers.

As a consequence, since the entry into force of § 28b IfSG

collected data by the employer immediately

delete, provided that this does not result in labor court disputes

have arisen and employer processing to another

legal basis, for example in the case of a dispute

continued payment of wages.

Against this background, the LfDI plans to randomly add companies

monitor and notify employers in the event of a violation

request immediate deletion. This expressly does not apply to

IfSG specified companies,

especially the healing

/care industry (see §§ 23a, 20a, 36 IfSG).

cloud services

Due to the pandemic, many employers quickly switched to cloud

Services introduced, for example to support office communication

(Office services, video conferencing systems). But these were not

always configured in compliance with data protection. Those responsible can

Don't rely on vendor defaults

Meet the requirements of the GDPR. Sometimes the use of such

Services with a very detailed full monitoring of employees

along. Employers should therefore consider both the services used

subjected to a critical examination as well as their attitudes

check over. The LfDI is already dealing with complaints from affected persons

in the area after. He will also carry out random checks

execute.

Access to municipal administrations

In the CoronaVO, which came into force on 23.02. was valid until 03/18/22, according to

§ 17a CoronaVO old version, access to administration buildings

municipal administrations in the alert level for citizens in principle

only with proof

of their

immunization or a negative

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PCR/rapid tests possible. After this the access of

Citizens

also

to

facilities

the

municipal

Services of general interest was affected is now – after the regulation has been abolished

in the new CoronaVO - to ensure that all citizens

even without the prior assessment of their so-called 3G status

granted access to municipal administration buildings again

becomes. Existing verification data must be deleted.

Testing and Vaccination Centers

In the course of fighting the pandemic, many test and

vaccination centers

put into operation, so a variety of

personal data as well as health data, which

are under the special protection of the GDPR.

Especially

in 2020 and 2021 the

State representatives find that in these facilities at the

data processing

to

injuries

the

security

personal data (so-called data breaches).

is. These security breaches include, for example

Circular emails with an open mailing list containing sensitive data (e.g.

data about the

vaccine and

-date as well as data about

test results or similar) included, or records of

Test and vaccination centers that are temporarily open to view on the Internet

were.

The state representative will be random in the near future

Conduct controls to ensure compliance with data protection laws

Check regulations and identify sources of error, if any

can lead to a data breach to be eliminated at an early stage. in the

The focus of the control should be the review in particular

the

data protection compliant

storage

respectively

storage of the collected data. He will too

Evaluation of the controls already carried out by test centers

bring an end to If necessary, he also refers to health authorities

and the Ministry of Social Affairs.

In further cooperation with the Ministry of Social Affairs and the

in particular, the question of which (types of)

personal data based on the Regulation on Claims

for testing in relation to direct detection of the pathogen

Coronavirus SARS-CoV-2

(Coronavirus Test Ordinance).

must be saved, for example by December 31st

2022 and December 31, 2024, and which, on the other hand, were quickly deleted

may and must be, because they are neither used to fight a pandemic,

nor for billing, billing control or any other

purpose are needed more.

pharmacies

The pharmacies were extensive in the fight against the pandemic

involved because they are sent to an authorized group of people

handed out protective masks

(cf. Coronavirus protective masks

Ordinance until April 15, 2021), carried out corona tests and

Issued COVID-19 vaccination certificates.

In these different contexts were sensitive

personal data processed. According to the instructions

and complaints that reached the LfDI, he recommends that

Pharmacies about the professional secrecy obligation of the

Pharmacists also ensure that the right to

informational self-determination is preserved. This applies in particular

if the pharmacies have particularly sensitive health data

process, for example, in the form of the vaccination status. So should

Pharmacists take appropriate measures to

The principles of processing go beyond the duty of confidentiality

personal data,

in particular the deletion obligations

implement.

Kindergartens/day care centers

During the corona pandemic, day care centers

new data processing

(e.g. processing

children's personal data in connection with the

Test obligation) necessary. Should the day-care centers still

store corresponding personal data, they must

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this

data protection compliant

delete if

you

for

the

Pandemic control are no longer needed.

schools

Schools had to switch to online classes quickly during the pandemic

and some have video conferencing or cloud systems

used that were not operated in accordance with data protection regulations. Of the

State commissioners are responsible for the affected schools known to them

in the next few weeks prompt the use of no
to end data protection compliant systems, also because that
Ministry of Education Baden-Württemberg the public schools in
in the meantime well-functioning and data protection compliant
systems offers. The state representative continues to support this
Ministry of Education to the best of its ability in introducing a
data protection compliant digital education platform and leads the
intensive cooperation.

have schools

partly contrary to data protection, such as certificates for
Mask exemption as well as proof of vaccination, sero and test status
saved. To ensure that after overcoming the
Pandemic no longer have the documents mentioned in the schools
are available, the LfDI will randomly check this.

Online exams at universities

With online exams at universities, the state representative
dealt with intensively in the last time and also a handout
issued. Even if presence exams take place again
are allowed, online exams will probably continue to be offered
and be asked. The LfDI stands with universities,

Student (representatives) and the Ministry of Science

Baden-Württemberg continues to exchange information and advise universities
in the search for tailor-made, data protection-compliant solutions.

If necessary, he will also carry out checks here.