

Supervision of compliance with the duty to provide information during rapid tests in primary and lower secondary school

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Decision

The Danish Data Protection Agency has investigated Falck Danmark A / S 'observance of the duty to provide information when processing personal data in connection with COVID-19 rapid tests of pupils over the age of 12 in primary school. The conclusion is that Falck complies with the rules, but the Authority recommends that information targeted at children be prepared.

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Summary

According to the GDPR, children and young people are entitled to special protection of their data, as they are often less aware of the risks, consequences and guarantees and of their rights in the processing of personal data.

In continuation of the Danish Data Protection Agency's supervision of Covid-19 test providers earlier this year, the Danish Data Protection Agency therefore chose in June to supervise Falck Danmark A / S 'compliance with the duty to provide information when processing personal data. This happened in connection with the COVID-19 rapid test of students over the age of 12 in primary school.

The Danish Data Protection Agency found that Falck Danmark A / S 'observance of the duty to provide information was in accordance with the rules, but noted that it would be appropriate to prepare a booklet or posters, which in form and content are aimed at children.

Decision

Following a review of Falck Danmark A / S 'statement of 16 June 2021, the Danish Data Protection Agency finds that Falck Danmark A / S 'processing of personal data has taken place within the framework of the Data Protection Ordinance [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

On 3 June 2021, the Danish Data Protection Agency requested Falck Danmark A / S to state how Falck Danmark A / S ensures that the pupils and / or the pupils' parents are made aware of how Falck Danmark A / S processes information about

the pupils.

On 16 June 2021, Falck Danmark A / S issued a statement on the matter.

2.1. Falck Danmark A / S 'comments

Falck Danmark A / S has generally stated that the company communicates its privacy policy - which constitutes Falck Danmark A / S 'notification of the data subjects in accordance with Article 13 of the Data Protection Ordinance - via five different procedures to ensure that both students and students' parents are made aware of the processing of information about students, including through the forms of communication commonly used by the relevant schools.

Falck Danmark A / S 'privacy policy is, among other things, available in physical copies at all test locations, including test areas at all primary and lower secondary schools, where Falck Danmark A / S conducts COVID-19 rapid tests. The privacy policy is freely available at the registration desk at the individual locations, marked with a sign that intends to encourage the student to orientate themselves in the policy.

In addition, Falck Danmark A / S 'privacy policy is available in digital version via scanning of QR code, which is available on posters and signs at all test locations, including test areas at all primary schools, where Falck Danmark A / S conducts COVID-19 rapid tests. Students can thereby gain direct access to the privacy policy, by scanning the QR code with their mobile phone.

The privacy policy is also communicated to the students 'parents via the relevant municipalities, which have ensured the distribution of links to digital versions of the policy via the schools' digital communication platforms such as Aula, Skoleintra and the like. Links to the privacy policy are here supplemented by text with an invitation to orientate oneself in the policy.

It is further stated that Falck Danmark A / S from 16 June 2021 expected to convey the privacy policy to students and / or parents via a direct link to the policy in the text message sent to the telephone number or telephone numbers provided at registration, immediately after registration has taken place. The link in the text message is supplemented by a text with an invitation to orientate oneself in the policy.

Finally, the privacy policy is directly accessible to everyone in digital version on Falck Danmarks A / S 'website.

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.

The fact that the data controller must provide the information to the data subject means that the data controller must take active steps to provide the information, and it will therefore not be sufficient to have the information on a website or similar, where it is left to the data subject to find until the information.

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, easily understandable and easily accessible form and in a clear and simple language, in particular when information is specifically aimed at a child.

3.2.

The Danish Data Protection Agency finds that Falck Danmark A / S 'privacy policy - which constitutes notification in accordance with Article 13 of the Data Protection Ordinance - contains the information that appears in Article 13 (1) of the Data Protection Ordinance. 1 and 2.

With regard to the way in which the notification is to be made, the Danish Data Protection Agency finds that a solution where the privacy policy is only available to the students - either in physical copy or via scanning of the QR code - is not in itself sufficient to constitute a compliance with the obligation to provide information pursuant to Article 13 of the Data Protection Regulation.

Taking into account that the persons in question are between 12 and 15 years of age, the Danish Data Protection Agency is of the opinion that the duty to provide information must also be fulfilled in relation to the holder of parental responsibility.

Falck Danmark A / S has stated that the privacy policy will be communicated to the students 'parents via the schools' digital communication platforms, followed by an invitation to orientate themselves in the privacy policy.

As Falck Danmark A / S observes the duty to provide information to both students and their parents, the Danish Data Protection Agency finds that Falck Danmark A / S 'observance of the duty to provide information in the specific case is within the framework of Article 13 of the Data Protection Ordinance, cf. 1.

In this connection, the Danish Data Protection Agency notes that Falck Danmark A / S is responsible for ensuring that the

schools disseminate the information to the parents, and Falck Danmark A / S should therefore ensure that the schools have taken active steps to disseminate the privacy policy to the parents.

The Danish Data Protection Agency also notes that, in the Authority's opinion, it would be appropriate to prepare a booklet or posters which, in form and content, are aimed at children.

[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).