



**Matter**                      **Sending confidential information in an unencrypted email**

## **COMPLAINT**

In a complaint received from the Office of the Chancellor of Justice on 29 November 2018, the complainant criticised the town's day-care centre procedure. According to the complainant, on 30 October 2018 the director of the day-care centre sent them sensitive and confidential information in an unprotected email. The message clearly shows the matter (child welfare) it concerns and to whom it has been sent.

## **CLARIFICATION**

A report and statement on the city's education sector, early childhood education and care services have been obtained on the matter. In the request for the report and statement, attention has been requested to be paid to how the city's day-care centres have been instructed in the handling of confidential matters.

Copies of the report and statement shall be sent to the complainant and the director of the day-care centre for information as appendices to this decision.

## DECISION

### Provisions

Section 24, subsection 1, paragraph 25 (1060/2002) of the Act on the Openness of Government Activities (hereinafter the Act on Openness) provides, among other things, that documents containing information on social welfare clients or social welfare services are confidential. The drafting history of the section (Government proposal 30/1998 vp, p. 97) States that as the fact that a person is a social welfare client may reveal a sensitive matter, the secrecy extends to all information concerning the client.

Pursuant to section 22, subsection 2 of the Act on Openness (621/1999), a secret document of an authority or a copy or print-out thereof may not be shown or handed over to outsiders or made available to outsiders by means of a technical interface or by other means.

Under section 18, subsection 1 of the Act on Openness, in order to create and implement good practice in information management, the authority shall, among other things, ensure the appropriate availability, usability and protection of documents and information systems and the information contained therein as well as integrity and other factors affecting the quality of information and, for this purpose, particularly in accordance with section 5) ensure that the persons employed by it have the necessary information on the publicity of the documents to be processed as well as on the procedures, information security arrangements and division of tasks to be complied with in the provision, regulations and instructions issued for the implementation of good practice on information management.

According to section 5 of the Personal Data Act (523/1999, repealed by the Data Protection Act 1050/2018) that entered into force on 1 January 2019, the controller must process personal data lawfully, observe due diligence and good processing practice, and also otherwise act in such a way that the protection of the data subject's private life and other basic rights safeguarding the right to privacy are not restricted without a justification provided in the Act. According to section 32 of the Act, the controller shall implement the necessary technical and organisational measures to protect personal data, for example against unauthorised access to data and against accidental or unlawful disclosure of data.

## Assessment and conclusions

### Procedure of the City

According to the city's report and statement, the city has instructed its personnel in the processing of confidential information by means of written instructions available on the open internal network website, at data protection training events and by requiring that each employee complete the data protection training and the related test during 2018. In addition, the city has obligated its personnel to use secure email when sending email outside the administrative network if the message contains confidential personal data.

According to the city's report and statement, data protection issues in early childhood education and care services have been discussed with the day-care centre leaders at working meetings approximately every six months between October 2017 and January 2019. In addition, the sending of email as secure email has been processed on 13 September 2018. According to the city's current guidelines, in sensitive matters, an email sent by the customer is not directly responded to; instead, a new message is created and sent as a secure email. However, other means of communication are preferred over email. The day-care centre leaders are aware of the instructions. Early childhood education and care also has a mobile system through which messages can be sent to guardians securely.

In my view, the city has acted in accordance with good practice in information management. Based on the information received, the city has ensured that its employees have, among other things, the necessary information about the procedures to be followed in handling confidential information and protecting them and information systems, such as sending e-mail as secure email.

After receiving information on the matter as a result of the complaint, the city has notified the Data Protection Ombudsman of the breach in accordance with the processing process.

### Procedure of the director of the day-care centre

According to the city's report and statement, due to the nature of the service, other communication methods rather than e-mail are used in early childhood education and care. The day-care centre leaders have such a minor need for using secure email that it does not become a routine. Another problem with secure email has been that its licence expires if it has not been used for six months.

The emails attached to the complaint show that the director of the day-care centre has replied to the complainant's email message on 25 October 2018. According to the report and statement

by the city, the director of the day-care centre has responded directly to the complainant's email message by mistake. The reply has also been sent to the service manager, who has also been the recipient of the original complaint's message.

Based on the provisions of the Act on the Openness of Government Activities and the Personal Data Act described above and also otherwise presented in the matter, I consider that the email message referred to in the complaint contained confidential information on social welfare services referred to in section 24, subsection 1, paragraph 25 of the Act on Openness that could not have been sent by an unprotected email or to a third party. Therefore, the director of the day-care centre has failed to comply with the Act on the Openness of Government Activities and has failed to comply with the city's data protection guidelines. In my view, however, the account provided has been a single mistake.

## Measures

I draw the attention of the director of the day-care centre to the provisions of the Act on the Openness of Government Activities concerning the processing of confidential information and the sending of e-mails containing confidential information as secure email. For this purpose, I send my decision to the director of the day-care centre.

I send my decision to the city for information.

The complaint does not give cause for any other measures.

Deputy Chancellor of Justice

Mikko Puumalainen

Referendary

Pia Tulkki-Ansinn