



Information on freedom of information and secrecy

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1. Introduction

This memorandum provides information on freedom of information and secrecy relevant to all Riksbank employees.

All employees should be familiar with certain general regulations that govern freedom of information and secrecy in the Riksbank's operations. In addition, it is extremely important that all employees are familiar with the specific provisions on secrecy that apply to their particular positions.

2. Freedom of information

Right of access

The principle of freedom of information gives the general public and mass media the right to access official documents held by central government and municipal authorities. As a central government authority, the Riksbank's operations are to a large extent open to scrutiny by the general public.

Official documents

In order to understand the regulations governing the public nature of official documents, it is important to distinguish between what constitutes an official document (documents that have been received or drawn up by an authority and which are kept there) and what does not constitute an official document (work documents, drafts, memorandums, verbal information, etc.). In addition to paper documents and pictures, the term "document" also refers to recordings for automated processing.

Right of access limitations

Official documents are basically public but can be secret pursuant to provisions in the Public Access to Information and Secrecy Act (2009:400). Freedom of information can be restricted only if such restriction is necessary with regard to certain interests as set forth in the Freedom of the Press Act, e.g. the protection of the Realm's central fiscal, monetary and exchange rate policy and the protection of the personal and economic circumstances of individuals. Relevant restrictions are set forth in the Secrecy Act or in other acts referred to by the Secrecy Act.

Processing

A freedom of information request from an individual shall be dealt with promptly by the official who is responsible for the document in question. The Head of the General Secretariat has adopted a routine description that specifies how such a request is to be dealt with.

The rights of the individual

Any individual who wishes to gain access to an official document has the right to read the document forthwith at the place where it is held and to receive a copy of the document in return for a fixed fee. For documents less than ten pages in length, copies are to be provided free of charge. For documents 10 pages in length, the fee is SEK 50, after which a further SEK 2 is charged for each additional page.

The authority may not call on the person making the freedom of information request to disclose their identity or to reveal what the document is to be used for (right to anonymity).

3. The Public Access to Information and Secrecy Act

The concept of secrecy

The Public Access to Information and Secrecy Act includes certain provisions that specify which official documents are secret. Secrecy means prohibition to disclose information, whether verbally or through the handing over of an official document or by some other means. At the same time, secrecy entails a restriction in the right of the general public to gain access to official documents. It can be said that the contents of secret documents are protected through the application of professional secrecy. In addition, secrecy means that the information may not be used outside the organisation in which it is classified as secret.

The scope of the secrecy

Generally, secrecy is said to apply to information in a particular context, e.g. in certain official matters, in certain activities or at certain authorities. Furthermore, the vast majority of secrecy provisions stipulate that some particular condition must be satisfied if secrecy is to apply. In general, this condition requires that there be a risk of injury as a result of the information being released. While it is exceptional for no such requirement of damage to exist, there are cases where the secrecy is unconditional, e.g. regarding information from the Riksbank's banking operations.

Secrecy within an authority

The provisions of the Secrecy Act apply within one and the same authority in cases where different branches of activity are independent of one another. Officials within the same branch of activity are free to discuss classified information, however, provided this has a connection to their working tasks.

Secrecy between authorities

If an item of information is secret, this secrecy applies not only in relation to individuals but also in relation to other authorities. However, the Secrecy Act does contain special provisions that enable authorities to release information to a greater extent to one another than to individuals. The term "secrecy-override provisions" is often used.

The individual's right of disposition

Individuals have the right of disposition over secrecy that is in their own interest. Consequently, individuals have the right in principle to gain access to classified information that relates to themselves and they can also consent to the Riksbank's release of such information to others.

Time limit

The secrecy of information in official documents normally applies for a certain length of time as stipulated in the special secrecy provision, usually 50-70 years, but sometimes as little as 10 years.

Stamp of secrecy

An official document that contains confidential information may be given a stamp of secrecy. This stamp should specify the applicable provision, the date the document was stamped and the authority's name (the Riksbank). There is no obligation, however, to mark a document with a stamp of secrecy. In the event of a request to gain access to a document stamped as secret, the request should be assessed in the customary manner. Accordingly, a stamp of secrecy does not release the Riksbank from the obligation to make a new assessment.

■ Breach of professional secrecy

Should any official be in breach of professional secrecy, they may be fined or sentenced to prison for a maximum of one year. Should any official through negligence misinterpret the contents of the secrecy provisions and disclose classified information, they shall be given a fine only or, in matters of minor importance, shall not be held liable in any way.

4. Applicable secrecy provisions at the Riksbank

A brief explanation is given below of the most commonly occurring secrecy provisions in the Riksbank in accordance with the Public Access to Information and Secrecy Act.

Secrecy relating to market abuse (Chapter 9, Section 1):

Provision on prohibition to reveal or utilise certain information that is likely to have a significant impact on the price of financial instruments in the European Market Abuse Regulation No 596/2014 of the 16 April 2014 (MAR) and in the Swedish Act on penalties for market abuse on the securities market (2016:1307).

Secrecy relating to foreign affairs (Chapter 15, Section 1):

Secrecy relating to foreign affairs may be applicable to documents from the European Central Bank (ECB), for example, or when the Riksbank acts as a contact authority for the International Monetary Fund (IMF).

Secrecy in international cooperation (Chapter 15, Sections 1 a-b)

Secrecy applies to information that the Riksbank has received from a foreign body on the basis of a binding EU act, for example the ECB, or an agreement with another State or with an international organisation entered into by the EU or approved by the Riksdag, for example the IMF, if it may be assumed that Sweden's ability to participate in the international cooperation referred to in the act or the agreement would be impaired if the information were disclosed.

Corresponding secrecy applies to information that the Riksbank has obtained for the purpose of forwarding it to a foreign body in accordance with such an act or agreement as is referred to in the first paragraph.

Secrecy also applies to information to which the Riksbank has electronic access in a recording for automated processing in another State or international organisation, for example the ECB, unless the Riksbank is permitted to process the information in accordance with a binding EU act or agreement entered into by Sweden or the EU with another State or international organisation.

Military secrecy (Chapter 15, Section 2):

Military secrecy may be applicable to the economic aspects of military preparedness.

■ **Secrecy of information relating to Sweden's central fiscal, monetary and exchange rate policies (Chapter 16, Section 1)**

One secrecy provision that may be applicable at the Riksbank is the secrecy of information concerning Sweden's central fiscal, monetary and exchange rate policy. This information may be details of the monetary policy report, interest rate decisions and the management of the foreign currency reserve.

Risk and vulnerability analyses (Chapter 18, Section 13)

Secrecy applies to information related to an authority's operations that consist of risk and vulnerability analyses with respect to crisis situations in times of peace, planning and preparations for or managing such situations, if it can be assumed that the possibilities of the public to prevent and manage peace-time crises would be counteracted if the information were disclosed.

Secrecy of information relating to security and surveillance measures (Chapter 18, Section 8)

Another provision states that information that may fully or partially disclose details of security and surveillance measures shall be treated as confidential in certain cases. This concerns both information relating to buildings and premises or the production, storage, lending or transport of money.

Secrecy in relation to public procurement (Chapter 19, Section 3 and Chapter 31, Section 16)

There are also provisions that protect the economic interests of the general public as well as those of individual counterparties in public procurement processes.

Secrecy of statistics (Chapter 24, Section 8)

The secrecy of statistics applies in operations that involve the production of statistics from data attributable to the personal or economic circumstances of a private subject and that can be attributed to said subject (often a company), e.g. production of the Riksbank's financial market or balance of payments statistics.

Secrecy in the Riksbank's role as overseer of the financial sector (Chapter 30, Section 4)

Secrecy also applies in certain cases to the Riksbank in its role as overseer of the stability of the payment system and for information on the economic circumstances of a private subject (usually a credit institution).

Secrecy in the Riksbank's banking operations (Chapter 31, Section 1)

One important secrecy provision for the Riksbank applies to secrecy in the Riksbank's banking operations regarding information about the economic circumstances of a private subject. The Riksbank's banking operations in this

regard include the bank's cash operations, foreign exchange trade, deposit and lending activities, settlement of payments and trade in securities. This secrecy is absolute, i.e. no damage assessment is necessary.

Works protected by copyright (Chapter 31, Section 23)

Secrecy applies in certain cases to information in a work protected by copyright that cannot be assumed to lack commercial interest, unless it is clearly specified that the information can be revealed without the rights holder suffering any loss or harm. An example of such a work that sometimes features in disclosure cases is the "Scientology Bible".

Secrecy relating to holdings of financial instruments (Chapter 32, Section 6)

The secrecy of information provided to the Riksbank by an official of the Riksbank regarding their holdings of financial instruments is also provided for by a provision in the Public Access to Information and Secrecy Act.

Secrecy of staff-related information (Chapter 39, Sections 1-3)

Secrecy also applies to information about individual employees' personal circumstances in the bank's social environment, e.g. information related to personal development discussions. There are also secrecy regulations that govern other aspects of staff-related information, e.g. details concerning an individual's health or information about personal circumstances related to relocation or retirement and addresses and telephone numbers and photographs, etc. Secrecy does not expressly apply to matters regarding employment or disciplinary responsibility.

Secrecy for switchboard operators (Chapter 40, Section 4)

Finally this includes the secrecy that applies to information received while working on the switchboard and which relates to telephone calls to or from other staff at the Riksbank.

■ Freedom of communication

Freedom of communication refers to the regulations enshrined in the Freedom of the Press Act that make it to some extent possible to, with impunity, provide information normally classified as secret for publication in a written document or via radio or television. The classified information must be provided for the purpose of publication.

Intentional disregard of a secrecy provision, comprising the handing over of a secret official document for publication, is always a punishable offence.

Intentional disregard of a secrecy provision, comprising the oral disclosure of information to e.g. a newspaper for publication, is punishable only in certain cases. The Public Access to Information and Secrecy Act specifies the professional secrecy situations that take precedence over the freedom of communication principle, aka 'qualified professional secrecy'.

Certain secrecy-regulated information at the Riksbank for which the freedom of communication does not apply in accordance with the Public Access to Information and Secrecy Act is listed below.

Chapter 15 Sections 1 and 1 b (certain secrecy relating to foreign affairs). The freedom of communication does not apply to cases where the disclosure of information can be assumed to jeopardise the security of the realm or otherwise cause serious damage to the country (Chapter 15, Section 6).

Chapter 16, Section 1 (fiscal, monetary or exchange rate policy). The freedom of communication does not apply (Chapter 16, Section 3).

Chapter 18, Section 8 (security and surveillance measures). The freedom of communication does not apply (Chapter 18, Section 19).

Chapter 24, Section 8 (secrecy of statistics). The freedom of communication does not apply (Chapter 24, Section 9).

Chapter 30, Section 4 (supervision of the banking system, etc.) The freedom of communication does not apply to information relating to financial or personal circumstances of another party who has entered into a business relationship with a party to whom the authority's operations relate (Chapter 30, Section 30).

Chapter 31, Section 1 (The Riksbank's cash operations, foreign exchange trade, deposit and lending activities, settlement of payments and trade in securities). The freedom of communication does not apply (Chapter 31, Section 26).

Chapter 39, Section 1 (staff welfare, etc.). The freedom of communication does not apply to information regarding staff welfare activities, such as details relating to psychological examinations and certain information emerging from employee performance reviews (Chapter 39, Section 6).

Chapter 40, Section 4 (switchboard operators). The freedom of communication does not apply (Chapter 40, Section 8).