

Data Confidentiality Policy

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1. Introduction

Statistics Denmark is the national statistical authority and has the principal task of compiling statistics concerning society. A necessary requirement for this task is for Statistics Denmark to have access to large volumes of information about citizens and enterprises – much of which is of a confidential nature. For this reason, citizens and enterprises have a legitimate claim to protection of information on them and use of it exclusively for statistical or scientific purposes.

Statistics Denmark's data confidentiality policy is a set of rules and guidelines applied by Statistics Denmark in the processing of large volumes of data about the population and enterprises in Denmark, which is the foundation for the production of statistics.

With respect to personal data, legislation regulates data confidentiality. With respect to enterprise data, the statutory regulation is less elaborate.

For both statistical domains, the data confidentiality policy is Statistics Denmark's specific implementation of the statutory rules and basic principles governing the processing of data for statistical purposes and scientific studies. This ensures that citizens as well as enterprises can rest assured that data on them is used only for this purpose and that information about individual persons or individual enterprises cannot be disclosed via the statistical use of data on them.

A number of appendixes constitute a supplement to the Data Confidentiality Policy and explain specifically the handling of the general policy in a number of specific areas and in a number of specific situations.

Together with Statistics Denmark's Information Security Policy, the Data Confidentiality Policy constitutes the overall security foundation for the processing of the extensive information about people and enterprises in Statistics Denmark's possession.

2 Principles

The principles of the Data Confidentiality Policy are:

- to ensure that knowledge about individual persons or individual enterprises cannot be obtained or derived based on the statistics and data that Statistics Denmark makes available.
- to ensure that information on individual persons or individual enterprises in Statistics Denmark is applied exclusively for statistics or scientific studies.

Public institutions and authorities (as defined in the Public Administration Act) as well as private and self-governing institutions that solve tasks for central and local government in accordance with concluded operation agreements or collective operation agreements or in accordance with legislation are not subject to Statistics Denmark's rules on statistical disclosure control for enterprises regarding statistics on these tasks. This is primarily due to the fact that this information will basically be available via the right of access to documents. Examples hereof are private and self-governing day care centres, nursing homes and accommodation facilities, all educational institutions and private enterprises

providing education and training approved by the government and fully or partly paid by public funds.

The principles have resulted in a number of rules and practices, which are described in the following sections.

3 Organisation

The director general is the chief executive responsible for Statistics Denmark's technical and administrative activities, including the Data Confidentiality Policy.

The task of making decisions on matters of principle concerning the Data Confidentiality Policy as well as the auditing of it is handled by Statistics Denmark's Data Confidentiality Committee, which has been appointed by the director general. The Data Confidentiality Committee prepares an annual report for Statistics Denmark's executive board on the results of the committee's discussions. Statistics Denmark's supervisory board is involved when matters of principle are concerned.

In the individual division of Statistics Denmark, the head of division is responsible for ensuring the implementation of the Data Confidentiality Policy in the division's work. The head of division has knowledge of the details of the division's products and is consequently in a position to identify any critical issues. In cases of doubt, you must contact the Data Confidentiality Committee.

4 Legislative framework

Statistics Denmark's Data Confidentiality Policy implements current legislation. The following statutes are of special importance to the Data Confidentiality Policy.

- The EU regulation on European Statistics¹
- The General Data Protection Regulation²
- The Danish Data Protection Act
- The executive order on sharing of data³
- The Danish Act on Trade Secrets
- The Danish Public Administration Act
- The Danish Access to Public Administration Files Act
- The Danish Criminal Code
- Act on Statistics Denmark

Like other national statistical institutions in the EU, Statistics Denmark must comply with the quality standards in the European Statistics Code of Practice.

Focus points in the legislation

Overall, when data processing happens for statistical or scientific purposes, there are no legal limitations on the linking of registers etc. This is not the case when processing data for other purposes. If Statistics Denmark publishes information that can be traced back to individual persons or individual enterprises, others

¹ The EC regulation 223/2009 of 11 March 2009 of the European Parliament and of the Council, amended 29 April 2015 by EU regulation 2015/759

² Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016

³ Executive order no. 1509 of 18 December 2019, amended by executive order no. 1572 of 9 December 2022

may use this information for other purposes than statistical purposes. This could be for example for administrative decisions, measures targeting an individual, or in the extreme event used by an unauthorised party as the final piece in a profile of the individual in question thus putting the relevant person or enterprise at risk. To avoid unauthorised use of statistical information, laws do not allow us to disclose unit-level information.

The EU legislation on European statistics, the European Statistics Code of Practice and the General Data Protection Rules (GDPR) establish the fundamental principle that data collected for statistical purposes may be used exclusively for the performance of statistical or scientific studies.

Any information that Statistics Denmark collects as a data controller is collected for statistical or scientific purposes. Accordingly, information from Statistics Denmark's closed statistical system may not be used for any other purpose.

The General Data Protection Regulation

The General Data Protection Regulation applies to natural persons. Recital 162 of the General Data Protection Regulation establishes among other things that “(...) *The statistical purpose implies that the result of processing for statistical purposes is not personal data, but aggregate data, and that this result or the personal data are not used in support of measures or decisions regarding any particular natural person*” (our underlining).

From the General Data Protection Regulation it can thus be inferred with respect to natural persons that data must be aggregate. This is to prevent the statistical result from being used in support of measures or decisions regarding any particular natural person.

The EU regulation on European Statistics (223/2009)

The regulation on statistics applies to all information collected for European statistics. Furthermore, it applies to all business data (follows from section 7 of the Act on Statistics Denmark).

It follows from Article 20(1) of the regulation on statistics that confidential data may be used exclusively for statistical purposes. From Article 20(3) it follows that statistical results which may make it possible to identify a statistical unit may be disseminated by the NSIs and other national authorities and the Commission (Eurostat) in the following exceptional cases:

- a) where specific conditions and modalities are determined by an act of the European Parliament and of the Council acting in accordance with Article 251 of the Treaty and the statistical results are amended in such a way that their dissemination does not prejudice statistical confidentiality whenever the statistical unit has so requested; or
- b) where the statistical unit has unambiguously agreed to the disclosure of data.

From Article 25 it follows, that data obtained from sources lawfully available to the public and which remain available to the public according to national legislation shall not be considered confidential for the purpose of dissemination of statistics obtained from those data.

The executive order on sharing of data provides the framework for disclosure of special categories of personal data pursuant to Articles 9 and 10 of the General Data Protection Regulation (sensitive information and information on criminal offences) that was originally collected for scientific or statistical purposes.

Much of the business information collected by Statistics Denmark constitutes trade secrets (such as information about turnover and business connections). The Danish Act on Trade Secrets contains rules on protection against illegal acquisition, use and disclosure of trade secrets.

The Danish Public Administration Act

Section 27 of the Public Administration Act emphasizes the professional secrecy of public servants with regard to confidential information that they obtain in the course of their work. In addition, sections 28-32 contain rules on the disclosure of data to another administrative authority.

Section 27 of the Danish Access to Public Administration Files Act establishes that the right to access material does not include material obtained as a basis for preparing public statistics or scientific studies.

Section 152 of the Criminal Code establishes that (present and former) public servants' disclosure of confidential information is illegal and subject to penalty.

Code of Practice:

From principle 5 of the Code of Practice it follows that

The privacy of data providers (households, enterprises, administrations and other respondents), the confidentiality of the information they provide, its use only for statistical purposes and the security of the data are absolutely guaranteed.

National legislation on the administrative use of statistical data

In two situations, national law obliges Statistics Denmark to disclose data for administrative purposes. This is the case regarding the act on Employers' Reimbursement System (AUB)⁴ and the act implementing a right to early retirement⁵. In these cases, Statistics Denmark drew attention to the discrepancy between disclosure for administrative purposes and the purposes specified in the data protection rules.⁶

5 Rules on data confidentiality in general

The first principle of the Data Confidentiality Policy is to ensure that knowledge on individual persons or individual enterprises cannot be obtained based on the information that Statistics Denmark makes available. This principle is maintained through statistical disclosure control, meaning methods to ensure that information about individual persons and individual enterprises does not appear from statistical tables.

The main rule of statistical disclosure control is that a cell must contain a minimum of three observations to be published, though accepting cells with no observations. Observations are taken to mean the relevant units applied in the statistics, such as persons, enterprises, events, etc.

⁴ Statistics Denmark's obligation to disclose information for AUB's calculation of FTE employees with vocational training is laid down in section 2 of executive order no. 233 of 22 March 2018 (on the AUB's education register for the purpose of finding vocational training FTE to calculate employers' contribution to the AUB fund).

⁵ Statistics Denmark's obligation to disclose data to the Public Benefits Administration for the purpose of assessing length of service is laid down in section 12 of act no. 2202 of 29 December 2020 (act to amend the act on social pension and various other acts (implementation of a right to early retirement)).

⁶ The responses to the hearing are available at: <https://www.ft.dk/samling/20161/lovforslag/L202/bilag/1/1748605.pdf>, p. 29, and <https://www.ft.dk/samling/20201/lovforslag/L104/bilag/3/2290377.pdf>, p. 25.

For business statistical tables, a dominance criterion is applied, which means that if the one or two largest enterprises together account for a dominant share of the value of a given table cell, statistical disclosure control is applied. Statistical disclosure control is dealt with in appendix 1.

In Statistics Denmark's judgement, certain cases warrant a more rigorous disclosure control. This is usually because Statistics Denmark assesses that there would otherwise be a risk that knowledge could be obtained or derived on identifiable individual persons or individual enterprises.

To ensure that the fundamental principles are observed, Statistics Denmark treats all information in Statistics Denmark's possession as confidential.

However, the requirement for statistical disclosure control does not apply to variables regarding sex, age and the industry, address and sector of the workplace. It is the specific content of the variables that is not subject to statistical disclosure control. When linked with other variables, a situation may occur that requires statistical disclosure control.

The number criterion (a cell must contain a minimum of three observations to be published) applies only to the underlying statistical units. Thus, a number smaller than three may be published, provided that it is calculated on the basis of a minimum of three units. For example, this will apply to calculation of the full-time equivalent of employed persons, which will often be a lower number of than the number of employed persons.

Personal data collected by Statistics Denmark for statistical purposes may not be returned to data providers. This is to ensure that such data shall not contribute to the processing of specific cases in the administrative system. As for the return of enterprise data, it may take place in four situations, see appendix 4.

Specifically about enterprise data

The processing of enterprise and business data is regulated in the Danish Public Administration Act on disclosure of information to another administrative authority (sections 28-32), in chapter 2 in the Danish Act on Trade Secrets, in the EU regulation on European statistics as well as in section 7 in Act on Statistics Denmark. Furthermore, the rules on protection of data apply to the processing of sole proprietorships, because there is no practical way of distinguishing information about the owner as an individual from information about the enterprise. The EU regulation on European statistics and the confidentiality requirements with respect to enterprise data in the European Statistics Code of Practice correspond to the rules on data protection. For this reason, Statistics Denmark has decided to perform statistical disclosure control of enterprise data.

A special statistical disclosure control practice applies to a number of business statistics, which means that statistical disclosure control is only applied at the enterprises' own request. This applies to statistics where the product or service – and not the enterprise – constitutes the statistical unit. For this reason, it is difficult to derive information about individual enterprises in these sets of statistics. The criteria for statistical disclosure control at the request of an enterprise correspond to the general rules for statistical disclosure control in the business statistics. This means that to exercise statistical disclosure control, the standard criteria (number/dominance) must be exceeded and the relevant enterprise must have requested statistical disclosure control.

The overall confidentiality principle of ensuring that data in Statistics Denmark is applied only for statistical and scientific studies also applies to information on enterprises. As an exception, however, updates performed by Statistics Denmark in the Business Statistics Register, such as on the industry of enterprises, are transferred to the Central Business Register (CVR), whereby it is made generally available as part of the public basic data.

6 Rules concerning external users' access to unit-level information (microdata)

Access to pseudonymised microdata

At Statistics Denmark, external users can get access to analyse pseudonymised microdata provided that they meet a number of conditions. For data to be pseudonymised, the actual identification variables, such as civil registration numbers or central business register numbers, have been removed and replaced by non-information-bearing serial numbers that are unique for each project. Microdata means data that is linked to individuals or individual enterprises.

External users may apply data about individuals and individual enterprises via one of Statistics Denmark's four microdata schemes:

1. The research scheme
2. The authority scheme
3. The legislative model
4. Data warehouses

The four schemes are described in more detail in appendix 2.

Access to microdata

Regardless which of the four schemes that is applied, data is stored on Statistics Denmark's servers. As a general rule, Statistics Denmark does not hand over data, but can give access to carry out statistical or scientific analyses of data securely stored with Statistics Denmark. Users who are authorised by Statistics Denmark get access for a specific period to the microdata that they need for specified subject-related purposes. The schemes allow transfer of analysis results in cases where it is not possible to identify neither individuals nor individual enterprises, see details at <https://www.dst.dk/en/TilSalg/Forskningsservice/hjemtagelse-af-analyseresultater>.

The tables prepared on the basis of data under these schemes must comply with Statistics Denmark's data confidentiality rules and guidelines, including with respect to statistical disclosure control and aggregation.

Common to all four schemes is the fact that they may be used for statistical or scientific analyses only. It is not allowed under any circumstances to use them for administrative purposes. Nor may they be used for continuous statistical production unless a separate agreement exists regarding this.

Transfer of analysis results under these schemes is controlled in Statistics Denmark's Research Services by means of a system-based tool for checking and sampling. The focus of the checking tool and the sample is on ensuring that microdata is not transferred. The users are responsible for ensuring compliance with Statistics Denmark's rules and guidelines, and Research Services offers the users guidance in this respect.

For all four schemes, any doubt in connection with the interpretation of the rules on data confidentiality will be handled by Statistics Denmark's Data Confidentiality Committee. If necessary, the committee will make a recommendation to the director general.

Regardless which of the four schemes external users apply, it is a general condition that the users have signed special confidentiality and non-disclose agreements in advance and that they perform their analyses in a secure analysis environment authorised by Statistics Denmark.

The law allows for processing and linking of data as long as this is done for statistical or scientific purposes. It is thus important that the use of microdata (i.e. information about individuals or individual enterprises) from Statistics Denmark does not conflict with the purpose limitation (the purpose must be statistical or scientific). This is especially important in connection with external users' access to microdata. For the processing to be within the limits imposed by the EU legislation on European statistics, the data protection legislation and the code of conduct, the processing must meet these requirements:

- Data must be pseudonymised, i.e. direct identification information is removed.
- Output from the processing must be aggregate and must not reveal confidential information.
- The purpose of the processing must be in the public interest. If special categories of personal data are involved or criminal convictions and offences, cf. Articles 9 and 10 of the General Data Protection Regulation, the purpose must be of significant social importance.
- Data may not be used for any other purpose, e.g. administrative, legal or tax purposes, or for checking the affairs of the statistical units.

As long as the processing of data collected by Statistics Denmark for statistical purposes stays within these limits, the processing will be legal. The same rules apply when the processing takes place as part of the preparation of analyses by means of quantitative methods, such as regression analyses.

Disclosure In very special cases, as an exception and based on a specific decision from the director general, Statistics Denmark may disclose microdata on persons for the purpose of preparing statistics or conducting a scientific study. This is described in appendix 3.

7. Data collection for social statistics

Data for social statistics is mainly collected from administrative registers. The Act on Statistics Denmark makes it clear that public authorities and institutions must give Statistics Denmark access to information in their possession that is necessary for compliance with the Statistics Denmark's work programme (section 6) – and that business owners have an obligation to provide data to Statistics Denmark (sections 8-12).

In the few cases where the underlying registers or collection of data from authorities, institutions or business owners do not offer a sufficient basis for preparing the statistics, surveys may be carried out where the data collection takes place by contacting a selected group of persons directly. Participation in surveys is volun-

tary, and any refusal to participate will be respected. If a person wants to participate, he or she is informed before the actual data collection of the purpose and content of the survey. This also applies to surveys that are not included in the statistical production but performed entirely as a service assignment. Sample-based data collection is dealt with in appendix 5.

8. Statistics Denmark as data processor in connection with collection of data from public authorities and institutions

Other public authorities may have a right to collect the same data which is included in the statistical production of Statistics Denmark. To avoid duplicate collection of information, Statistics Denmark may collect data on behalf of another authority. In these cases, the other authority in question is the data controlling authority, and Statistics Denmark is the data processor. Collection and disclosure of data happens in accordance with the instructions of the authority, including any disclosure to other authorities before processing in Statistics Denmark. Concluding the data collection process, it is passed on to Statistics Denmark's ordinary activities, upon which Statistics Denmark will become the data controller of the data as is common practice.

The processing of data for statistics in accordance with this model is not incompatible with an originally administrative purpose of the data collection. Data collected for administrative purposes may be disclosed for statistics – but the opposite must not be the case.

Statistics Denmark's application of the data processor model requires permission from the relevant director in every single case.

The rules concerning data processor agreements are described in more detail in appendix 6.

9. Rules concerning internal users' access to data

For Statistics Denmark's employees to gain access to data, the respective superiors of the employees in question must approve such access, and it must be justified by a data requirement in strict relation to the set or sets of statistics with which the employee in question is working. Access is thus granted on a data minimization principle, and Statistics Denmark's IT department reviews the data access every six months in order to audit all cases of granted access.

The employees' use of register data is logged.