

# **Instructions for the handling of records that need to be protected for reasons other than those set out in the Security Act and associated regulations (Information Protection Instructions)**

**Implementing legislation:** Laid down by Royal Decree of 17 March 1972 under the King's authority to issue instructions. Entered into force on 1 July 1972.

**Amendments:** Amended by the Regulations of 14 May 1982, 7 October 1988 No. 835, 29 June 2001 No. 723 (including the title), 17 October 2008 No. 1119, and 23 January 2009 No. 50.

*English translation by the Office of the Prime Minister 3 May 2017. The names of Norwegian government agencies (in section 5a) have been updated in the English version.*

## **Section 1. Application**

These instructions apply to the handling of records that must be protected for reasons other than those set out in the Security Act with associated regulations, cf. section 4.

The instructions apply to records irrespective of the storage medium.

## **Section 2. Classification levels**

In order to protect the contents of a record, one of the following classification levels shall be used:

STRENGT FORTROLIG (STRICTLY IN CONFIDENCE)

FORTROLIG (IN CONFIDENCE)

The classification levels described in the Security Act must not be used.

## **Section 3. Conditions for protective marking of records**

A record shall only be protectively marked if it may be exempted from public access under the Freedom of Information Act, and such harm as described in section 4 may arise.

## **Section 4. On assigning the appropriate classification level**

When the conditions for assigning a classification level under section 3 are fulfilled, classification levels shall be assigned as follows:

“STRENGT FORTROLIG” (STRICTLY IN CONFIDENCE) is to be used in cases where it could significantly harm public interests, a business enterprise, an institution or an individual if the content of the record becomes known to unauthorised persons.

“FORTROLIG” (IN CONFIDENCE) is to be used in cases where it could harm public interests, a business enterprise, an institution or an individual if the content of the record becomes known to unauthorised persons.

Care must be taken to ensure that a record is not assigned a higher classification level than is strictly necessary.

## **Section 5. *Assigning classification levels and declassification***

1. The agency that issues a record is responsible for assigning it a classification level in accordance with the rules laid down in these instructions.
2. When a record is assigned a classification level, care must be taken to ensure that no more of the record than strictly necessary is protectively marked and that it is not assigned a higher classification level than is necessary.
3. When a record is protectively marked, an evaluation shall be made at the same time of whether the marking may cease to apply from a specified date or when a specific event occurs before the expiry of the 30-year limit. Records may be protectively marked for periods of two or five years. The date of expiry of the protective marking shall be noted on the record next to the classification level. Records that come under the exceptions from automatic declassification after 30 years shall, adjacent to the classification level, be marked 'Unntatt fra automatisk nedgradering' (Exempt from automatic declassification), with reference to section 5a of the Information Protection Instructions. The classification level shall be reviewed after 40 years and thereafter every 10 years with a view to declassification. The provisions of this paragraph do not apply to records containing sensitive information that have been classified by NATO and/or other international bodies.
4. A record may only be declassified by the agency that has assigned it a classification level. The said agency is obliged to take the initiative for declassification if the criteria for protective marking are changed. The classification level of a record shall be reviewed:
  - a. When a request for access to the record is received.
  - b. When the record is otherwise being dealt with in connection with a specific matter.
  - c. When the same (corresponding) information is made known by the authorities of a foreign country/an international organisation.
  - d. When the record is being deposited with the National Archives Services of Norway. The National Archives may refuse to accept protectively marked records that have not been subject to such review.
  - e. When there are other reasons to review the protective marking.
  - f. The Director General of the National Archives may make a decision to declassify a record that has been deposited with the National Archives when it must be considered evident that there is no longer any reason for protectively marking the record. The decision may not be made until the matter has been put before the agency depositing the record.
5. The recipient of a protectively marked record shall always contact the issuer of the record if he is of the opinion that the record has been assigned the wrong classification level.

### **Section 5a.**

For records with protective marking dating from after 1 January 1955, the protective marking ceases to apply at the latest after 30 years, with the exception of the following:

- a) Minutes of meetings of the Defence Council and the Government Security Committee.
- b) Material whose declassification may be harmful to the security of the Realm and/or relations with foreign powers and international organisations, including NATO records.
- c) Records concerning defence installations, systems and material which are still used within the framework of the total defence concept.
- d) Tables of organisation and equipment, contingency and mobilisation plans, plans for concentration of forces and troops, defence plans. The exception applies both to the plans and to their preparation in the context of the total defence concept.

- e) Records concerning the Police emergency preparedness, the Norwegian Police Security Service, the Norwegian National Security Authority and the Norwegian Intelligence Service with respect to information on detailed organisation, scope, sources, methods and results.

## **Section 6. *Indication of the classification level***

The classification level must be clearly indicated on the record, in such a way that it is evident that the record is protectively marked and at which level. If the record consists of several parts, each part must be clearly marked.

On paper records, the classification level shall be indicated at the top of the first page in blue. If the record consists of several pages, these shall be properly bound together and the classification level shall be indicated in blue on the front and back page of the record.

It must not be possible for unauthorised persons to remove or alter the indication of the classification level or the content of the record.

When a record is protectively marked, the provision of the Freedom of Information Act that authorises exemption from public access shall be specified on the record. In addition, it shall be indicated that the record is protectively marked in accordance with the Information Protection Instructions.

Paper records on the STRENGT FORTROLIG (STRICTLY IN CONFIDENCE) level shall carry the copy number, and the number of copies of the record that have been made and the total number of pages shall be specified. The record is to be paginated in the regular way.

Paper records on the FORTROLIG (IN CONFIDENCE) level do not need to be numbered, but shall be paginated in the regular way.

If the protective marking only applies for a limited period of time, the duration of this period shall be specified near/next to the indication of the classification level.

## **Section 7. *Distribution***

Access to a protectively marked record shall only be granted on a 'need to know' basis. Except in the situations mentioned in the first and third paragraphs, a protected record must only be presented to or made known to persons who need to know its content in their official roles.

The authority that has issued or produced a protected record may in individual cases grant permission for access to persons who have a particular need for this.

Parties have the right to acquaint themselves with the records in a case provided that this does not contravene sections 18 to 20 of the Public Administration Act.

Anyone who has a protectively marked record in their care is personally responsible for making sure that the information contained in it does not become known to unauthorised persons.

## **Section 8. *Registration***

A record that is marked STRENGT FORTROLIG (STRICTLY IN CONFIDENCE) shall be registered in a registry that is exempted from public access.

A record that is marked FORTROLIG (IN CONFIDENCE) may be registered either in a registry that is exempt from public access or in a public registry. If it is not possible to register a record in a public registry without disclosing sensitive information, neutral descriptors or omissions or deletions shall be used in the copy of the registry that is to be made available to the public in accordance with the rules on access to records in the public administration.

## **Section 9. Record storage**

Records marked FORTROLIG (IN CONFIDENCE) and STRENGT FORTROLIG (STRICTLY IN CONFIDENCE) must be stored in such a way that unauthorised persons cannot access them. When the office is vacated, such records shall be properly secured. If such records are to be stored electronically, information security measures must be in place (see section 12).

If a record that is protectively marked must be taken home or when travelling or at meetings, particular care must be taken so that the record is not left on public transport or in any other way becomes accessible to unauthorised persons.

## **Section 10. Communication**

Records marked STRENGT FORTROLIG (STRICTLY IN CONFIDENCE) shall if possible be sent by courier or messenger service, but may also be sent by registered post. If a record marked STRENGT FORTROLIG (STRICTLY IN CONFIDENCE) is sent by post, it shall be sent in a double envelope. The inner envelope shall be sealed and shall carry an indication of the classification level. The outer envelope shall not be marked. Records marked FORTROLIG (IN CONFIDENCE) may be sent in the usual manner in an unmarked, sealed envelope.

Records marked FORTROLIG (IN CONFIDENCE) or STRENGT FORTROLIG (STRICTLY IN CONFIDENCE) may be transmitted electronically provided that information security measures are in place (see section 12). When records marked STRENGT FORTROLIG (STRICTLY IN CONFIDENCE) are transmitted, a receipt shall always be obtained.

Unless there are special circumstances, the transmission shall be addressed to the relevant institution and not to a specific individual or position. If the sender wishes an item to be opened only by specific persons, it may be addressed to the holder of a specific position. In this case, the recipient has a duty to ensure that the record is registered without delay in accordance with section 8 of these instructions.

## **Section 11. Destruction**

If a protectively marked record is to be destroyed, steps must be taken to ensure that this is done under satisfactory control, and that its destruction is noted in the registry.

## **Section 12.**

Records that have been protectively marked in accordance with these instructions shall to the extent appropriate be handled electronically in accordance with the following provisions in the Information Security Regulations under the Security Act: section 4-36 in Chapter 4 on record security, Chapter 5 on information system security, section 6-9, fourth paragraph, first sentence, cf. section 6-6 in Chapter 6 on physical protection against unlawful intrusion, and Chapter 7 on management of cryptographic security.

Records protectively marked according to these instructions shall in such cases be handled according to the rules for records classified as BEGRENSET (RESTRICTED).

## **Section 13. Delegation of authority**

The Prime Minister may issue supplementary provisions for the implementation of these rules.