

SWEDEN INTRODUCES NEW STRICTER RULES FOR USE OF PERSONAL IDENTITY NUMBERS

As Sweden was, in 1973, the first country to enact data protection national legislation, it became a model for most European countries which passed laws in the following decade. Now after nearly twenty year's experience, it is moving towards a new policy of strengthening the data protection principles and simultaneously shifting away from universal registration.

Personal Identity Numbers

The *Data Act's* Section 7 (on the duties of the responsible keeper of a file) has been amended so that, from 1st January 1992, personal identity numbers may be collected, recorded and used only when:

- there is a sufficiently strong reason in relation to the purpose of the file
- for the purpose of reliable identification, or
- for another special reason.

The intention is that the responsible keepers of files themselves have to limit the use of personal identity numbers. In addition, a decision has to be taken by the Data Inspectorate on whether or not to permit the collection, recording or use of personal identification numbers in specific cases when granting permissions or when supervising existing files. The Data Inspectorate is now preparing guidelines on the use of personal identity numbers.

Limits on Selling Personal Data

At the same time, the public authorities' selling of personal data from automated data processing files will be limited. Sale will be permitted only if the person formally expresses consent, or if the sale is permitted according to a law, Government decree, or decision.

This means that the possibilities of acquiring personal data, for example, for direct

marketing purposes, from public authorities has been reduced. However, the long-established sale of personal data by the following public sector organizations will continue: DAFA with SPAR (the national population register), BASUN (data on companies and tradesmen) telephone directory data - only to publishers of directories - by Televerket (the telephone company); address information and voluntarily compiled lifestyle data by the Post Office.

Notification Simplified

During the last year the Data Inspectorate has introduced simplified notification procedures concerning personal files kept by local government and religious authorities.

Commission Recommends Changes

A *Data Protection Commission* was appointed by the Government in 1989. Its brief was to revise the *Data Act* of 1973, previously revised in 1982.

The Commission's first report, in September 1990, outlined certain basic principles of a future *Data Act*. Its main features were:

1. The present system of applying for *permission and notification* of personal data files should be abolished
2. The Data Inspectorate should be given the authority to supplement the basic and important provisions of the Act through *regulations for different fields* or sectors
3. The *supervisory functions* of the Inspectorate should be *strengthened* and directed mainly towards sensitive files, as defined in the *Data Act*, for example, health and criminal convictions
4. An obligation should be introduced to *notify the Data Inspectorate about sensitive files*.

Commission's 2nd Report - Sectors

In its second report, published in March 1991, the Commission addressed issues related to certain areas of personal data files i.e. personal data used for *scientific research and*

statistics, the employment sector, the media, and rules governing freedom of information and the press.

Further questions covered were on the *storage* of personal data files and *archives*, and also whether there is a need for overall integration and coordination of the legislation aimed at the protection of privacy especially in relation to automated personal data files.

Finally, the report covers the European Community Data Protection and related draft directives. The Commission discussed some implications of the directives for Sweden's legislation, where Sweden has to harmonize its rules with those of the European Communities.

Commission's 3rd Report - New Concepts

A third report was published in October 1991 covering:

1. data protection aspects of new office systems, such as: electronic mail, local area networks, optical character readers, and multimedia laser discs
2. whether certain terms in the *Data Act*, such as *personal file* and *responsible keeper of a file* should be redefined, and how similar terms are used in the *Council of Europe Data Protection Convention* and the *European Community data protection draft directive*

SWEDEN'S FAXING PRIVACY GUIDELINES

In September, The Data Inspectorate published a report on data protection aspects of faxing personal data. It provides a checklist of a number of data protection threats and safeguards to overcome them.

Problems

Users should be aware of possible problems:

1. dialling the wrong number
2. the wrong person receiving the fax
3. installing the fax machine in a location where faxes are read by people who should not do so
4. the risk of the wrong person receiving a fax if it is connected to a computer local area network
5. the line or the equipment being manipulated to change the information
6. the person sending the information could falsely represent himself as another person
7. the line connection could be broken resulting in lost or unreadable text.

Recommendations

To help overcome these problems, the Data Inspectorate has made a number of suggestions, such as:

1. Give the information a specific privacy classification
2. Put the fax machine in a location where a responsible person can supervise its use
3. Introduce a procedure with written rules on how to handle incoming and outgoing faxes
4. Introduce a procedure for safeguarding the equipment against unauthorized use
5. Use encryption for the sending of confidential information
6. To stop receiving unwanted material, such as unsolicited direct marketing faxes, a security code could be given to contacts from whom faxes are needed
7. Consider a battery back-up for use in the event of an electrical power failure.

3. the *Data Act's* rules on transborder flows of personal data and appropriate sanction and damages when the rules are breached
4. the appeal procedure against a decision of the Data Inspectorate, and whether it should be to the government, as at present, or to a judicial body.

The Data Inspectorate expects to make a response to the Commission's recommendations in February 1992. However, it is likely that any changes to the *Data Act* would not enter into force before 1995.

New Credit Information Commission

A new Commission was elected in November by the Riksdag (Parliament) to review the *Credit Information Act* which is enforced by the Data Inspectorate. The Commission held its first meeting in December and is due to report back to the government by July 1 1993. The Commission will also consider whether there is enough competition between the two major credit information providers; and whether companies based outside Sweden should be permitted to enter the market.

The Data Inspectorate has a representative on both Commissions.

Adding Privacy to the Constitution

On the 1st January 1989 a fundamental rule on protection of personal privacy in connection with data recording was added to the *Instrument of Government*, Sweden's paramount constitutional document. Under this rule every citizen must be protected by law against infringements of personal privacy caused by the registration of personal information by means of automated data processing. Despite the fact that the *Data Act* and the *Secrecy Act* already ensure such protection, it was thought essential to reinforce these laws by an addition to the *Instrument of Government* which shows the great importance that society attaches to privacy.

HALIFAX AND DATA PROTECTION REGISTRAR SETTLE UK TRIBUNAL CASE

Rear Admiral Walters' debut in his role as Deputy Chairman of the Data Protection Tribunal was cut short when he heard the long-awaited appeal of the Halifax against the Data Protection Registrar's Enforcement Notice (PL&B no.16 p.16) on January 6th, 1992. The case was based on an access request originally made in November 1987 and has already been the subject of a court case heard in December 1990. Privacy Laws & Business attended the hearing and learned the results of the closed session.

The *Data Protection Tribunal's* hearing of the Halifax's appeal against the Data Protection Registrar's Enforcement Notice on access to personal information was due to be heard on January 6th, 1992. But the parties reached prior agreement which they presented to the Tribunal in closed session.

In the agreement, the Halifax conceded that the data to which the data subject sought access was indeed personal data and made a promise on its future policy which has not yet been published. As a result, the Registrar withdrew his Enforcement Notice.

The issue of the Section 28 exemption from subject access to data held *for the prevention or detection of crime, or the apprehension or prosecution of offenders* was set on one side as there was now no need for the Tribunal to rule on this point.

The Tribunal's Chairman for this case, Rear Admiral Walters, will issue a statement later.