



S|OM The Parliamentary Ombudsman for Public Administration – Norway



Freedom of information and the Norwegian Electronic Public Records (OEP)

- Now we can all be journalists



SMS sent from the CEO of one of Norway's largest banks to the Prime Minister:

«Thank you for that. Com[munication] is currently sound. Will contact you if necessary. Volume, 3 years and a steadying and calming statement is what matters most now!»



Introduction – the Electronic Public Records (OEP)

EPJ



**For journalists
and scientists
only**



OEP



**For all who has
access to
internet: oep.no**

18th May 2010



*"Let's never forget that the public's desire for transparency
has to be balanced by our need for concealment."*



Government.no The Stoltenberg II Government The ministries [Bokmål](#) | [Nynorsk](#) | [Sámegiella](#) | [English](#)
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ELECTRONIC PUBLIC RECORDS

A service from the Ministry of Government Administration, Reform and Church Affairs

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Advanced search [Simple search](#) [Chronological search](#)

Fill in one or more search fields

Document date	<input type="radio"/> Past week <input checked="" type="radio"/> Past month <input type="radio"/> Past year <input type="radio"/> All years	?
	<input type="text"/> From and including .. to and including <input type="text"/> .. [dd.mm.yyyy]	
Case title/document title:	<input type="text"/> <input checked="" type="radio"/> Both <input type="radio"/> Case title <input type="radio"/> Document title	?
Case number:	<input type="text"/>	?
Document number:	<input type="text"/>	?
Sender/recipient:	<input type="text"/> <input checked="" type="radio"/> Both <input type="radio"/> Sender <input type="radio"/> Recipient	?
Document type:	All	?
Grounds for exemption, document:	<input type="text"/>	?
Archive code:	<input type="text"/>	?
Select one or more agencies:	<input checked="" type="radio"/> All <input type="radio"/> Ministries <input type="radio"/> Directorates, supervisory bodies, county governors and agencies	?

- Ministry of Agriculture and Food (LMD)
- Ministry of Children, Equality and Social Inclusion
- Ministry of Culture (KUD)
- Ministry of Defence (FD)
- Ministry of Education and Research (KD)
- Ministry of Finance (FIN)
- Ministry of Fisheries and Coastal Affairs (FKD)
- Ministry of Foreign Affairs (UD)
- Ministry of Government Administration, Reform and Church Affairs
- Ministry of Health and Care Services (HOD)
- Ministry of Justice (JD)

Select > Select all > < Remove < Remove all

Search in records



How should the search criteria in such databases be designed to ensure transparency without sacrificing privacy considerations?



**How do we safeguard confidentiality
in a common database to which many
agencies deliver content independently
of each other?**



http://www3.bergen.kommune.no/offentligjournal/ - Windows Internet Explorer provided by Sivilombudsmannen

http://www3.bergen.kommune.no/offentligjournal/

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BERGEN KOMMUNE

offentlig journal

Søk Hjelp Informasjon

Velg Avdeling

- Barnehage og skole
 - Byrådsavdeling for barnehage og skole
- Byrådsleders avdeling
 - Byrådsleders avdeling 14.05.2012
 - Kontor for skjennesaker 14.05.2012
- Bystyrets kontor
- Byutvikling, klima og miljø
- Finans, eiendom og eierskap
- Helse og omsorg
- Kultur, næring, idrett og kirke
- Sosial, bolig og områdesatsing

Enhet:

Mottaker/Avsender:

Beskrivelse:

Fra Dato:

Til Dato:

[<< Tilbake](#)

Fullfort

Internett | Beskyttet modus: På

14 av 24 - Utklippstavle
Elementet ble ikke samlet inn: Større en kapasiteten til utklippstavlen.

SLIDE 2

I will start with an account of the freedom of information aspect of my work, particularly in relation to the public administrations' record keeping obligations. I will then give an account of the Electronic Public Records (OEP), a public record-keeping database which any person with internet access can use.

The ombudsman in Norway handles cases under the Freedom of Information Act of 19 May 2006, and in 2011, 143 cases involving transparency and freedom of information were handled. The total number of cases that year was 3,027.

The premise of transparency and freedom of information is that the public is aware of what information is actually available. The obligation to keep records is therefore fundamental to democratic participation, public control and legal protection.

In Norwegian law, there are three conditions that must be met in order for an ingoing or outgoing document to be subject to public record-keeping: Firstly, it must be a case document as defined in the Freedom of Information Act; secondly, the document must be subject to case management, and thirdly, it must have value as documentation.

The «new» document types, including text messages, email and social media such as Facebook and Twitter, partly fall outside the traditional definition of documents, and therefore raise specific issues related to public record-keeping.

SLIDE 3

An example of this is the SMS which, in the autumn of 2008, during the management of the so-called financial crisis in Norway, was sent from the CEO of one of Norway's largest banks to the Prime Minister:

«Thank you for that. Com[munication] is currently sound. Will contact you if necessary. Volume, 3 years and a steadying and calming statement is what matters most now!»

The complaint to me was in relation to, inter alia, the Prime Minister's office's insufficient recording of this SMS. I concluded that the SMS should have been recorded, and that the Prime Minister's office's general procedures for recording text messages were in violation of applicable regulations. As a result of my statement, in 2010, the Ministry of Culture implemented a project to change the regulations so that the administration would in no way be obliged to record text messages. The proposal was sent on a public hearing with a deadline of January 2011, but the regulations have not yet been changed.

Another example, upon which I have not taken a position, but which illustrates the challenges, is the Foreign Minister's update on Facebook last autumn in which, in the same paragraph, he talks about a run he took in the woods and also Norway's official view on the Palestinian conflict. What must be clarified in such a case is how to determine when the social media falls under the relevant body and when it is a "person" or politician who utters them.

One challenge in respect of the new document types is that the decision on whether such an email or a text message should be recorded often lies with the individual case officer, who must ensure that the documents are submitted to the archive service for recording.

SLIDE 4

I would like to tell you a little about the Electronic Public Records (OEP), which was launched 18 May 2010. OEP is of great importance to freedom of information and transparency in Norway, and thus also to my work. All documents subject to public record-keeping from the agencies covered shall be recorded in OEP. The premise of this database is that the public has free access and that content providers

are a number of agencies. This is a big step towards openness, transparency and legal protection in society.

SLIDE 5

OEP is part of the Norwegian Government's work to promote transparency and democracy within the public sector. OEP aims to make the Norwegian public sector more open and accessible to citizens. OEP is based upon the Freedom of Information Act and related regulations.

SLIDE 6

This slide shows the screen from which a search in the database is made. OEP is a collaborative tool which central government agencies, approximately 100 of them, use to publicise their public records online. Public record data is stored in a searchable database. The public can search this database to locate case documents relevant to their field of interest. Having located relevant case documents, users may submit requests to view these. Requests are sent to the respective agencies responsible for the case documents and public record entries. The agencies themselves then process requests, sent to them via OEP, and reply to users directly.

OEP supersedes the earlier electronic mail records, EPJ. EPJ contains information on more than eight million documents in 36 agencies; between 1993 and 2011. OEP only contains documents from the period after 18 May 2010, and now includes more than four million documents.

The old electronic mail records can only be used by journalists and researchers. OEP is, however, available to anyone with internet access.

EPJ is currently operated as a historical database in parallel with OEP. Journalists and researchers will thus also have access to older

documents, because they have access to both databases. Others using OEP will, however, only have access to this database, and it is therefore important that users are aware that older documents may exist which are not available in OEP.

SLIDE 7

After one year, you can no longer search using personal names in OEP. This is justified because, after a certain period of time, considerations of privacy outweigh the considerations of freedom of information and transparency. I agree with the assessment that there should be a time limit on searches using personal names, precisely because of the privacy considerations. The issue raises important fundamental challenges to the establishment and use of such public databases that are easily accessible by everyone and this is one of the questions I would like to discuss with you.

- How should the search criteria in such databases be designed to ensure transparency without sacrificing privacy considerations?

SLIDE 8

Another challenge for OEP is that there may be a risk of confidentiality breaches in that information from multiple content providers may be linked to each other. One example is where three departments have screened the names to which confidential information is related, while a fourth department has left the names unscreened but has chosen to screen the document title. This means that the name can be associated with the document title, so that the confidential information becomes available. Links of this type can largely be avoided by determining common rules governing record keeping. Such rules are determined through guidelines for OEP content providers being set out in parallel to the general legislative provisions that also apply to OEP. In my opinion, OEP makes a very important contribution to democratic participation, public control and

legal protection, which must outweigh the risk of confidentiality breaches. This is still a fundamentally important question that I wish to discuss with you.

- How do we safeguard confidentiality in a common database to which many agencies deliver content independently of each other?

The new Freedom of Information Act, which was implemented on 1 January 2009, will be evaluated before the Parliamentary elections in 2013. As far as I know, the evaluation shall include our experiences of OEP.

SLIDE 9

Not all agencies in Norway are covered by OEP. Including, for example, Norway's 430 municipalities. Many of which have chosen their own solutions for publishing documents; as the example from one of Norway's largest municipalities shows. Some also publish direct links to the documents, so there is no need to send requests. It is debatable whether this is an advantage or disadvantage. Central to my work in this area is increased and proactive freedom of information, but I have been contacted by people who felt they had been compromised - even where confidentiality has not been breached. Some have told me that municipal records linked to the document can be Googled for a long time. In one specific case, an "angry" letter of complaint in a building case was displayed high on the list when the complainant Googled himself. I can understand that this is unpleasant.