Guidance concerning criteria for access to research infrastructure under the Fees for Research Infrastructure Ordinance (2022:1378)

SESAM

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This document has been developed from a user perspective and complements *"Avgifter för forskningsinfrastruktur och kriterier för tillgänglighet till forskningsinfrastruktur – en vägledning för statliga universitet och högskolor*" [*User access fees and criteria for access to research infrastructure – A guide for public-sector higher education institutions]* which elaborates on the Fees for Research Infrastructure Ordinance (2022:1378). This in-depth guide includes an example of how a decision on the establishment of such criteria could be formulated. It also deals with questions about fees for certain goods and services under the Fees and Charges Ordinance (1992:191) and on fees for commissioned research in accordance with the appropriation directions.

Contents

Background and purpose of the new Ordinance

The new Fees for Research Infrastructure Ordinance confers special powers from the Swedish Government concerning the charging of fees for access to research infrastructure. The Ordinance is based on the proposals submitted in the Swedish National Financial Management Authority (ESV) report *Uttag av avgifter för forskningsinfrastruktur* (Charging fees for research infrastructure) (ESV 2020:13). The report was produced as part of a commission from the Swedish Government.

The overall aim of the Fees for Research Infrastructure Ordinance is to increase access to and the use of research infrastructure in Sweden. The Ordinance provides public-sector higher education institutions with better conditions for making research infrastructure available, in order to increase the exploitation rate of research infrastructure and stimulating cross-sectoral collaborations.

Definition of research infrastructure

The Ordinance addresses public-sector higher education institutions and covers research infrastructures as defined by the European Commission[1]:

'Research infrastructure' means facilities, resources and related services that are used by the scientific community to conduct research in their respective fields and covers scientific equipment or sets of instruments, knowledge-based resources such as collections, archives or structured scientific information, enabling information and communication technology-based infrastructures such as grid, computing, software and communication, or any other entity of a unique nature essential to conduct research. Such infrastructures may be 'single-sited' or 'distributed' (an organised network of resources).

Requirements for charging fees

Higher education institions may charge fees for making research infrastructure, as defined in the Commission Regulation, available to external users. External users means users who do not belong to the higher education institution charging the fees. This may include users at other higher education institutions, including private education providers, as well as other government agencies, companies and organisations. However, fees may not be charged for research data that must be made available free of charge under Chapter 4, Section 3 of the Re-use of Public Sector Information Act (2022:818).

To be able to charge fees, the following requirements apply:

- the research infrastructure is wholly or partly under the control of the higher education institution;
- the higher education institution has established and documented criteria for access to the research infrastructure; and

[1] Article 2(91) of Commission Regulation (EU) No 651/2014 of 17 June 2014 declaring certain categories of aid compatible with the internal market in application of Articles 107 and 108 of the Treaty.

- the research infrastructure is provided within the framework of the higher education institution's tasks.

The higher education institution must therefore be responsible for or the 'host' for all or part of the research infrastructure to be made available. It must also be made available within the framework of the higher education institution's tasks. According to the Swedish Higher Education Act (1992:1434), the core tasks of higher education institutions are to provide courses and study programmes based on scholarship or artistic practice and on proven experience, and to conduct research and artistic research as well as development work. These tasks also include collaboration for mutual exchanges with the surrounding community, as well as ensuring that the knowledge and expertise found at the higher education institution bring benefit to society.

Furthermore, to be able to charge fees under the new Ordinance, higher education institutions must also establish and document the criteria that apply for access to the research infrastructures that the higher education institution wishes to make available to external users.

When a higher education institution intends to make a research infrastructure available and the requirements in the Fees for Research Infrastructure Ordinance are met, fees should be charged with reference to the new Ordinance.

More about criteria for access

Under the new Ordinance, in order to be able to charge fees, criteria must be established and documented by means of one or more decisions. The purpose of the criteria is to clarify for different categories of external user which research infrastructures are available, how external users can access them, and to ensure that the pricing is transparent. In addition, there should be a list of the research infrastructure that the higher education institution makes available under the new Ordinance.

It is the responsibility of each higher education institution to establish and document their criteria for access, which ought to include at least the following:

- which research infrastructure is available to external users;
- what is required to get access to the research infrastructure,
- the amount of the fees or the principles for determining the amount of the fees for external use;
- that there are principles for prioritising external use in the event of limited access; and
- how an external user should proceed to get access to research infrastructure.

Which research infrastructure is available to external users

The criteria must state which research infrastructure is being made available for external users to access, for which the higher education institution intends to charge fees pursuant to the new Ordinance. This clarifies which research infrastructure a higher education institution is responsible for or the host for in the case of distributed research infrastructure for example.

What is required to get access to the research infrastructure

The criteria should specify what is required to get access to the research infrastructure provided by a higher education institution. For example, requirements may be imposed concerning publication of the resulting findings in open access scientific journals. Furthermore, a user may be required to participate in training before being permitted to access the research infrastructure, or there may be a requirement that personnel with expertise assist the external user when experiments are carried out using the research infrastructure. These are also circumstances that may affect the amount of the fees charged.

The amount of the fees or the principles for determining the amount of the fees for external use

The criteria should make plain the amount of the fees or the principles for determining the amount of the fees.

Higher education institutions may decide on fees that will cover the costs of the activity (up to full recovery of costs). Different fees may be charged for different groups of users. How these fees are determined must be clearly stated and based on objective grounds.

There is also the option of waiving fees in certain instances, for example in research collaborations or as part of in-kind contributions.

Where necessary in order to avoid distorting competition in the market, the amount of the fees should be market-based. This may be the case when a private actor within the EU offers an equivalent service at a higher fee than that charged by the research infrastructure at a higher education institution, which may then need to charge a fee that is higher than full recovery of costs.

The costs that may be included when determining the amount of the fee are not regulated in the Ordinance and may vary, which may be due to, for example, the funding of the research infrastructure and its operating costs.

Principles for prioritising external use in the event of limited access

If the demand for a particular research infrastructure exceeds its capacity, an order of priority for access may be needed. Priority can be given, for example, based on the purpose of its use. This may also mean that academic research with an assessment of its quality is given priority over use for other purposes. An assessment of feasibility may also be relevant. A simple queueing system could also be used to determine which external users can access the research infrastructure.

Although the criteria for access to research infrastructure address external users, it may also be relevant to specify that internal users have priority over external users. It might also be the case that researchers from other higher education institutions and other researchers should have priority over other external users. However, the criteria must be based on objective grounds and transparent.

There may be requirements or conditions from a funding body regarding the priority that should apply. For example, the Swedish Research Council states in its requirements for funding that research infrastructure should be openly accessible primarily to researchers, and that when access is limited, prioritisation shall be based primarily on scientific excellence.

How an external user should proceed to access research infrastructure

The criteria should make plain how an external user should proceed in order to access particular research infrastructure. For example, this may include who or what function to contact at a higher education institution, or where to find information on how to formulate an application or an expression of interest regarding use of the research infrastructure. It may also include information about how time is booked for use of the research infrastructure.

How should the criteria be established and documented?

The criteria for access must be established by a written decision, thereby also being documented. Who makes the decisions on the criteria, or at what level these decisions are made, is determined by each higher education institution's delegation of authority. Once a higher education institution has established the access criteria, these need to be applied and communicated to potential users in a transparent and clear way, preferably via the research infrastructure's website.

Access to research infrastructure may depend on a number of circumstances that only those responsible for the research infrastructure can assess and have knowledge of. However, there may be advantages to developing a framework that specifies all research infrastructures that a higher education institution intends to make available (see example in Chapter 4 of *User access fees and criteria for access to research infrastructure – A guide for public-sector higher education institutions*). A decision on such a framework may refer to more detailed criteria, such as the amount of fees or the principles for calculating fees, being established by decisions of the part of a higher education institution that is responsible internally for the research infrastructure. This provides greater flexibility in the event of the need to make changes.

Concluding remarks

The exploitation rate of a research infrastructure can vary over time. It may therefore be appropriate to regularly assess the scale of the access and the need to apply the special powers for charging fees.