

Administrator:
Kajsa Ljung

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Guidelines on conflicts of interest in Formas' operations

Established by the Director General on 14 January 2020 and takes effect on 15 January 2020.

1. The principle of objectivity and conflict of interest rules

These guidelines, which are based on Formas' conflict of interest policy, aim to clarify how Formas meets the statutory requirements for objectivity in general and conflict of interest issues in particular. The guidelines are for anyone who is involved in Formas' operations, including Formas employees, board members of Formas' Research Council and the Council for Evidence-Based Environmental Analysis, review panel members, and outside experts and consultants engaged by Formas.

Formas' operations must be consistently designed in accordance with the principle of objectivity contained in Chapter 1, Article 9 of the Instrument of Government. This means that we must ensure the equality of everyone before the law as well as objectivity and impartiality. The principle of objectivity aims to maintain trust in public authorities and in the government. We must therefore remain alert to any conflicts of interest that can arise in our organisation.

As a public authority, Formas must also comply with the rules on conflicts of interest contained in the Swedish Administrative Procedure Act (SFS 2017:900).

The provisions on conflict of interest are described in Sections 16–18 of the Act. These sections specify what “conflict of interest” means and what happens if a situation involving a conflict of interest arises. The following is an unofficial translation of these sections.

16 §

Anyone who participates in handling a matter on the authority's behalf in a way that might influence the authority's decision on the matter has a conflict of interest if

1. he or she or any close relation is a party to the matter or may otherwise be presumed to be affected by a decision on the matter to a significant extent,
2. he or she or any close relation is a representative or agent of a party to the matter or of anyone who may otherwise be presumed to be affected by a decision on the matter to a significant extent,
3. he or she has participated in the final handling of a matter with another authority and as a result has already taken a position on issues that the authority will examine in its role as a superior body, or
4. there is some other special circumstance that could call into question his or her impartiality in the matter.

If it is clear that the issue of impartiality is irrelevant, the authority can conclude that no conflict of interest exists.

17 §

Anyone who has a conflict of interest is not allowed to participate in handling the matter or to be present when the matter is decided. Nevertheless, he or she may perform tasks that no one else can perform without significantly delaying the handling.

18 §

Anyone who is aware of a circumstance that can be assumed to constitute grounds for disqualifying oneself must immediately notify the authority.

An authority must examine any possible conflict of interest as soon as possible.

The subject of the examination can participate in the examination of the issue only if it is necessary for the authority to constitute a quorum and if a replacement cannot be called in without significantly delaying the examination.

2. General

2.1. What is a conflict of interest?

A *conflict of interest* is a circumstance that can discredit the impartiality of the handling of a particular matter. The fact that the person handling the matter feels that he or she can act impartially is irrelevant. Instead, it is the appearance of a situation which determines whether there is a conflict of interest.

Anyone who has a conflict of interest in a matter is not allowed to participate in handling the matter. Handling refers to any measure taken in the matter, from initiating it to concluding it. This means that anyone involved in Formas' operations (for example, employees, council board members, reviewers and experts) must be familiar with the regulatory framework. In some situations, however, the issue of impartiality is not relevant. In these situations, Formas can conclude that the conflict of interest does not exist. Examples of handling of a matter where impartiality is normally irrelevant include registering documents, handling the post and assigning cases to an administrator.

The conflict of interest rules do not only involve the exercise of authority. They cover all matters, including those that do not affect any individual, including referral responses, research policy analyses, compilations and reviews, and evaluations of research results, as well as our own internal evaluations and follow-ups.

An assessment of whether or not a conflict of interest exists should always be made on the basis of the conflict of interest rules of administrative law.

2.2. Different types of conflicts of interest

In some situations, it is clear that a conflict of interest exists. For example, a conflict of interest exists if the person who is to participate in the handling

- is a party to the matter,
- is related to the party,
- is a representative of the party, or
- may otherwise be presumed to be affected by a decision on the matter to a significant extent.

Other situations can be perceived as more unclear or difficult to assess. This is particularly true in cases of so-called discretionary bias that encourages other potential risks of impartiality. It is important that all potential conflict of interest situations are managed and assessed on the basis of the circumstances of each individual case and that the nature, scope and duration are taken into account in respect of the circumstances that can be assumed to constitute a conflict of interest.

2.3. If the matter cannot be handled by anyone else

Despite the presence of a conflict of interest, the person who has the conflict may continue to handle the matter if it cannot be reassigned without significantly delaying the matter. This provision is a last-resort measure intended to prevent matters from being delayed. It may only be used in exceptional cases and only during the time when no other options are available. Therefore, Formas is required to work proactively on conflict of interest issues in its processes in order to prevent conflict of interest situations.¹

3. How do we manage conflicts of interest?

For Formas to carry out its government remit, we need employees, reviewers and council board members who are or have been active researchers or experts with a good understanding of the activities to be evaluated. It is therefore natural that different situations involving conflicts of interest arise in our operations. By using procedures to manage such situations, we can avoid matters being decided on grounds other than purely factual ones.

3.1. Information on and management of conflicts of interest

A person who is aware of a circumstance that might mean that they have a conflict of interest should notify Formas. Employees at Formas must inform their direct manager. Reviewers, council board members, experts and other contractors must notify the responsible administrator.

A person who has a conflict of interest is not allowed to participate in handling the matter. That person is also not allowed to be present in the room when decisions on the matter are taken.

3.2. Matters that relate to Formas' calls for proposals

Responsible administrators may have a conflict of interest with regard to one or more applications. To manage situations involving a conflict of interest in calls, Formas can appoint two persons as responsible administrators for a call or a review panel. The administrator who has a conflict of

¹ Administrative Procedure Act, Section 17, second sentence. The provision allows an authorised decision-maker to take a decision despite the presence of a conflict of interest if it would otherwise entail a significant delay in the matter.

interest does not process the applications in which he or she has the conflict of interest. In some calls, it is not possible to appoint two administrators. In that case, another employee can temporarily take over the applications in place of the disqualified administrator.

Employees at Formas may not be the responsible administrator for a review panel in which a close relation is an applicant, participating researcher or represents an organisation seeking funding.

3.2.1. The review process

Conflicts of interest usually arise in the relationship to applicants, participating researchers or the organisation that is seeking funding. A conflict of interest can also involve other people who are mentioned in the application. Information about any conflict of interest must be stated in Formas' case management system, Prisma. In addition, employees at Formas must inform their direct manager.

When reviewers are appointed to review panels and when applications are distributed to reviewers, issues involving conflicts of interest should be detected in order to avoid a conflict of interest. The reviewers must report any relationship involving a conflict of interest as soon as possible. Reviewers are not allowed to be present when an application involving a conflict of interest is handled.

3.2.2. The decision-making process

Anyone involved in funding decisions must provide information about any conflict of interest. The assessment of whether a conflict of interest exists is based on the information available to the decision-maker. Normally this means that the assessment is based on the decision-support material provided by Formas, but the decision-maker can also have otherwise received information that indicates the presence of a conflict of interest. The decision-maker cannot avoid a conflict of interest by not accepting the decision-support material provided by Formas.

If a decision-maker has a conflict of interest, that person must not participate in the decision and must leave the room when funding decisions are taken.

3.2.3. The Research Council's quorum in the event of a conflict of interest

According to Formas' terms of reference, the Research Council achieves a quorum when the chairperson and at least half of the board members are present.² To ensure that the Research Council achieves a quorum, board members must report any conflict of interest prior to the meeting at which a funding decision is taken.

If Formas' Research Council lacks a quorum because any of its board members has a conflict of interest, the council must

- 1) divide up the decisions so that each one is decided on by members who do not have a conflict of interest and, if this is not possible,
- 2) delegate the decision to members who do not have a conflict of interest.

² Ordinance (2009:1024), with terms of reference for Formas, Section 13.

If none of the above measures are possible, the Research Council may, despite the existence of a conflict of interest, take a decision on funding pursuant to Section 17, second sentence, of the Administrative Procedure Act, which states that anyone who has a conflict of interest is allowed to perform tasks that no one else can perform without significantly delaying the handling of a matter. However, with the exception of the chairperson, a board member may not be present during funding decisions for a project in which that member or any person related to that member is an applicant or a participating researcher. The meeting minutes must specifically state that a decision has been taken on the basis of Section 17, second sentence, of the Administrative Procedure Act.

If the chairperson of Formas' Research Council has a conflict of interest, the vice-chairperson will take over as chairperson. If both the chairperson and vice-chairperson have a conflict of interest, the Director General will take over as acting chairperson.

If the chairperson, vice-chairperson and Director General have a conflict of interest, the chairperson or vice-chairperson is allowed, despite the fact that a conflict of interest exists, to be present during the decision by citing Section 17, second sentence, of the Administrative Procedure Act. The meeting minutes must specifically state that a decision has been taken on the basis of Section 17, second sentence, of the Administrative Procedure Act.

3.3. Matters that relate to national and international collaboration

During decisions to appoint representatives to external boards, committees and other decision-making or advisory bodies, any circumstances involving conflict of interest must be taken into account. This also applies for the decision to extend a former representative's assignment.

3.4. Matters that relate to evidence-based environmental analysis

In Formas' work on evidence-based environmental analysis, people involved in the analysis are not allowed to have any connections or associations that can be assumed to influence Formas' ability to act objectively and impartially. Even in situations in which the provisions of the Administrative Procedure Act are not directly applicable, confidence in the completed analysis can be damaged if a person with an interest participates in the work.

3.4.1. The review process

Any expert engaged by Formas must complete and submit a declaration of conflict of interest describing other assignments and commitments that the expert has or has had. In this declaration, each expert also undertakes not to review articles written by themselves or any close relation. The assessment of whether a conflict of interest exists is made on a case-to-case basis.

3.4.2. The decision-making process

If the chairperson of the Council for Evidence-Based Environmental Analysis has a conflict of interest, the vice-chairperson must take over as chairperson. If both the chairperson and vice-chairperson have a conflict of interest, the chairperson or vice-chairperson is allowed to be present during a decision by citing Section 17, second sentence, of the Administrative Procedure Act. The meeting minutes must specifically state that a decision has been taken on the basis of Section 17, second sentence, of the Administrative Procedure Act.

4. Documentation and decisions

Situations involving conflicts of interest, either when the conflict of interest is present or when it has been reviewed but has not been considered to be present, must be documented no matter where in the process the conflict of interest arises. If a question involving a conflict of interest is raised by an outsider, or if it concerns someone who does not consider themselves to have a conflict of interest, or there are otherwise differences of opinion as to whether the person has a conflict of interest, an examination of conflict of interest must, without undue delay, be referred to Formas for a decision. Formas' Research Council and the Council for Evidence-Based Environmental Analysis examine questions of conflict of interest that arise within their respective bodies. Other questions of conflict of interest are decided by the Director General.

5. Communication and information

Since questions and discussions about conflict of interest arise throughout Formas' organisation, all those involved in the handling of matters must be aware of and understand the content of Formas' conflict of interest policy and guidelines for managing conflicts of interest. To ensure this, the following applies:

- All employees must be informed about Formas' conflict of interest policy and these guidelines for managing conflicts of interest.
- New employees must be given the opportunity to discuss the meaning of the conflict of interest policy and guidelines as part of their onboarding process.
- Administrators involved in the review of applications must be given the opportunity to discuss conflicts of interest and current handling arrangements before and after application review in order to obtain comments on how their work can be improved.
- The conflict of interest policy and guidelines must be sent to all reviewers and experts. When other contractors are engaged, they must be told where they can read the conflict of interest policy and guidelines.
- The conflict of interest policy and guidelines must be communicated to Formas' Research Council and the Council for Evidence-Based Environmental Analysis.