

# THE VELUX FOUNDATIONS

VILLUM FONDEN ✕ VELUX FONDEN

## THE VELUX FOUNDATIONS Principles for legal capacity

April 2018

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## 1 Introduction

This memorandum describes the policy for legal capacity of the foundations, VILLUM FONDEN and VELUX FONDEN, in connection with handling applications and granted projects in the foundations.

It is a requirement that persons who collaborate in a case must have legal capacity to handle the case. In other words, the person concerned shall be able to consider the case without being influenced by interests that do not concern the actual assignment as member of the board of trustees, working group member, expert or secretariat staff member in the foundations. Should there be a risk that a person may be influenced by an interest that is irrelevant to the case, this person is said to have a conflict of interests. This may for instance be the case if a person is both on the board of the foundation and the applicant, or if an application is submitted by the spouse of the person concerned.

When formulating this policy, the foundations have emphasised to ensure that rules and principles of legal capacity are adhered to, and at the same time the foundations want that active, Danish researchers will be able to participate actively on the boards of trustees and in the working groups of the foundations.

## 2 Legal capacity and conflict of interests

Members of the board of trustees, external working group members and secretariat staff members shall not be permitted to participate in the handling of cases where a conflict of interests exists in relation to the person concerned. Experts drafting opinions on applications upon request from the secretariat or working group cannot act as expert where a conflict of interest exists in relation to the person concerned.

Conflicts of interests occur if the person concerned or somebody close to the person concerned has a financial or business interest in an application or a close, personal relation to the applicant or another person who will receive support by means of a grant.

If the issue concerns an agreement or a lawsuit between the foundation and the person concerned, this person will simply be considered disqualified. If instead the agreement or lawsuit is directed at somebody close to the person concerned, the latter person will be considered disqualified if he is deemed to have an essential interest in the case that might be contrary to the interests of the foundation.

If the foundations have to consider applications from organisations where the person concerned is active in the management or a researcher etc. the following shall apply:

- (a) The person concerned is a member of the applicant's board of directors or executive board

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If the person concerned has participated in handling the case on the applicant's board of directors or the case is of essential financial importance to the applicant, the person concerned shall be deemed disqualified and shall not participate in the handling of the case.

In case of small organisations the person concerned shall always be considered disqualified if he is on the applicant's board of directors or executive board.

- (b) The person concerned is employed by the applicant without being on the board of directors or the executive board

The person concerned shall not be permitted to participate in handling the case if (a) the person concerned participates in any way whatsoever in drawing up the application or in the project applied for, or (b) the person concerned is the applicant's manager, or the applicant is the manager of the person concerned, or besides (c) if the person concerned is considered being closely connected to the applicant due to present or former close cooperation etc.

In case of small organisations the person concerned shall always be considered disqualified if he is in the applicant's employ.

### **3 Persons concerned**

The principles of legal capacity described in this memorandum shall apply to members of the boards of trustees of the foundations, to the working group members appointed by the boards and to the secretariat staff members of the foundations.

### **4 Process in case of possible conflict of interests**

In case of any risk of conflict of interests, having gained information about the matter in question the person concerned shall inform the board/working group to this effect as soon as possible. In case of doubt, the chairman of the board of trustees shall decide whether the person concerned shall be permitted to participate in the handling of the case.

If a conflict of interests occurs, the person concerned shall not be permitted to participate in handling the case in question. This entails that the person concerned shall not participate in any part of the handling or the decision in the case about for instance allocating a grant or rejecting an application. The rest of the board members/working group may decide to obtain an account from the person concerned about the case.

If the disqualification occurs in connection with a competition between several applications within a given area, it must be considered whether the person concerned must also refrain from participating in

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the handling of the other applications in the competition if it is considered that these are indirectly decisive for the case that entails an interest of conflicts. This might particularly be the case where in advance the board of trustees has prescribed a binding number of grants or a binding budget for the competition.

It must be documented if a possible conflict of interests and the reason for it has been ascertained in a case. The information should appear from the case handling system of the foundations and from the presentation to working groups and boards, so that everybody is familiar with the matter and will be able to contribute to the rules being observed. Moreover, the matter must appear from minutes of meetings concerning the handling of the case. If the reason for the conflict of interests is confidential, a suitable formulation shall be used, which as far as is possible substantiates the nature of the conflict of interests without divulging confidential information or sensitive personal data.

## 5 Independence

For members of the board of trustees and external members of the working groups formed by the foundations certain requirements to the members' independence of the foundations shall also apply. The requirements are laid down in the recommendations on foundation governance<sup>1</sup> and the foundation charter for the working groups appointed by the boards. The requirements for independence concern the possibility of the person concerned becoming or remaining a member of the board of trustees or the working group, and the requirements are also meant to prevent continuous or repeated conflicts of interests in relation to the work performed by the board of trustees or the working group.

## 6 Evaluation

The boards of trustees shall make an evaluation of the policy of the foundations in this area, which as a minimum shall take place annually in connection with the boards' position on the recommendations for good foundation management

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<sup>1</sup> See paragraph 2.4 in the recommendations <https://godfondsledelse.dk/english>