

Summary

This report explores the processes by which state agencies in Sweden handle consultation requests and referrals (in Swedish: *remisser*) from the government and examines how they perceive this role. The motivation for this investigation arises from the frequent depiction of the referral system as a fundamental component of governmental decision-making, with state agencies holding a pivotal role among consulted actors. Despite this, the referral process remains little studied.

The lack of research on agencies' consultation practices means that our understanding of several key aspects remains limited. These include the extent to which agencies adhere to guidelines on structuring referral responses, how agencies organize the work internally, and how they perceive their role in this process. Additionally, little knowledge exists regarding how various fundamental characteristics of the agencies – such as their size and type of operations – influence their referral practices.

This knowledge gap is problematic, not only because agencies invest considerable resources in referral work (estimated at approximately one billion SEK annually), but also due to recent concerns that the quality of the government's decision-making basis has declined, with a deteriorating referral process cited as a contributing factor. This decline is attributed in part to a lack of time and resources, but also to a perceived reduction in the willingness and courage to “speak truth to power.”

In light of these considerations, this study aims at providing a more comprehensive and detailed understanding of the referral practices of Swedish government agencies. Should this study reveal deficiencies or challenges, we aim at proposing adjustments that could improve the quality and efficacy of agency referral work. To this end, this study addresses the following questions:

1. How has the referral system evolved in Sweden, and what current regulations govern agencies' consultation work as directed by the parliament and the government?
2. To what degree do the governmental agencies comply with these regulations?
3. How does regulatory adherence vary across agencies of different sizes and operational focuses?
4. To what extent is referral work guided by internal agency structures, both formal and informal?
5. What significance do agencies assign to their referral responses, and what do they consider the consultation work to encompass?
6. How extensive is agencies' referral work, and what are the associated costs?
7. Is there a need to strengthen agencies' consultation work, and if so, in what ways?

This study employs both an AI-based analysis of approximately 20,000 referral responses archived in the Swedish National Financial Management Authority's (ESV) database from 2011–24, covering reports and memorandums in the departmental series (Ds) and the government inquiry series (SOU), and a qualitative interview study with nearly 40 managers and staff members across twelve governmental agencies of varying size and operational domains.

Historical development and current regulations

The historical analysis reveals that since the mid-14th century, a constitutional precedent has required the sovereign to consult with a group of advisors possessing a degree of autonomy. While the monarchs have honoured this principle to varying extents over time, the rule was formally disregarded only during Sweden's two brief periods of absolute monarchy (1680–1719 and 1772–1809).

For centuries, these advisors operated as a cohesive council, which by the early 17th century included heads of agencies and comprised a core advisory group at national gatherings (later the

Riksdag) convened to deliberate with the king on major issues. However, over time, the council became distinct from the parliament and eventually, after 1720, entirely separate from the agencies. The agencies long held a strong position within the council, and as they grew more specialized, the council itself took on the role of a fact-based expert advisory body. Nevertheless, it was not until the 1809 Instrument of Government that a formal provision was introduced, mandating that necessary information should be gathered from relevant agencies before any government decision.

The limited studies on the referral practices of agencies from the post-World War II period until the adoption of the 1974 Instrument of Government (in Swedish: *regeringsformen*, RF) indicate persistent challenges, including overburdened departments and agencies, as well as ambiguities regarding the scope of issues agencies were permitted to comment on and which personnel should be involved in the referral work.

The constitutional requirement from 1809 was retained in the 1974 Instrument of Government through Article 7:2, which stipulates that the government must obtain necessary information and statements from relevant agencies in preparing government matters. The difference from the 1809 provision is that other actors, in addition to the agencies, are now to be consulted during this process.

General rules on how agencies should handle and decide on matters also apply to referral responses. However, there is no specific legislative regulation governing the agencies' consultation work that clarifies the provision in RF 7:2. Instead, referral practices are outlined in two departmental memorandums: the *Propositions Handbook* (Ds 1997:1) and *Responding to Referrals* (in Swedish: *Svara på remiss*). The former mainly guides the work within the Government Offices.

The latter, primarily directed at consultation actors, is brief and generalized, containing several "recommendations regarding the format of consultation responses" and is thus purely advisory. It emphasizes, for example, that consultation actors should clearly indicate whether they agree with proposals, oppose them, or have no opinion. Moreover, if the consultation actor is uncertain, this should

be explicitly stated rather than couched in ambiguous language. All stated positions should also be substantiated with reasoning.

The analysis reveals that public authorities need to take a clearer stance

Out of 19,759 AI-analyzed responses, two-thirds are judged to contain clear positions, while one-quarter contain ambiguous ones. Excluding responses that express “no comments” reduces the proportion of clear stances to 44 per cent.

Two-thirds of the responses include arguments supporting positions taken, while one-third lack such argumentation. Of the responses, 37 per cent agree with the proposals (positive) under consultation, slightly less than a tenth disagree (negative), and 55 per cent are neutral or ambiguous in their stance.

Four out of ten responses combine a clear position with supportive arguments, thus in accordance with the guidelines. A smaller proportion of these, 4 per cent, clearly express a negative stance towards the proposals. Many agencies, however, issue clear positions without accompanying arguments and remain neither positive nor negative regarding the proposals. Nearly a quarter of the responses fall into this category, likely due to agencies approving proposals or indicating no comments, who may not perceive the need to argue for this stance.

One-fifth of the responses contain arguments but lack clear positions, which could suggest a passive or cautious approach. Passivity is also indicated in responses that only contain the stance “no comments” without argumentation.

Agencies tend to be cautious in their expressions, employing a wide range of terms, many of which are vague or evasive. The terminology recommended by the Prime Minister’s Office in the memorandum *Responding to Referrals* has yet to gain widespread adoption. Instead, many agencies prefer to use other terms.

The study indicates that differences between various types of agencies are generally of minor importance. However, smaller agencies tend to submit responses without arguments more frequently than larger ones and are also somewhat more likely to issue ambiguous positions. Law enforcement agencies stand out by

more often issuing ambiguous positions and are underrepresented among responses that are clear, reasoned, and positive about the proposals. Conversely, they are overrepresented among responses containing arguments but that are lacking clear positions.

Extensive organization and strong commitment

The qualitative study of twelve agencies shows that the referral work is regarded as an important task and enjoys significant commitment and respect. This work is viewed as important primarily because it enables agencies to provide the government with accurate information to support important decisions, while also gaining knowledge about planned reforms and legislative changes. There is also a general awareness that responses are reviewed by other actors, such as the opposition, the media, other agencies, and private organizations.

Many agencies have centralized referral functions to their management and legal departments and have invested in developing procedural support, templates, internal web pages, and training for referral work.

The working process is similar across agencies and involves a designated coordinator assigning incoming referrals to a responsible unit or a specific employee. The appointed officer may work independently or in a group, coordinating with relevant units and often consulting the legal department. External contacts are fairly common, particularly with other governmental agencies, while interactions with private organizations are less frequent.

Typically, the agency head is the decision-maker. During presentations, a memorandum is often included, indicating whether the agency supports, opposes, or has no comments on the proposal. Some agencies also require a note on whether the draft has been prepared with specific parts of the organization and if there are any deviant opinions not addressed by the presenting unit.

Consensus culture strongly influences the referral work, with internal conflicts nearly always resolved and deviant opinions rarely documented. The study also identifies certain issues, both procedural and substantive, where agencies express uncertainty or differing views. These differences are more pronounced between

agencies than within them, such as their views on external contacts, where some regard the work as strictly internal, while others support communication outside the agency.

Another issue concerns the extent to which agencies should follow the recommendations for clear stances in the *Responding to Referrals* memorandum. Some argue that the responsible employee is entirely free to formulate the response, while others hold that the guidelines should be followed.

There is also uncertainty and divided opinion on what the agencies should, may, and ought to express. This concerns whether (1) the agency should only comment on matters within its area of competence, (2) the agency should strictly adhere to the investigation's directives and proposals, and (3) the agency should only address the implementation of the proposals ("how") or also the idea or reform behind them ("what"). This latter point can be seen as a question of administration/law (how) versus policy (what).

Our study reveals that the agencies have much in common, but that some differences exist. Larger agencies tend to have more specialized functions for allocation and coordination of the referrals, while smaller agencies are more dependent on individual roles and have more active involvement from the agency head.

In agencies such as Stockholm District Court, established work practices and traditions are prominent, with consultation work regarded as a strictly internal matter, adhering closely to investigation directives and proposals. In contrast, agencies with a knowledge-sharing mandate, such as the Gender Equality Authority, tend to adopt a more proactive stance, using responses to promote their specific interests and values, such as gender equality.

Beyond organizational size and type of operation, the extent to which the consultation matter affects the agency's core mission also influences the consultation effort. The less relevant a proposal is to an agency's mission, the fewer resources are devoted to it; conversely, the more relevant it is, the more resources the agency allocates.

The costs of the referral work are hard to estimate, as few agencies record the time and resources consumed, and when it is done, the accuracy is often limited. An estimate suggests an average

of approximately 110 hours per referral, a unit cost of around 88,000 SEK, and an annual total cost exceeding one billion SEK.

Discussion and conclusions

Our final discussion is structured around four key themes. *First*, we claim that too many of the agencies' referral responses lack sufficient clarity. Particularly problematic are responses that, while containing arguments, do not articulate explicit positions. Such responses suggest that the agency has not fully balanced its arguments or provided a conclusive assessment. This omission arguably constitutes an abdication of responsibility, depriving the government (and other stakeholders) of comprehensive information that could be provided. Consequently, this diminishes the referral process's capacity to generate value to the extent that it could and, indeed, should.

Moreover, the linguistic variability observed in agencies' responses, specifically regarding the articulation of positions, undermines their informational value. Interpretations of certain frequently used terms vary significantly among individuals, suggesting that agencies should adopt a standardized vocabulary with universally interpreted meanings. However, the terminology endorsed in the *Responding to Referrals* memorandum by the Prime Minister's Office does not appear optimally suited for this purpose. Instead, the pair "approve" (in Swedish: *tillstyrker*) and "disapprove" (in Swedish: *avstyrker*) – already widely adopted by agencies – offer greater simplicity and clarity. Like-wise, the recommended phrase "has no comments on the proposal" proves problematic due to its inconsistent interpretation: at times, it is read as a mild endorsement; at others, as passive neutrality. This inconsistency is further compounded by cases where the agencies combine the phrase "no comments" with explicit opinions, resulting in logical incoherences. Thus, there is a need to establish more rigorous standards for the clarity of the agencies' positions, coupled with the expectation that these positions will be substantiated with argumentation.

Second, our analysis reveals a pervasive ambiguity surrounding the permissible scope of the agencies' referral responses. Agencies

need to be encouraged to adopt a comprehensive approach, offering all relevant insights – given the proposals – that may assist the government in making the most informed decisions possible. This approach should be applicable even when the comments extend beyond the agency’s immediate jurisdiction, exceed the boundaries of the inquiry’s mandates, or address the substantive nature of the issue (“what”) rather than the procedural aspects (“how”). In essence, agencies should possess the autonomy to respond as they deem appropriate, bounded solely by two conditions: the provision in RF 7:2, which mandates authorities to supply the government with “necessary information and statements” (where the agency determines the scope of “necessity”), and the general constitutional requirements of impartiality and objectivity, stipulating that responses should be grounded in the agency’s expertise and knowledge.

Third, findings indicate an insufficient exchange of knowledge between agencies. Agencies assign considerable importance to the referral work, and the majority have developed various organizational arrangements for this purpose. Such arrangements are critical, not only in providing structure and continuity to the referral processes but also in conferring legitimacy. Notably, however, agencies receive no support in structuring their referral functions. Administrative agencies with mandates for public-sector development have provided little assistance. Instead, it is common that the agencies “reinvent the wheel”. This is a suboptimal outcome, as agencies could mutually benefit from one another’s experiences. A wealth of practical expertise on referral work exists within the agencies and should be systematically collected and disseminated.

Fourth, our findings indicate that the regulatory framework governing referral work warrants re-evaluation. While constitutionally entrenched through RF 7:2, which imposes a preparatory obligation on the government, this regulatory structure remains weak insofar as it is specified solely in a memorandum by the Prime Minister’s Office that constitutes general guidance. Although we considered but ultimately rejected the notion of legislatively refining RF 7:2, we conclude that more prescriptive measures are not necessary. Rather, we propose enhanced clarity in the regulatory framework, emphasizing for example that agencies

should formulate clearer positions and that they possess greater latitude in their referral responses than is commonly perceived.

Our proposals

Based on our final discussion and conclusions, we put forward five proposals:

1. *Refine and clarify governmental guidance and directives*

We propose that the *Responding to Referrals* memorandum by the Prime Minister's Office be updated to clearly stipulate that agencies should distinguish between their positions on the proposals and their arguments supporting these positions. Additionally, it should be specified that agencies are to provide arguments for all positions, including neutral ones.

We further propose that the terms *agrees with* and *opposes* are replaced with *approves* and *disapproves*, and that the phrase *no comments* is replaced with *neither approves nor disapproves*. Authorities should be encouraged to limit their expressed positions to these three standardized formulations. In the argumentation that follows each of these three positions may, of course, be supplemented with additional comments, including suggested amendments to the proposals or specific qualifications and reservations.

The guidelines should also clarify that, within the parameters of impartiality and objectivity and in accordance with general standards governing agencies' decisions, each agency independently determines the scope and content of its response. Agencies should be advised to avoid including descriptions of their activities and mandates in their responses and to provide summaries only for longer or more complex responses, especially those covering multiple subproposals. Appendix 8 includes a proposed draft of the memorandum incorporating these revisions.

2. *Pilot and monitor the revised guidelines*

We propose that the government instructs the Swedish Agency for Public Management (in Swedish: *Statskontoret*) to support agencies' efforts by convening a group of up to ten agencies tasked with responding to consultations in alignment with the proposals above. An alternative approach would be for Statskontoret, or another

agency, to independently initiate the formation of such a working group. Agencies should assess the practical effectiveness of these proposals and report their conclusions to the Prime Minister's Office, to test the proposals' effectiveness and potentially recommending adjustments.

3. Establish a central support function

We propose that Statskontoret be designated as a general support unit for other agencies in their referral work. In this capacity, Statskontoret should function primarily as a knowledge agency rather than a normative one, assisting other agencies in developing internal guidelines and templates for structuring referral responses and organizing internal consultation processes. A core aspect of this support function would involve promoting best practices – collecting and disseminating methods and insights from various agencies. This support could include seminars, network building, training, and guidance. Additionally, the support function could assist agencies in better evaluations of their referral work.

4. Use AI and modern technology for quality assurance

We propose that Statskontoret, in cooperation with the Swedish National Financial Management Authority (ESV), be tasked with periodically analyzing agencies' referral responses using AI tools and random sampling. ESV, which has established a database of agencies' responses and developed appropriate AI tools, could be a valuable partner in this initiative. Individual agencies could also employ AI tools to review and ensure the quality of their responses before submission, enabling them to identify unclear positions, inconsistencies, or lacking or weak arguments.

5. Introduce a consultation dialogue between the Government Offices and agencies

We propose establishing a recurring consultation dialogue between each agency and the relevant department. While such dialogues are currently rare, they are desired and could enhance both governmental consultation requests and agencies' responses. The frequency of these dialogues could vary depending on the number of referrals an agency responds to. One possibility would be to hold these dialogues annually, potentially alongside the annual agency dialogue.