

Regulations on Impartiality and Confidence in the Research Council of Norway

Purpose

This document contains the Research Council of Norway's guidelines for impartiality with commentary.

Chapter II "Concerning disqualification" of the Public Administration Act (Attachment 1) applies to the Research Council, and all employees, experts and members of the Council's governing and advisory bodies are required to comply with the provisions found there. Both the rules governing disqualification based on discretionary assessment and the rules governing automatic disqualification are to be consulted in each matter or case that is dealt with.

These guidelines are intended to ensure that Research Council employees, experts and members of the Council's governing and advisory bodies remain impartial and that the parties involved as well as the public at large maintain confidence in Research Council decisions. As a supplement to this document, a set of guidelines has been prepared to facilitate assessment of disqualification in accordance with these guidelines.

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Regulations:

1 Scope

These guidelines apply to Research Council employees, experts and members of the Council's governing and advisory bodies, as well as any other person who performs services or work for the Research Council, pursuant to Section 10 of the Public Administration Act.

2 Definitions

For the purposes of these guidelines, the following terms shall have the following meanings:

Party – “person or legal person to whom a decision is directed or whom the case otherwise directly concerns,” cf. Section 2, litra e), of the Public Administration Act. Under normal circumstances this definition will also encompass an individual who is directly identified in a grant application and who will play a central role in a project.

Decision – a resolution or other action that has an impact on the further progression of a case. This may also involve a choice that entails *not* reaching a resolution or taking action.

Commentary:

While these rules apply in general to all activities, they have been designed with the Research Council grant application process specifically in mind.

A set of guidelines has been prepared to facilitate assessment of disqualification in accordance with these guidelines.

As a rule, the Research Council's decisions regarding allocation of funding will be directed toward the institution that is the formal applicant (project owner). The project owner will always be defined as a party pursuant to the Public Administration Act. Even though funding applications entail a clear affiliation between specific individuals and projects, the individuals involved are not normally considered to be parties under the Public Administration Act.

To facilitate the assessment of disqualification, the Research Council has therefore clarified and extended the concept of “party” to include the individuals who are identified in a grant application. Typically, this will encompass the project manager, fellowship grant candidates and other key participants specifically identified in a grant application. Extending the concept of “party” entails among other things that the rules pertaining to automatic disqualification will also apply to these individuals.

A decision implies that a conclusion is reached or a path is chosen in relation to an assessment. Ranking grant applications in a recommendation and appointment of expert referees both

comprise typical examples of decisions.

A decision may be of an individual nature, i.e. one that establishes rights/obligations for a party (for example allocation of funding to a project) or of a strategic nature, i.e. one that establishes the foundation for subsequent rights/obligations. The guidelines governing disqualification apply in relation to both types of decisions. With regard to strategic decisions, an individual will be disqualified when it is extremely likely that the decision will be of clear significance for his or her own institution or own ability to receive funding at a later date.

3 Requirements as to impartiality and decisions concerning the question of disqualification

3.1 Automatic disqualification

An employee, expert or member of governing and advisory bodies of the Research Council, as well as any other person who performs services or work for the Research Council, shall automatically be disqualified from preparing the basis for a decision or from making any decision in a case

- a) if he himself or she herself is party to the case;
- b) if he or she is related by blood or by marriage to a party in direct line of ascent or descent, or collaterally as close as a sibling;
- c) if he or she is or has been married to or registered partner with a party, is engaged to or is cohabitant with a party, or is the foster parent or foster child of a party;
- d) if he or she is the guardian or agent of a party to the case or has been the guardian or agent of a party after the case began;
- e) if he or she is the head of, or holds a senior

With regard to automatic disqualification, the Research Council's guidelines correspond to Section 6, paragraph 1 of the Public Administration Act, with the exception of changes in *litra c*), which specifies that registered partnership is considered equivalent to marriage and that cohabitation leads to automatic disqualification for as long as the relevant parties are cohabitants; and in *litra e*), which is not limited to private companies, etc., such that those holding senior positions at public and private institutions (e.g. state universities and private colleges) are viewed in an equal light.

All members of a faculty board are disqualified with regard to all grant applications from that specific faculty or institute. A corresponding rule applies to all members of university boards.

position in, or is a member of the executive board or the corporate assembly of a public or private institution that is a party to the case;
f) if he or she is, or within the last three years has served as, the doctorate-level advisor for a party to the case;

3.2 Disqualification based on discretionary assessment

An employee, expert or member of governing and advisory bodies of the Research Council, as well as any other person who performs services or work for the Research Council, shall be disqualified from preparing the basis for a decision or from making any decision in a case if there are any special circumstances which are apt to impair confidence in his or her impartiality.

When assessing disqualification, due regard shall be paid to whether the decision in the case may entail any special advantage, loss or inconvenience for the individual involved personally or for anyone with whom he or she has a close personal association. Due regard shall also be paid to whether any objection to the individual's impartiality has been raised by one of the parties.

3.3 Disqualification due to competition

An individual who is disqualified pursuant to the sections 3.1 and 3.2 of these guidelines may not prepare the basis for a decision or make any decision in a case that is in direct competition with the case for which the individual him or herself is disqualified. A state of direct competition may be said to exist when the decision in the case is highly likely to have a direct impact on the case in which he or she has been disqualified.

Furthermore, the Research Council has added wording to enhance gender neutrality, and has added the rules contained in 3.1 f).

The Research Council's guidelines on disqualification based on discretionary assessment, correspond to parts of Section 6, paragraph 2 of the Public Administration Act, with the added specification contained in Sections 6 (first paragraph) and 10 of persons to whom the rules on disqualification shall apply. The crucial element here is not whether there is reason to believe that the member will act in a non-impartial manner, but whether *confidence* in the member is likely to be diminished.

The assessment of disqualification should pay due regard to and attach importance to the following:

- personal interest in the outcome of the case;
- close professional collaboration, including co-authorship and supervisory activities;
- close personal friendship;
- personal or professional conflict;
- personal ownership – shares, etc.

For details, please see under disqualification due to competition in the guidelines.

3.4 Disqualification among Research Council employees

If a Research Council employee is disqualified pursuant to sections 3.1 and 3.2 of these guidelines, that individual may not prepare the basis for a decision or make any decisions pertaining to that case. If a superior officer is disqualified, the case may also not be decided by any Research Council employee directly subordinate to the disqualified individual.

As a general rule, and depending on their former position, new employees who have been recruited from an institution/group that has sought research funding will be disqualified in relation to grant applications from this institution/group for a given period of time after their employment in the Research Council commences.

The Research Council guidelines correspond to parts of Section 6, paragraph 3 of the Public Administration Act.

The imposition of a waiting period for new employees recruited from an institution/group that has sought research funding should be considered. A duration of six months (the normal duration of the trial period) is recommended, cf. the guidelines.

4 Procedures

4.1 Declaration concerning impartiality

The Guidelines on Impartiality and Confidence in the Research Council of Norway are to be sent to all members of the Research Council's governing and advisory bodies and to all expert referees. Each individual must sign a declaration stating that he or she is familiar with and will comply with these guidelines.

Expert referees are responsible for notifying the Research Council if there are any circumstances that render them disqualified in relation to the application(s) they have been asked to assess

Members of the Research Council's governing and advisory bodies are responsible for providing information regarding appointments, etc., that are of relevance to their activities in relation to the Research Council.

4.2 Administrative proceedings

The individual employee, expert referee and member of the Research Council's governing and advisory bodies, as well as any other person who performs services or work for the Research Council, shall give ample notice to the Council of any circumstances that render or may render him/her disqualified.

With regard to an employee, the question of disqualification will be determined by the individual's superior.

With regard to expert referees, the decision regarding disqualification will be taken by case officers in the Research Council in dialogue with the expert involved.

With regard to the governing and advisory bodies, questions of disqualification must be discussed with the leader of the relevant body. The leader will consult the Research Council

If the question of disqualification proves difficult to resolve, the administration may consult the Research Council's internal advisory panel on impartiality and appeals., cf. the

administration. The decision regarding the disqualification of members will be taken by the relevant governing and/or advisory body.

The agenda for each meeting shall include a permanent item for discussion of matters relating to members' impartiality.

The minutes from the meeting shall indicate in brief that the question of disqualification appeared on the agenda, which issues have been discussed and the final decisions taken.

Members shall be asked to provide information and their own views on the factual circumstances surrounding the eligibility issue, and shall thereafter stand down during the discussion of their eligibility.

It is when dealing with this item on the agenda that the relevant body will take its final decisions on all matters relating to disqualification/obligation to stand down (cf. Section 8 paragraph 2 of the Public Administration Act).

The relevant body must have a quorum when dealing with matters relating to disqualification.

If the question of disqualification should arise in respect of several members in connection with one and the same case or grant application, none of the implicated members may participate in the decision regarding their own or another member's disqualification, unless the body would otherwise lack a quorum for deciding the question. In the latter case all attending members shall participate.

In the event that a member is deemed disqualified to participate in a matter, he or she shall leave the room during the proceedings relating to and completion of the relevant case(s).

A member who has interests as a party to matters being dealt with by the body involved shall not be afforded any opportunity to endorse his or her interests outside those channels available to other parties in the matter (provision of supplemental information, further specification of details, etc.).

panel's mandate.

Requirements pertaining to a quorum are set out in the relevant body's mandate. These apply both in relation to assessment of disqualification issues and other decisions.

This paragraph corresponds to Section 8 paragraph 2, second sentence of the Public Administration Act.

The Research Council administration may assess the question of disqualification prior to the meeting, and take appropriate action to ensure that the case may proceed in a manner that minimises the impact of any issues pertaining to eligibility.

As a rule, disqualified board members are to be sent all case documents. In certain cases, however, it will reduce the risk of disqualification due to competition if specific documents are not sent out at an early phase. For details, please see the guidelines.

Another method for compensating for disqualification may be to appoint substitute members prior to the meeting.

Attachment 1: Public Administration Act, Chapter II. Concerning disqualification

Act of 10 February 1967 relating to procedure in cases concerning the public administration as subsequently amended, most recently by Act of 1 August 2003

No. 86 (short title: Public Administration Act)

Chapter II. Concerning disqualification

§ 6. (*requirements as to impartiality*).

A public official shall be disqualified from preparing the basis for a decision or from making any decision in an administrative case

- a) if he himself is a party to the case;
- b) if he is related by blood or by marriage to a party in direct line of ascent or descent, or collaterally as close as a sibling;
- c) if he is or has been married or is engaged to a party, or is the foster parent or foster child of a party;
- d) if he is the guardian or agent of a party to the case or has been the guardian or agent of a party after the case began;
- e) if he is the head of, or holds a senior position in, or is a member of the executive board or the corporate assembly of a company which is a party to the case and which is not wholly owned by the State or a municipality, or an association, a savings bank or foundation that is a party to the case.

He is similarly disqualified if there are any other special circumstances which are apt to impair confidence in his impartiality; due regard shall inter alia be paid to whether the decision in the case may entail any special advantage, loss or inconvenience for him personally or for anyone with whom he has a close personal association. Due regard shall also be paid to whether any objection to the official's impartiality has been raised by one of the parties.

If the superior official is disqualified, the case may not be decided by any directly subordinate official in the same administrative agency.

The rules governing disqualification shall not apply if it is evident that the official's connection with the case or the parties will not influence his standpoint and neither public nor private interests indicate that he should stand down.

The scope of the second and fourth paragraphs may be further specified in regulations prescribed by the King.

§ 7. *(provisional decision).*

Regardless of whether an official is disqualified, he may deal with a case or make a provisional decision in a case if it cannot be postponed without causing considerable inconvenience or harm.

§ 8. *(decision concerning the question of disqualification).*

The official shall himself decide whether he is disqualified. He shall submit the question to his immediate superior for decision if a party so requests and this may be done without undue loss of time, or if the official himself otherwise finds reason to do so.

In collegiate bodies the decision shall be made by the body itself, without the participation of the member concerned. If, in one and the same case, the question of disqualification should arise in respect of several members, none of them may participate in the decision regarding their own or another member's disqualification, unless the collegiate body would otherwise lack a quorum for deciding the question. In the latter case all attending members shall participate.

A member shall give ample notice of any circumstance which disqualifies or may disqualify him. Before the question is decided, his deputy or other substitute should be summoned to attend and participate in the decision if this may be done without undue expense or loss of time.

§ 9. *(appointment of a substitute).*

If an official is disqualified, a substitute shall, if necessary, be appointed or elected in his stead.

If the appointment of a substitute will be particularly inconvenient, the King may decide that the case in question shall be transferred to a coordinate or superior administrative agency.

§ 10. *(persons to whom the rules on disqualification shall apply).*

Besides public officials, the provisions of this Chapter shall apply correspondingly to any other person who performs services or work for an administrative agency. The provisions shall not apply to members of the Council of State in their capacity as members of the government.

Attachment 2: Guidelines for assessing impartiality

1. Introduction

These guidelines describe various considerations that must be taken into account in the assessment of disqualification in accordance with the Regulations on Impartiality and Confidence . Specific situations and issues that commonly arise during the grant application review process at the Research Council are presented and discussed.

2. Definitions

2.1 Party

The term “party” is defined as follows in Section 2, litra e), of the Public Administration Act:
Party: a person to whom a decision is directed or whom the case otherwise directly concerns.

The term *person* in this context can also refer to legal persons, i.e. institutions or organisations.

Use of the term “party” in the Research Council:

The Research Council’s decisions regarding allocation of funding are normally directed toward the institution that is the formal applicant (project owner), or in certain cases toward an individual when he or she serves as the formal applicant. These will always be defined as a party pursuant to the Public Administration Act. A question that arises, however, is whether the role of party is limited to the formal applicant, or whether the project manager and any specifically designated fellowship candidates or other named participants in the project are to be considered parties as well, since the decision will have a direct impact on them.

The Research Council uses the term “party” in the contracts that are drawn up and all contract follow-up procedures after funding has been awarded. In this context, the term “party” applies only to the project owner.

In the context of the assessment of disqualification, however, the Research Council has extended the concept of “party” to include the individuals who are identified in a grant application and will play a central role in the project. Consequently, the rules pertaining to automatic disqualification will also apply to these individuals. This is due to the strong connection that exists between a project, a project manager and other key project participants. If the concept of party were not to be extended, it would be necessary to use discretionary assessment to determine disqualification with

regard to the relationships listed under Section 3.1 of the regulations. With regard to other named individuals, disqualification must be based on discretionary assessment.

It is important to note that the concept of party draws a clear dividing line between those who have a direct affiliation with the project versus whose affiliation is more indirect, such as through contributing to funding. Such individuals will not be encompassed under the phrase “directly concerns” of the Public Administration Act, and are therefore not considered to be parties. Thus, the provisions for automatic disqualification will not apply, and disqualification must be based on discretionary assessment.

2.2 Decisions – Individual decisions/Strategic decisions

In principle, the Regulations on Impartiality and Confidence apply in connection with any activity to prepare the basis for or take an administrative decision. Decisions taken in the Research Council can be divided into two main types: strategic decisions and individual decisions. An individual decision is a decision directed toward one or more specified persons (Section 2 litra b) of the Public Administration Act), while a strategic decision is not addressed to a specific person or legal person. The regulations apply to both types of decisions.

The Research Council’s choice of special priority areas, for example, may be characterised as a strategic decision. The same will normally be the case for allocation of resources from a division board to a programme board. Individual decisions comprise the approval or rejection of a grant application. Whereas strategic decisions have a more general, indirect effect on the individual application, the individual decisions will exert a direct and tangible impact on applications for funding from the Research Council.

Regardless of whether a matter involves a strategic or an individual decision, the Regulations on Impartiality and Confidence will normally need to be applied. An affiliation leading to disqualification in relation to an individual decision will not necessarily imply disqualification in relation to a strategic decision. With regard to strategic decisions, an individual will be disqualified when it is extremely likely that the decision will be of clear significance for a specific institution’s ability to receive funding at a later date. The greater the chance that a decision will have a concrete impact on the final distribution of support from the Research Council to specific applicants, the greater the likelihood that impartiality will need to be assessed.

Another important difference between individual and strategic decisions is that the provisions relating to automatic disqualification (Section 3.1 of the regulations) are not usually applied in connection with strategic decisions, as these are not directed towards or pertinent for an applicant, cf. the definition of “party” above.

3. Assessment of impartiality: General

These guidelines combined with the regulations and comments are intended to provide clarification for efforts to assess matters relating to impartiality.

The task of assessing impartiality will always require the exercise of a certain measure of discretion. When considering the question of disqualification the following general questions must be asked:

- Are there any circumstances pertaining to the matter that may impair or be assumed to impair the individual’s professional judgment?

- Seen from the outside, are there any circumstances pertaining to the matter that may impair or be assumed to impair the individual's professional judgment?
- Is there anything in the individual's conduct that is apt to diminish confidence in the final decision?

Due regard must be paid to whether the decision in the case may entail any special advantage, loss or inconvenience for the individual involved. It should be emphasised that disqualification in no way is associated with impropriety. What is considered inappropriate, however, is not taking suitable action in specific contexts where one's affiliation to a party (see definition) is so strong that one cannot be involved in a decision that will affect that party.

The table below provides an overview of which issues should be assessed when determining whether a person should be disqualified. The table is meant as an aid for systematising the assessment process, and can also be used as a basis for recording the discretionary decisions that have been taken.

Points to check	Description
a) Automatic disqualification	Is himself/herself party to the case, or is e.g. related to, married to, engaged to, divorced from, a foster parent to, guardian for or in direct competition with a party to the case, or is in a senior position to or is a member of a steering body for a party to the case. See the regulations pertaining to automatic disqualification.
b) Close personal/professional association	Close personal friendship (must be more than an acquaintanceship), close professional collaboration, e.g. collaboration or co-publication of recent date, etc. Both the scope and proximity in time are components in determining closeness in collaboration/co-publication (see Chapter 4.1 below on close professional collaboration). When determining whether close personal or professional ties will lead to disqualification, consideration must be given to whether the decision taken in the relevant case will have an impact on the person involved in the close relationship (cf. point c).
c) Potential for special advantage/loss/inconvenience	To be disqualified, a person or someone with whom he or she has a close relationship (point b) must have a certain degree of personal interest in the outcome of a case. In the context of the Research Council, this will normally entail the outcome of a project allocation process. The personal interest may be of a professional and/or financial character. For university employees such interests will tend to be at the professional level. Even when an employee is not directly involved in the relevant project it may be in his or her own interests that his or her professional community is strengthened, receives greater recognition, or is awarded funding for new equipment, as this may enhance his or her own potential for support in the future. For the employee of a company, especially one from a small

	company, the personal interest may be at the financial level, as a grant allocation can mean job security for all the staff members. For employees at a research institute, the interest may have both a professional and a financial component, depending on the institute's size and diversity (see Chapter 5 below).
Other circumstances which are apt to impair confidence in a decision in which the individual has taken part	Seen from the outside, are there any circumstances pertaining to the matter that may impair or be assumed to impair the individual's professional judgment, for example in relation to requirements relating to administrative proceedings, equal treatment, or objectivity? The essential question here has to be: How does this look from the outside? The assessment must be based on more than loose speculation and assumptions. It must be seen as highly probable that someone will question a person's impartiality, and that this will diminish confidence in the actual decision taken.

It is essential that all relevant elements be considered in each individual case. The presence of several applicable elements at the same time may indicate disqualification more clearly.

4. Discretionary assessment of impartiality

When no grounds for automatic disqualification are present it is important to consider impartiality based on discretionary assessment. There are a number of different factors to assess in this context, including whether the decision will entail any special advantages, loss or inconvenience for the individual involved, or whether there are any special circumstances which are apt to impair confidence in a decision in which the individual has been involved.

A number of typical situations that are relevant in relation to Research Council activities are discussed in the following.

4.1 Close professional collaboration, including co-publication and supervisory activities

A person who has, or until recently has had, close professional collaboration, including co-authorship, with a person or institution that is party to the case, may be rendered disqualified in relation to that party. In this context, it is important to focus on how the dynamics of the specific discipline may determine what is considered to be "recent" collaboration.

When assessing potential disqualification as a result of co-publication, participation in professional networks, etc., the case officer will need to have an idea of what the concrete cooperative relationships actually comprise. An opinion must be formed as to whether the nature of the collaboration, the degree of closeness and cooperation, and the amount of time that has elapsed are of a nature that can lead to disqualification. It must be kept in mind that cooperation is in its essence dynamic, and there are many different types of relationships between people. Thus, it can be difficult to establish general rules for the discretionary assessment to be exercised. The overall question is whether the professional cooperation can be said to be active and recent.

The following may provide helpful guidance for discretionary assessment of potential disqualification:

- Ongoing close collaboration renders an individual disqualified.
- Co-publication is normally assessed in the same way as other close professional collaboration. A large number of contributors to a publication and the role played by the individual in question may have an impact on this, and must be considered in each case. In general, the smaller the number of co-authors, the greater the likelihood of disqualification, but it should be noted that problems may still arise when there is a large number of co-authors as well.
- Co-publication or cooperation within the past three years renders an individual disqualified, with the stipulations mentioned in the point above
- Co-publication or collaboration that took place more than three years ago does not normally lead to disqualification, unless there is a general perception that the former collaboration has resulted in an enduring, close relationship (professional and/or personal). Here it will be necessary to exercise discretion.

A person who has served as academic advisor for a party working towards a doctorate degree more than three years ago (cf. Section 3.1 of the regulations) must assess his or her impartiality on the basis of the three bullet points listed in Chapter 3 of these guidelines. The same applies to individuals who are, or have been, academic advisors for a party working towards other degrees or qualifications than a doctorate degree.

4.2 Close personal friendship

A close personal friendship with an individual who is party to the case will normally lead to disqualification in relation to that party.

4.3 Personal or professional conflict

A person who is, or recently has been, involved in a personal or professional conflict with a party to the case, beyond that which is considered to be normal disagreement, may be disqualified in relation to that party. An example of this could be a situation in which a strongly negative personal characterisation has been expressed in the public media.

4.4 Ownership – shares, etc.

Personal ownership:

Ownership of shares in a company that is party to the case will not in and of itself be enough to render an individual disqualified.

Nonetheless, it is possible that certain stockholdings could impair confidence in an individual's impartiality. An example of this would be a situation in which the individual owns a majority or all of the shares. The effect of this will be further amplified if the ownership interests are substantial in relation to the individual's personal finances while, at the same time, the outcome of an application to the Research Council will play a decisive role in determining whether the investment shows a loss or a gain.

Ownership of a few shares in a large company or a company with statutes that limit or preclude the payment of dividends will normally not lead to disqualification.

Employer's ownership interests:

If the company in which an individual is employed has stockholdings in other companies that are applying for research funding, this may be a disqualifying factor if it is evident that the decision would have a significant effect on the value of the shares, which would in turn be significant for the individual involved (e.g. by enhancing job security).

4.5 Indirect competition

In the case of direct competition, the situation must be assessed in accordance with Section 3.3 of the regulations, cf. Chapter 6 of these guidelines.

Less directly competitive situations may also render an individual disqualified, but only if there are other elements in addition to peripheral competition (for example, strong professional disagreement).

5. Disqualification of employees from the same institution

Rules relating to automatic disqualification and disqualification based on discretionary assessment may both need to be applied when considering the impartiality of employees from the same institution.

Several elements must be considered when a person is to be involved in a decision concerning applications from the institution at which he or she is employed.

- What position does he or she hold at the institution?
 - Under otherwise equal circumstances, a person with a key or senior position in an institution will be disqualified more often than persons in less senior positions.
- Ownership rights, in the form of shares and the like, in the institution at which the individual is employed must be assessed.
 - Even a small number of shares may be enough to render an individual who holds a senior position within the institution disqualified. Conversely, a large shareholding may be a contributing factor in the disqualification of an individual in a less senior position at the institution.

Impartiality considerations may be affected by the sector with which an individual is affiliated. (the university sector, independent institute sector or trade and industry sector).

The following outlines a number of elements that can be used to assess impartiality in relation to the sector with which an individual is affiliated:

The university sector

Individuals serving as rectors, deans or department heads will be disqualified from dealing with applications from their own units pursuant to Section 3.1 litra e) of the regulations. The same applies to individuals serving on the boards of the university, faculty or department.

Individuals in researcher/professor positions will tend to be disqualified in relation to applications in which researchers from their own groups or close professional partners play a key role. However, employment at the same department does not necessarily entail disqualification. This will depend on the size of the department (number of researchers) and the professional ties between the applicant and the relevant researcher/professor. These elements must be assessed separately in each individual case.

Independent institute sector

An individual who is the head of, or holds a senior position in, an independent research institute will be disqualified pursuant to Section 3.1 litra e) of the regulations. The same applies to an individual who is a member of the executive board of the institute.

Like those engaged in the university sector, individuals in researcher/professor positions will tend to be disqualified from reviewing applications in which members of their own research group or close professional partners play a key role. In addition, the impact that a grant allocation to the institute will have on the relevant employee must be considered. In this context, importance must be attached to the implications of the project in relation to the institute's financial standing and reputation.

Trade and industry

An individual who is the head of, or holds a senior position in, a company will be disqualified pursuant to Section 3.1 litra e) of the regulations. The same applies to an individual who is a member of the executive board of the company.

Like those engaged in the university and independent institute sectors, company employees will tend to be disqualified from reviewing applications in which members of their own group or close professional partners play a key role. In addition, the impact that a grant allocation to the company will have on the relevant employee must be considered. In this context, importance must be attached to the implications of the project in relation to the company's financial standing and reputation.

6. Disqualification due to competition

Members of a governing or advisory body as well as expert referees that are disqualified must stand down during processing of applications that are, or may come to be, in direct competition with the application(s) for which he or she has been deemed disqualified.

A programme board member who is disqualified in relation to one or more applications is not automatically disqualified in relation to all the applications in a given grouping. The deciding factor will be whether there exists a "direct" competitive relationship between the applications that is apt to diminish confidence in the relevant programme board member's impartiality in dealing with the remaining applications. A key criterion in the concrete assessment of disqualification due to competition will be whether the rejection of one or a small number of competing grant applications would substantially improve the likelihood of approval of the application that is the object of the impartiality discussion, i.e. whether the member involved has any special interest in the rejection of certain other applications.

This may be the case:

- When the available funding will only cover a few of the applications and the number of applications in the grouping is small. In this situation, disqualification for the entire grouping of applications is advisable.
- If there are one or more applications for large-scale grants that will prevent funding of applications for many other smaller-scale projects. In this situation the individual who is disqualified in relation to a small application could have an interest in downgrading one of the applications for a larger-scale grant.

- If the available funding is sufficient to finance all but a few of the grant applications. In this situation it is the projects that are not selected that are the most critical, since the remainder will thereby be guaranteed to receive funding.
- If there are few applications within a programme's sub-topics. Here, specific conflicts of interest may arise within a narrower segment of the application review process.

The degree to which the disqualification should apply in relation to the entire group of applications must be assessed in each instance. Some simple parameters can be used as a general rule of thumb: If there are 20 applications or fewer in a grouping, it is presumed that disqualification will apply to the entire grouping. If there are more than 20 applications, disqualification will not extend to the entire grouping, unless situations such as those described above exist or others arise that may lead to corresponding impartiality problems. The number 20 should therefore merely be viewed as a guideline; the individual governing and advisory body must evaluate the specific situation in each case.

In certain cases the risk of disqualification due to competition may be reduced if the content of specific documents is not made known to programme board or committee members prior to application processing. If referee assessments have been obtained it may be relatively easy to deduce when a special competitive relationship exists between certain applications. In such cases, a member of the programme board or specialist committee who is disqualified in relation to one application will not be eligible to assess other applications even if the number of applications in the grouping exceeds 20. The risk of disqualification due to competition may, however, be reduced if the results of the referee assessments are not made known to the members of the programme board or specialist committee until after they have assessed the applications' strategic significance and relevance relative to the call for proposals, etc. This procedure may also be followed if the programme board or specialist committee is charged with assessing scientific merit, and will be using the referee assessments to support the programme board's/specialist committee's decision as to which applications should be granted funding. Disqualified members must stand down during the final decision-making process. This type of procedure enables a greater number of programme board/specialist committee members to participate in the "first round" of assessing applications, as it is not yet clear at that stage which applications are in direct competition with each other.

When determining what would be the most constructive approach, consideration must also be given to how the process will appear from the outside, and whether it will serve to diminish confidence in the decisions taken.

7. Disqualification of Research Council employees and assessment of a waiting period

It is presumed that, from time to time, case officers and individuals in senior positions at the Research Council will find themselves disqualified in relation to individual applications. The practical consequences of such disqualification must be assessed on a case-by-case basis.

Depending on their former position, new employees who have been recruited from an institution/group that has sought research funding may be disqualified in relation to most grant applications from this institution/group for a given period of time after their employment in the Research Council commences. This is based on the same reasoning found in Chapter 4.1, which states that an individual who has, or until recently has had, close professional collaboration,

including co-authorship, with a person or institution that is party to the case, may be rendered disqualified in relation to that party. The length of time for which the individual will be disqualified will depend on the type of collaboration that individual has had with his or her researcher associates.

It would be inappropriate for a new employee to process applications from his or her former place of employ too quickly after commencing duties at the Research Council. As a general rule, a waiting period of six months (the normal duration of the trial period) should be imposed for new employees. It is presumed that the new employee's focus and loyalty will have been transferred from the former to the current workplace after this period. Moreover, it is during these first six months that the likelihood is greatest that a new employee will encounter applications in which he or she has been directly or indirectly involved in his or her former position.

The waiting period should be implemented such that a new employee does not take part in dealing with applications from his or her former employer for application review processes that commence, or are underway, during the first half of the waiting period. Potential disqualification due to competition must also be considered.

The basic rule regarding disqualification for a six-month period does not preclude the individual from being disqualified for a longer period.

For new employees who have been granted leave from their former workplace, disqualification for the entire period of leave must be considered.

8. What tasks can disqualified staff members carry out in relation to application processing

Pursuant to the Section 6 of the Public Administration Act and the Research Council's Regulations on Impartiality and Confidence, a Research Council employee is disqualified from taking part in the processing of grant applications to which he or she or someone close to him or her is a party. If an employee has been rendered disqualified, then he or she may not take part in the proceedings relating to the specific grant application or any applications that are in direct competition with this. Disqualification due to competition must be assessed in accordance with the regular principles, see Chapter 6.

If a superior officer is disqualified, the employees who are directly subordinate to the disqualified individual may still take part in the proceedings relating to the application, but are not permitted to take any decisions during the process (e.g. select expert referees). In these cases such decisions must be transferred to outside the specific department/division, and when necessary submitted to a substitute director.

The tasks at the various stages of application processing are of different types, and it is important to have a clear idea which of these involve taking decisions. The table below provides an overview of the various stages of application processing and specifies which tasks may be carried out by a case officer who is disqualified as well as by a case officer whose superior officer is disqualified. The table is based on the following two scenarios:

- No special principles for distribution of allocations have been stipulated, i.e. all grant applications are competing on an equal footing.
- Special principles for distribution of allocations have been stipulated for the actual application review process, i.e. grant applications may be divided into smaller groupings

where there is internal competition within the group, but there is no competition between applications in different groups.

The following abbreviations are used for the various types of tasks:

- K** - Office tasks: Tasks that will not influence the end result of a case may be carried out by anyone, including individuals who have been deemed disqualified.
- T** - Lay the foundation for a decision: Tasks that involve laying the foundation for a decision may not be carried out by a case officer who has been deemed disqualified. If the case officer's superior officer is disqualified, the case officer may carry out these tasks as long as he or she is qualified.
- A** - Take a decision: Tasks that must be characterised as decisions, i.e. that will have an impact on the further processing of the case, may only be carried out if neither the case officer nor the case officer's superior have been deemed disqualified.

	Stage in the process	Type of task, cf. Public Adm. Act, Section 6	No principles for distribution of allocations within the overall application portfolio	Principles stipulated for distribution of allocations within the overall application portfolio – applications do not all compete with one another
1	Rejection of application without assessment, i.e. on indisputable formal grounds	A	Disqualification only significant for the relevant application.	Disqualification only significant for the relevant application.
2	Rejection of application on discretionary assessment	A	Disqualified case officer (or qualified case officer with disqualified superior) may not assess rejection of the relevant application or the other applications <i>if there are fewer than 20</i> . ¹	Disqualified case officer (or qualified case officer with disqualified superior) may not assess rejection of the relevant application or the other applications <i>if there are fewer than 20</i> in the relevant grouping of applications. Disqualified case officer (or qualified case officer with disqualified superior) may reject applications that are in different groupings from the relevant application.

¹ The number 20 is not an absolute, and discretion may be exercised with regard to what an appropriate minimum number would be in the individual situation (cf. Chapter 6).

3	Recommend transferring an application	T	Disqualification due to competition assessed as above.	Disqualification due to competition assessed as above.
4	Propose referees in general	Is not part of the proceedings for a specific application. Impartiality is not relevant.		
5	Propose referees for a specific application	T	Disqualification due to competition assessed as above.	Disqualification due to competition assessed as above.
6	Select referees for a specific application	A	Disqualification due to competition assessed as above.	Disqualification due to competition assessed as above.
7	Carry out referee assessment through use of expert panels	T	Disqualified case officer may not take part in implementation of referee assessment of competing applications that are assessed by the same expert panel.	Disqualified case officer may take part in implementation of referee assessment of applications in another budget group than the relevant applications, even if this is carried out by the same specialist panel that assesses the relevant application.
8	Administrative assessment of various aspects, including relevance (e.g. in Provis)	A	Disqualified case officer (or qualified case officer with disqualified superior) may not assess the relevant application or the other applications <i>if there are fewer than 20</i> .	May assess applications in another budget group than the relevant application.
9	Administrative preparation for allocation meeting when the administration is not submitting a recommendation	In most cases K. May be T if a greater amount of preparation is called for.	If T, then disqualification due to competition must be assessed as above.	If T, then disqualification due to competition must be assessed as above.

10	Administrative recommendation	A	Disqualification due to competition entails that a disqualified case officer (or qualified case officer with disqualified superior) may not take part in ranking projects. If it is clear that the relevant application would under no circumstances be awarded a grant, it will not be in competition with the others.	Disqualified case officer (or qualified case officer with disqualified superior) may take part in ranking projects in another budget group than the relevant application.
11	Administrative participation in allocation meeting when the administration is not submitting a recommendation and when it is submitting a recommendation but the committee has nonetheless been charged with assessing individual projects.	T	Disqualified case officer may not take part in meeting during proceedings relating to the relevant application. In case of disqualification due to competition, the case officer may not take <i>active</i> part in the meeting.	Case officer may take part in the proceedings for projects in other budget groups than the relevant application.
12	Administrative participation in allocation meeting where recommendation as a whole is approved or rejected.	T	In case of disqualification due to competition, the case officer may not take <i>active</i> part in the meetings.	Case officer may take part in the proceedings for projects in other budget groups than the relevant application.
13	Notification of outcome of the application review process.	K	Disqualified personnel is not allowed to <i>sign</i> letters of notification.	Disqualified personnel is not allowed to <i>sign</i> letters of notification.