

Binding guidelines regarding disqualification due to conflict of interest in connection with the processing and evaluation of research applications for support to research from the Ministry of Foreign Affairs of Denmark.

The official research councils' decision-making is subject to the provisions of the Danish Public Administration Act (*Forvaltningsloven*) concerning disqualification. Equivalent rules apply to the other Danish research councils' grant-awarding functions.

These guidelines apply to members of research committees and working groups attached to these, as well as to secretariat staff, reviewers and any other person designated to take part in the evaluation, prioritization and processing of applications (in the following referred to as "the person.").

A person who is disqualified relative to a matter must not make a decision, take part in making a decision, or otherwise influence the consideration of the matter in question or in any way exert influence on the outcome of the matter. A disqualified person must leave the meeting room during the discussion of the matter, and cannot provide advice on the matter to any of those who are to participate in part or in whole in its consideration.

In special circumstances, the provisions on disqualification can be modified under the terms of Section 4 of the Danish Public Administration Act. However, it should be stressed that Section 4 provides for a rather limited exception. Sections 3 and 4 of the Danish Public Administration Act are reproduced in an annex to this document.

Any person shall be disqualified under the terms of Section 3, Subsection 1 of the Danish Public Administration Act if:

1. The person concerned has a particular personal or financial interest in the outcome of the case or is currently representing or has previously represented someone in the same case with such an interest.
2. The spouse, person-in-law of the person concerned or relative in the direct line of ascent or descent or in the collateral branch as close as nephews and nieces or any other closely related persons have a special personal or financial interest in the outcome of the case or represent any person with such an interest. Permanent non-marital cohabitation is equivalent to marriage.
3. The person concerned participates in the management of or is closely related to a company, association or other private legal entity particularly interested in the outcome of the case.
4. The case relates to a complaint about or the exercise of the control or supervision of another public authority, and the person concerned has previously participated in the decision with the relevant authority or in the carrying out of measures relating to the case.
5. Other circumstances exist that are likely to lead to doubt about the person's impartiality.

In addition, the following restrictions and clarifications of the provisions in the Danish Public Administration Act are laid down, in accordance with the practice of Innovation Fund Denmark:

A person shall be disqualified to make a decision, take part in making a decision, or otherwise influence the consideration of the prioritization of applications or in any way exert influence on the outcome of the matter if the person concerned is employed by the same public institution, a faculty, a professional body, an institute, a PhD school or the like as the applicant, and if:

6. The application falls within the same subject area as that of the person concerned.
7. The person is the manager (chancellor or chief executive) of the applicant institution or a participant in an application is employed under the person.
8. The outcome of the application is of major significance to the employer, or to the employment of the person concerned or to research groups the person is (or has recently been) participating in.
9. The person is an employee, chief executive, board member or the like of a private entity participating in an application if the outcome of the application is of significance to the private entity concerned.

The following provisions on disqualification apply in the case of close competition between applications:

10. Any person who is disqualified relative to an application is also disqualified relative to other applications when 10 applicants or less are in competition. Consequently, any person who is disqualified relative to one of the 10 applications will be barred from taking part in the consideration of all 10 applications. If the application to which such person's disqualification is related is processed to the point of reaching a decision, thus being left out of further consideration, the person in question can take part in the assessment of the remaining applications.

Duty of disclosure: Any person with knowledge of conditions that may lead to his or her own disqualification is duty-bound to notify the secretariat thereof. This information should, to the extent possible, be disclosed to the secretariat prior to the relevant meeting. In the consideration of general matters, any person who – without being disqualified – may have a particular interest therein, or who has ties to others with a possible interest therein, must disclose this information to the council, programme committee or working group concerned.

Decisions regarding disqualification: The decision regarding an issue of disqualification must be written in the minutes of the meeting held by the body concerned. The person whose disqualification is to be decided upon cannot take part in discussing or in resolving the issue of his or her own disqualification, and must leave the meeting room during negotiations and voting on the matter.

Annex - Excerpts from the Danish Public Administration Act (Act No. 571 of 19 December 1985 with subsequent amendments). (The English translation is not authorized)

Section 3

Subsection 1. Any person acting within the public administration shall be disqualified relative to any specific matter if:

- 1) such person is himself or herself particularly interested personally or financially in the outcome of the matter or represents or previously in the selfsame matter represented any person who is thus interested;
- 2) such person's husband or wife, any person related by blood or marriage in the direct line of ascent or descent or in the collateral branch as close as a first cousin, or any other closely attached person, is particularly interested personally or financially in the outcome of the matter or represents any person who is thus interested,
- 3) such person takes part in the management of or otherwise is closely related to any company, partnership, association or other private legal entity particularly interested in the outcome of the matter;
- 4) such matter concerns a complaint about or exercise of the control or supervision of another public authority, and such person previously when serving with that other authority assisted in the making of the decision or in implementing the measures relating to such matter; or
- 5) circumstances other than those referred to in heads 1)-4) of this subsection are likely to lead to any doubt about such person's impartiality.

Subsection 2. No person as referred to in subsection 1 of this section shall be disqualified if there is no evident risk that the decision to be made may be affected by extraneous considerations. The absence of such a risk must be inferred from the nature or strength of his or her interest, from the nature of the matter, or from his or her functions in connection with consideration of the matter.

Subsection 3. No person disqualified relative to any specific matter shall be allowed to decide, to take part in deciding, or otherwise to assist in the consideration of the matter in question.

Section 4.

Subsection 1. The provisions of Section 3 of this Act shall not apply if it would be impossible or attended with substantial difficulties or misgivings to arrange for another person to act in his or her stead in considering the matter.

Subsection 2. The provisions of Section 3 of this Act shall apply to members of a collegiate administration authority even where a substitute cannot be called in. However, this provision shall not apply if members of the authority would not form a quorum or if substantial misgivings about the authority's composition would result if the member could not attend its meetings, and if consideration of the matter cannot be stayed without material damage to public or private interests.

Subsection 3. Regardless of the provisions of Section 3 of this Act, any member of a collegiate administration authority may take part in the designation of members to specific duties, even if his or her own name is put forward. The provisions of Section 3 of this Act shall not apply to decision-making by regional or municipal government councils on remuneration etc. of their own members.