

Explanation

Of the code of dealing with personal interests

General

NWO and ZonMw carry the final responsibility for conduct in respect of personal interests in the process of preparing, advising and deciding on the distribution of resources (hereafter referred to as the process). The 'Code of Conduct in Respect of Personal Interests' (hereafter referred to as the Personal Interest Code) places responsibility on the participants in the process first. The intention is to compel participants to consider the personal interests that may play a role in the process, to make and account for conscious decisions about them.

With the Personal Interests Code, NWO and ZonMw provide the participants in the process with a framework and a guideline for interpreting what their own responsibility is. A framework because the Personal Interest Code provides substantive guidance for participants' choices, and instructions because the Personal Interest Code describes the steps in the process that participants must take. This combination of substantive and procedural aspects encourages a consistent substantive consideration of interests and ensures that NWO and ZonMw can always account for choices as bodies with final responsibility.

This explanation addresses:

- Personal interest
- Conduct in respect of a personal interest
- Committee control measures
- Role of the committee chairperson and secretary

Personal interest

The term personal interest comes from the General Administrative Law Act [Algemene wet bestuursrecht]. According to case law, a personal interest is when a participant has an interest that is not that of the administrative body that he should be promoting by reason of his role.

Despite what the term may suggest, a personal interest is not limited to an interest in which the participant has a direct advantage. A personal interest can be, for instance, when the applicant is known to the participant, when the applicant and participant have or have had an emotional relationship, or when the applicant has a position in the same department where the participant works.

Categories and examples

The Personal Interest Code cites a number of personal interests that exclude participation in the process. No further considerations have to be made in that case.

The exclusion of a dean or vice-dean in the Kingdom of the Netherlands (or officials with similar administrative authority as defined in the Code) is not absolute if it concerns a round or programme in which no academic applicants or other types of academic parties are involved in any way in the process.

All other personal interests must be considered as to whether and under what conditions participation in the process can take place.

Personal interests can be roughly placed in four categories: 1. Private, 2. Professional, 3. Other positions and 4. Business. It is also possible that a personal interest does not fall under any of these categories. A personal interest often falls under more than one category (friendships at work, for example). A personal interest may also be from the past, present or possible future.

A description is given below of each category with some concrete examples. It is impossible to provide an exhaustive list of all personal interests which may occur. The description with accompanying examples is mainly intended to give an impression of the breadth of the concept of personal interest.

- Private

A private interest is one that arises in the private realm. It can include family or emotional relationships or friendships but it can also include relationships with acquaintances. It can include people who think that a participant is nice but it can also include people with whom the participant has, or has had, a conflict. There can also be a private interest if a participant has been unfairly treated or sexually or otherwise intimidated by an applicant. Examples of situations where a personal interest from the private realm can arise include:

- A participant's neighbour submits an application for subsidy.
- A cousin has helped write a research proposal.
- The ex-wife of a participant's husband submits an application.
- The applicant is someone against whom an immediate colleague of a participant has submitted a complaint of sexual intimidation.
- The applicant has carried out research in the school of one of the participant's children.

- Professional

A professional interest is one that arises in the realm of work. It can include hierarchical and other relationships on the work floor, an affinity because of joint publications, or other collaborative relationships. There can also be a professional interest if there is or has been scientific competition between a participant and an applicant. Examples of situations where a professional interest can arise include:

- The participant has published with an applicant.
- The participant works in the same university department as the applicant.
- The participant has thoroughly disagreed with the applicant's points of view for years and has published about it several times.
- The participant is connected to an applicant's start-up.

In the case of 'deans in the Kingdom of the Netherlands' (and officials with similar administrative authority as defined in the Code) the following explanation applies. By definition, 'deans' in the Kingdom of the Netherlands have a personal interest because these officials are responsible for shaping and implementing their faculty's policy at a knowledge institution that is substantially dependent on Dutch second-level funding. A dean who performs his duties well, by definition represents the interests of his own faculty and therefore (the appearance of) bias is always present.

The same applies, for example, to rectors and headmasters of research institutes who are comparable to deans, as well as to chairmen of boards of organisations who are substantially dependent on secondary funding for their financing. Like deans, these officials are responsible for shaping and implementing the policy of their organisation, which in turn, to a considerable extent depends on secondary funds. In that case, the official, likewise by definition represents the interests of his organisation, and the (appearance) of bias is always present. Although these officials are not included in the list of personal interests which exclude participation in the trial in any event, the outcome of their personal considerations should lead to their not participating in the trial in view of their function.

Observers or alternates (whatever their title may be, including deputy, vice, substitute, interim, etc.) of these officials shall bear the same responsibility. Therefore the same applies to them.

- Other positions

An personal interest related to other positions is when a participant has, or has had, another position alongside his main position. It can therefore include both current and former managerial positions, memberships of associations, political positions or advisory roles. A personal interest is when a

participant has an interest in an application arising out of his other position. Some concrete examples include:

- A member of the same political party who has spoken to the participant at a reception has helped write a research proposal.
- The participant sits on the advisory council of a faculty or a university of applied sciences from which a lecturer submits a research proposal.
- The participant works with the applicant's organisation on a joint venture.
- The participant is a trustee of a non-profit organisation that is part of a consortium involved in the application.

- **Business**

A business interest is when there is the potential for financial loss or gain. This can be if someone (or their family or friends) is the owner of a company, has shares in a company or if they receive certain discounts. Some concrete examples include:

- A participant owns shares in a start-up where an applicant works.
- A participant owns property in which an applicant works or lives.
- The participant's partner owns shares in a company that co-finances the research for which an application has been submitted out of a potential commercial financial interest.
- A participant is interested in having a financial stake in an applicant's start-up.
- The participant's partner has lent money to a company that is a part of the consortium that has submitted an application.

Conduct in respect of a personal interest

If there is a personal interest that does not automatically exclude participation in the process, whether and under what conditions participation can take place must be considered. In order to consciously and consistently consider the issue, it is obligatory to take a number of factors and their interrelationship with each other into account.

An explanation is given below of the factors that have to be taken into account when considering this issue.

- **The nature of the personal interest**
When referring to the nature of the personal interest, you refer to its character. For example, does the interest originate from private circles, professional circles or financial circles. Whether it is an acquaintance, friend or family member. Whether it is shares or a loan. A personal interest can also play a role in any field of research.
- **The degree of the personal interest.**
The degree of the personal interest is its size and extent, for example, the intensity (how often is, or was, there contact) and how current (recent or longer ago) a relationship, the extent of the potential financial advantage and the length of time in which a participant has, or has had, another position.
- **Number of applications and/or applicants in which the participant has a personal interest**
This is both the absolute and the relative number of applications in which the participant has an interest. The more applications (relative and absolute) in which a participant has a personal interest, the more likely it will lead to exclusion from the process.
- **Number of applications in a round (size of the round)**
This is the total number of applications submitted in a round. The more applications submitted in a round, the more likely the assessment that participation, under certain conditions, can take place.
- **Number of committee / jury members**
The risk of a personal interest affecting the decision-making is always greater with a relatively small number of committee or jury members.
- **The participant's role in the process**
Employees, referees, jury and committee members and members of decision-making bodies take part in the process. There are also different roles within these categories of participant. A committee may work with pre-advisors who play a decisive role in the process, for example.

- Presence of safeguards in the process
Safeguards can be checks and balances such as the use of national and international referees, the normalisation of participant scores and the presence of additional control measures as described below.

Committee control measures

The purpose of control measures is to prevent a participant with a personal interest affecting the assessment. A standard control measure for the committee is that a participant does not take part in the process of an application in which he has a personal interest.

The committee can also take the decision to apply additional control measures depending on the consideration of interests. These additional control measures can be taken depending on one or more personal interests of one or more of the committee members.

Standard committee control measures

Not participating in the process means:

- Not providing written advice about the application in question
A participant with a personal interest in an application does not receive this application and therefore does not draw up a written advice on the application in question. Nor is the participant consulted in any way by the other participants who are responsible for it.
- No assessment of the application in question
A participant with a personal interest in an application does not assess it. The participant concerned is not kept informed about the assessment of this application until final advice has been issued.
- No deliberation of, or access to deliberations on, the application in question
A participant with a personal interest in an application takes no part in the deliberations on it nor is he present. This applies regardless of the nature of the deliberations, either individually or, for example, as part of the further discussion of applications that have ended *ex aequo*. Furthermore, the participant concerned is in no way consulted or informed about the application or applicant, formally or otherwise, until final advice has been issued.
- Understanding and questioning deviations.
In all cases, it should be made clear whether scores of committee members differ significantly (from those of other members, and from previous scores). Providing insight into deviations also applies when qualitative judgements are used. In the event that a committee member is found to have serious deviations, the committee member in question will be asked by default to explain their deviating score, including whether they wish to adhere to this or adjust it.
- Deciding the priority of applications
A participant with a personal interest in an application does not take part in the process of deciding the priority of applications if that application is one of the applications to be decided upon.

Additional committee control measures

An explanation is given below of additional control measures that can be taken. The list is not exhaustive. These additional measures will generally be taken long before the meeting itself.

- Attendance of a neutral observer at the committee meeting
If there is a relatively large number of personal interests in the committee and/or the nature and degree of the personal interests warrants it, a neutral observer may be asked to attend the meeting. This observer does not take part in the committee meeting but makes sure that no personal interests have an effect on the judgement of the committee.
- Increasing the number of committee members
A consequence of various personal interests in a small committee can be that only a limited number of participants can take part in the assessment process. One solution is to increase the number of committee members.
- Splitting up the committee into sub-committees

If there is a large number of applications in a round and a large assessment committee, there may be a large number of personal interests. One solution is to split the committee into sub-committees in such a way that participants with a personal interest are not involved in the assessment of the application in question.

Role of the committee chairperson and secretary

The role of the committee chairperson (hereafter referred to as the chairperson) is to give direction to the process with the support of the committee secretary (hereafter referred to as the secretary) to avoid the decision-making being affected by any bias or personal interests of committee members. To achieve this end, the chairperson always undertakes, in collaboration with the secretary, the following activities:

- The chairperson provides committee members with advice on conduct in respect of personal interests proactively and on request. Out of his experience and independent position, the chairperson advises members to take part or not in the commission and on control measures to be taken. He does so in consultation with the secretary.
- At the start of the meeting and with the support of the secretary, the chairperson discusses the Personal Interest Code and all personal interests that have been reported beforehand with the committee members.
- The committee chairperson ascertains whether a new personal interest has arisen amongst the members. He does this by expressly asking all members of the committee.
- The chairperson expressly puts the question to the committee members as to whether the control measures taken will prevent the process from being affected by bias and the decision-making being affected by persons with a personal interest.
- Supported by the secretary, the chairperson supervises the course of the process. This consists of ensuring that the agreed control measures are applied, that anything notable is brought to the attention of the committee and addressing it.

The secretary supports the chairperson in fulfilling his role. The secretary also ensures that all decisions related to conduct in respect of personal interests are well explained and recorded.