

**The Norwegian Association of Researchers**  
**Academic freedom**  
**under pressure**  
**Key principles and trends**

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## 1 Introduction

Academic freedom is a prerequisite for allowing scientific personnel in all disciplines and research sectors to challenge established truths and expand the boundaries of our knowledge, and therefore also a prerequisite for trust, credibility and quality. The ideal of academic freedom enjoys a relatively high status in Norway. However, several impulses and trends are putting academic freedom under renewed pressure: the increasing importance being attached to utility values, strategic specialisation and external funding, the disappearance of collegiate bodies, the growing number of scientific personnel employed in temporary positions, changes in administration's use of research and several cases involving distrust in and misuse of research. Undermining of academic freedom will not only compromise the quality of research, but will also weaken informed and critical societal debate and confidence in research-based knowledge. Consequently, the Norwegian Association of Researchers believes it is important that these challenges are highlighted and that dilemmas and areas of particular concern are singled out for discussion.

This memorandum is embedded in the Norwegian Association of Researchers' Vision and Values and Work Program, though is not an adopted policy document. The intention is to establish a platform for knowledge and discourse concerning the Norwegian Association of Researchers' work on academic freedom, both centrally and locally within the organisation. This memorandum further strives to illuminate what we mean by academic freedom and why this principle is of such fundamental importance for research and furthering knowledge. This memorandum also examines how academic freedom is interpreted and the pressure it is coming under in universities and colleges and in the institute sector, and ultimately considers the issue of freedom of research in health trusts and the Archives, libraries and museums sector. This memorandum has been prepared by Jon Wikene Iddeng, Special Advisor to the Norwegian Association of Researchers.

## 2 What is academic freedom?

We must be confident that the knowledge on which we base our lives and actions is truthful. We can only do this if the researchers who produce this knowledge are free and independent, and if research results are constantly subject to critical review by other researchers. The requirement for researchers to pursue the truth, wherever it may lead them, is the very essence of academic freedom and is critical for society. Results of the scientific pursuit of the truth not only support but also correct existing interpretations and orthodoxies, and must therefore also be able to be freely communicated in the environments deemed appropriate by the researcher. Academic freedom is consequently a prerequisite for scientific personnel in all disciplines to be able to challenge established truths and expand the boundaries of our knowledge. This is only possible if we ensure that researchers are as independent, free and as aware of potential conflicts of interest as possible. In order to ensure that research is reliable, researchers must be independent of pressure and interests that could influence processes and results. Science's knowledge-constitutive interests could lead to conflicts with and compound pressure from other interest groups, whether organisational, strategic, financial or political. From this perspective, academic freedom is an ideal that must be defended and concretised in various contexts – and which will not necessarily be the same for scientific personnel at a university as for researchers in a health trust.

Society must be confident that the research that is performed and taught to students is of high quality and guided by the pursuit of professional truths. This requires researchers to have the time and resources to perform research and be able to publish their analyses and findings, as well as be secure enough to withstand situations where research results are challenged. This also requires researchers to be open to criticism of their own research and dissemination, by adhering to sound research ethics and established professional standards and rules for referencing, peer review and verifiability. Academic freedom brings with it a responsibility for compliance, transparency and truthfulness. In 2006 a commission headed by the former Rector of the University of Oslo, Arild Underdal, reviewed academic freedom in Norway and laid the foundations for establishing it in the Norwegian Act Relating to Universities and University Colleges. The Underdal Commission framed the issue as follows:

*The freedom to search for and communicate knowledge has first and foremost been justified by reference to society's need for a shared, research-based knowledge base. The value of such a knowledge base depends on whether society has widespread confidence that the furthering of knowledge and the perception of what constitutes valid knowledge are not guided by special interests, whether political, financial, religious or otherwise. This confidence depends on research and teaching being based on a tried and tested and robust scientific approach, making use of the best available methods and data, and being open to critical review and verification. (Official Norwegian Report 2006:19, p. 12)*

Academic freedom is established in law for universities and colleges in Norway, since these institutions have a particular responsibility for safeguarding free, independent and critical research and education. The law emphasises institutional autonomy and the individual right to choose subject and method, but also the right to publish research results and the responsibility to ensure that research and teaching is performed to established ethical and professional standards. Collegiate bodies with influence over professional issues and prioritisations make an important contribution to safeguarding institutional independence. However, academic freedom is not just a matter of statutory provisions, but something that must be continually negotiated, balanced and managed within areas of friction between various stakeholders.

Universities and colleges each essentially approach the issue of academic freedom from a slightly different angle. The universities have traditionally enjoyed an independent and free role in the development of science and disciplines, an ideal that was extensively adopted by the regional colleges on formation. However, the vocational colleges were established with the primary aim of preparing candidates to perform a specific trade or profession/vocation.

Vocational training was subject to significant regulation, and research was assigned a specific role linked to the professional field or also with a particular responsibility for the region's knowledge requirements. The merging of these two traditions into a joint university and college sector, which is culminating in ongoing mergers, has therefore not been without importance for the perception and preservation of academic freedom.

Researchers outside academia are not subject to the Universities and University Colleges Act and therefore also not by statutory protection of academic freedom. These researchers are nonetheless protected by non-statutory principles governing professional independence and pursuit of the truth, as well as considerations of quality, credibility and integrity. However, they do not enjoy the same degree of *academic* freedom that the universities enjoy due to their professional autonomy and societal remit. Here it is perhaps more accurate to talk about freedom and independence of research. Despite this, it is possible to identify some basic principles governing the scientific pursuit of truth. As the Underdal Commission points out, "*Safeguarding the individual researcher's and teacher's professional integrity is one such fundamental principle*" (Official Norwegian Report 2006:19, p. 9). The Standing Committee on Education, Research and Church Affairs (KUF) also emphasised "*the positive symbolic function that the establishment in law of the principle of academic freedom will have for other institutions*" – institutions that were not covered by the Act.

Today's universities and colleges differentiate themselves – as institutions – from research institutes and hospitals, which have a much more applied research profile and have been developed to perform specific types of research-based assignments. However, these institutions' research is no less bound by the same requirement of independence and integrity, and could also encounter other legitimate restrictions with regard to transparency and free publication of research results, depending on the nature of the research assignment and considerations relating to data protection, competition-sensitive data, national security, etc.

The ongoing dismantling of differences between universities, colleges, research institutes and the hospitals' research departments could be viewed as a dilemma for academic freedom. Institutional differences are becoming blurred, funding is becoming more and more dependent on common competition arenas and work assignments are becoming more similar. The content and scope of, and the justification for, academic freedom will naturally change as research institutes, which have been established either to perform administrative tasks or to offer research services in a contract market, are merged with colleges and universities. The same could also be said of the large hospitals that have been designated as university hospitals. Employees in such hospitals who perform research and clinical work often do so in various part-time positions, and many have additional employment with and in close collaboration with the traditional universities. Not all the knowledge production and learning that is performed in these various establishments can claim the same total academic freedom, in the sense of full freedom to choose research fields, methods and forms of publication. With current developments there is a risk that we will end up in a situation where all researchers – regardless of whether they are employed at a university, research institute or health trust – will always be subordinate to a financier or funding source, and that academic freedom will be solely limited to what is generally perceived as the minimum statutory requirement. This is an overarching dilemma that should have featured more prominently in the public debate on the merger processes and dismantling of sector differences.

In this memorandum the concept of *academic freedom* will be used to denote the freedom and independence that researchers and scientific personnel require in all sectors, including outside academia. Academic freedom is an ideal that can be upheld to varying degrees given different frameworks for management, funding, organisation, independence and interests. In addition to complying with statutory requirements, our remit should also be to ensure that the various sectors come as close as possible to achieving this ideal. Academic freedom will continually be exposed to conflicts of interest and subject to negotiation, and must constantly be updated and discussed both in principle and on a case-by-case basis.

### 3 Universities and colleges

Academia is often beset by friction between the budgetary authority, the institution and the professional when it comes to academic freedom, or to put it simply: between political management, institutional autonomy and the individual's professional freedom.

In a Norwegian context, institutional autonomy is limited by a number of factors. These include funding through the National Budget, results-based awards and statutory restrictions of opportunities for other revenue streams, political measures and rules of procedure and dialogue with the Ministry and laws and regulations. However, there is also "external pressure" from stakeholders with various claims and wishes of greater or lesser legitimacy for the institution's influence, including lasting and reinforced political discussion about the utility value of the research and education, with associated requirements for specialisation, strategic focus and collaboration with the business community.

The individual employee's freedom is also limited by a number of factors – from the individual work agreement, the institution's strategic plans, the employer's right to manage (including imposed assignments and collaboration on coordinated projects) and the legal framework and system of agreements, to access to resources, jobs and power of definition.

Academic freedom must to a certain extent be viewed as a dimension between these areas of friction that needs to be negotiated, balanced and managed. This was also the background for the Underdal Commission's work and the establishment in law of academic freedom.

#### 3.1 Official Norwegian Report 2006:19 and establishment in law of academic freedom

In November 2007 the Storting (the Norwegian Parliament) adopted a new Section 1-5 on Academic Freedom and Responsibility in the *Act relating to Universities and University Colleges*. This instructs institutions to promote and protect academic freedom. Furthermore, the principle of professional freedom with regard to the teaching of students and in other proprietary activities is incorporated in the Act's object clause. The amendment entered into force on 1 January 2008. The Underdal Commission's review of academic freedom (Official Norwegian Report 2006:19) formed the basis for the amendment. The review contains a series of analyses and conclusions that are still relevant.

**The Underdal Commission described academic freedom as follows:**

1. A freedom to question – also to question what authorities consider to be established knowledge and understanding, and to question issues and assumptions to which strong interests or emotions are tied.
2. A freedom to decide what material and which methods to use in the search for answers; more precisely a true or valid answer.
3. A freedom to publish hypotheses, results and arguments.

The review also pointed out the limitations of academic freedom:

*Academic freedom is justified and restricted by the academic establishment's constitutive purposes and basic principles of scientific thought. It is institutional standards that impose high requirements with regard to expertise, performance and quality. The standards therefore not only protect the individual researcher/teacher against illegitimate interventions, but also justify requirements for expertise and input, and measures to combat conduct that breaches the establishment's fundamental norms or fails to satisfy recognised quality requirements. (Official Norwegian Report 2006:19, p. 10)*

The law thus secures institutional autonomy, interpreted as freedom with regard to professional organisation and appointments, and the individual scientific employee's academic

freedom, interpreted as the right to choose one's own research field, frame one's own approach to issues and methods in both research and teaching, as well as the right to publish the results and communicate specialist knowledge, nonetheless limited by the employment relationship and any special agreements.

### **The Norwegian Act relating to Universities and University Colleges, Section 1-5 Academic freedom and responsibility**

- (1) Universities and university colleges shall promote and protect academic freedom. The institutions have a responsibility to ensure that teaching, research and academic and artistic development activity are of high academic quality and are carried out in accordance with recognised scientific, artistic, pedagogical and ethical principles.
- (2) Universities and university colleges shall otherwise be entitled to shape their own academic and ethical basis within the boundaries provided by law or pursuant to law.
- (3) Universities and university colleges may not be instructed regarding:
  - a) The academic content of their teaching and the content of research or artistic or academic development activity;
  - b) Individual appointments.
- (4) A person who teaches at an institution governed by this act, has an independent academic responsibility for the content and organisation of the teaching within the boundaries set by the institution, or determined by or pursuant to law.
- (5) A person appointed to a post which involves research or academic or artistic development activity, has the right to choose the subject and method of his or her research or development activity within the boundaries defined by the conditions of appointment or by special agreement .
- (6) Universities and colleges shall ensure transparency regarding the results of research or professional or artistic development work. A person appointed to such a post as mentioned in paragraph five, has the right to publish his or her results and shall ensure that such publication takes place. The relevant research data shall be made available, in ways consistent with good practice in the field of study concerned. The board may give their consent to delay publication when this is justified on legitimate grounds. No permanent limitations of the right to publish research results may be agreed upon or fixed, beyond what is determined by law, or pursuant to law.

However, academic freedom is not simply something that can be derived from the law. Academic freedom must also include matters not covered by statute and will by its nature be subject to discussion and cross-pressures. Changes to corporate structures, funding methods, results- and target-based management principles and laws and regulations could have significant consequences for academic freedom in a broad sense. The same consequences will result from a shift towards a stronger focus on utility values. These types of external influence will moreover be reinforced if these become guidelines for internal professional prioritisations and resource allocations within institutions.

Consequently, the various and potentially conflicting interests between the individual and institution present a major dilemma – in particular in light of the constantly growing pressure on strategic prioritisations and specialisations – towards society's needs, expectations and desires for universities and colleges.

## 3.2 Institutional level

As mentioned above, the institutions are both bound and restricted by political guidelines and management systems, funding and legal frameworks. Stronger political guidance in the form of award letters, management dialogues, professional arrangement of study places and funding systems that favour research and education in politically defined disciplines and areas will conflict with institutions' freedom to establish their own professional prioritisations. However, society's needs and desire for knowledge and expertise will normally be deemed to be highly legitimate; the question is where the boundary between political pressure/guidance and important autonomy should be drawn.

Norway scores well with regard to institutional autonomy in comparative studies.<sup>1</sup> This is well worth preserving at a time when institutional freedom is being challenged in a growing number of areas:

- The funding system. Here the effect of results-based awards based on quantitative factors has been clear following the so-called quality reform of 2003. This steers towards measurable activities and favours disciplines/environments capable of producing a high number of study credits, PhD candidates and publication points.
- The incentives for and expectations of a steadily growing share of the research funds to be sourced from external competition arenas will just as obviously result in the institutions changing their prioritisations and directing research activities towards areas where funds are available for which to compete. This in turn could naturally result in even further de-prioritisation of other important and essential areas.
- The Norwegian Association of Higher Education Institutions (UHR) has pointed out that universities' and colleges' own room for manoeuvre has decreased due to the introduction of more earmarked funds and more detailed results- and target-based management systems, including purchasing and financial reporting systems. Demands for efficiency improvement (in the form of annual percentage cuts) in the public sector will also tend to restrict independent room for manoeuvre.
- Qualification frameworks, learning outcome specifications, the Norwegian Agency for Quality Assurance in Education's (NOKUT) accreditation routines and other national and international regulations and agreements that the institutions are obliged to satisfy are also challenging self-determination and need to be weighed against the benefits of such a regulatory framework for students and society as a whole.
- Requirements for a joint national examination and admission requirements in individual education offerings will also shift towards areas that have traditionally been perceived as the specific domain of the institutions and could in any case to some extent be deemed to curtail full freedom regarding "the academic content of the teaching".
- Establishing and allocating study places and associated financing is another way of steering institutions towards particular subjects.

To this we could add the increased emphasis on utility values and applied research, something the Solberg government has been extremely clear about. Research and knowledge shall contribute to economic activity and societal development. These are legitimate expectations of a society that spends much of its funds on R&D activities; however, at the same time we are witnessing a trend towards less and less differentiation by institution type – meaning, for example, that research requirements at bodies such as research institute SINTEF and the Norwegian University of Science and Technology (NTNU) are becoming increasingly similar. Once again we have to ask whether clear sector differentiation and distribution of work are required, including with regard to the very notion of academic freedom and institutional autonomy in the HE sector.

Another point that is not specifically reflected in the Act and its preliminary work is the gradual disappearance of collegiate bodies. Employed managers are replacing elected managers,

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<sup>1</sup> Cf. The European University Association's overview (<http://www.university-autonomy.eu/dimensions/academic/>).

and external board members (including chairs) are being appointed politically, thus leaving scientific personnel in the minority in most formal bodies. The disappearance of collegiate bodies, where professional staff either *ex officio* or as elected representatives had real influence on the institutions' strategic road maps and prioritisations, is resulting in a watering down of a university ideal with strong links to academic freedom and institutional independence: the principle that the researcher collegiate itself administers the production and communication of knowledge. The risk of undermining the institutions' traditional democratic bodies thus also involves a risk of loss of co-determination, along with a loss of feeling of community and commitment to the institution. This can result in distrust of leadership and a feeling that everyone is fighting each other for funds rather than working together as one.<sup>2</sup> The greater distance between professional managers and scientific personnel in larger institutions is exacerbating this problem. The position of collegiate bodies and the question of how scientific co-determination should be protected in the current HE landscape undoubtedly needs to be further developed, both locally and centrally.

In addition, a growing number of people are maintaining that the current streamlined and professionally managed universities, run in accordance with target-management parameters, are accelerating the shift towards standardisation and conformity, which is leaving less room for ingenious, paradigm-shifting ideas and researchers. The risk of this and the ensuing consequences should be discussed in more detail.

### 3.3 Individual level

The right to freely pursue the truth has had serious consequences for some researchers' jobs and well-being in other countries. This has been well documented by the organisation Scholars at Risk. In Norway, researchers rarely expose themselves and their immediate family to a direct risk through their research field or by publishing or communicating analyses and research results. However, there are a number of sensitive and quite politicised areas, in which pressure from the authorities and (not always objective) criticism from those of opposing opinions may be experienced as uncomfortable by individual researchers. Research discourses and authority holders can also exert pressure of varying degrees of subtlety on researchers with diverging analyses and conclusions.

At the individual level, academic freedom thus has a clear interface with general freedom of expression and loyalty. Concern has been raised from several directions that in a number of HE institutions a culture has developed that restricts freedom of expression, with regard to professional issues as well as operation and governance of the institutions. For example, several researchers at the University of Oslo recently joined together to call for the appointment of a scientific ombudsman. Current demands for research resources in the form of equipment, infrastructure and staffing mean that allocation policies for these resources directly impact individuals' academic freedom. Managers at various levels who implement such an allocation policy therefore wield significant power, and a culture of conformism and unquestioning loyalty can develop under these managers, with people fearing (rightly or wrongly) that they could jeopardise further funding and career opportunities by promoting controversial opinions or research results. Scientific personnel without permanent employment contracts are particularly vulnerable.

There are some legitimate and functionally necessary position-specific demarcations of individual academic freedom that do not apply to the research role per se. A professor of bowel disease cannot, for example, cite academic freedom to claim a right to spend her research time and resources on baroque paintings. In the words of the Underdal Commission, position-specific demarcations should nonetheless "in content be compatible with the basic prin-

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<sup>2</sup> This is illustrated, for example, by employee demonstrations against the university board of the Norwegian University of Life Sciences' (NMBU) management model in 2015 and 2016 and Aksel Tjora's article "Farvel til det faglige": <http://www.universitetsavisa.no/leserbrev/article49465.ece>

ciples that apply generally to research, teaching or communication as an activity”. This also forms the basis for evaluating coordination and collaboration in larger projects:

*The Committee will evaluate how the principle of individual academic freedom should be interpreted where the nature of the assignment requires coordinated collaboration. The Committee has found that in such cases individual freedom must be interpreted as the freedom to act on one’s own initiative, to reason based on one’s own professional evaluations and – to the extent that such is compatible with the work obligations associated with the position – the right to decline to participate. In the view of the Committee, the requirement to coordinate work assignments may not under any circumstances justify demands for individual researchers/teachers to compromise their professional convictions. Conversely, it should be noted that the principle does not justify any claim to be an autonomous participant in a collective and coordination-requiring project. (Official Norwegian Report 2006:19, p. 10)*

Absolute academic freedom is thus restricted not only by the employment terms established in the employment contract, the legal framework and the employer’s managerial prerogative, but also by external and internal influence/pressure and the framework conditions stipulated by the budgetary authorities and other funding bodies’ decisions and prioritisations.

### 3.4 Increased pressure on external funding

Increased external funding provides greater collective resources and, together with professional prioritisations, will help to boost research capacity and the opportunity to perform larger and more complex research assignments. Society and the people who make up society (regionally, nationally and internationally) can also have quite legitimate desires to have research performed in areas that they believe to be important. Political authorities are responsible for presenting, facilitating and implementing these – for example, through dedicated initiatives in the form of research programmes. However, politically initiated programme research and commercial interests can to some extent compete with independent research. Everyone agrees on the need on the one hand to establish a balance between the individual researcher and the research environment’s free and critical pursuit of the truth, and society’s need for research on the other. Balance is based on a principle where both sides bear equal weight. If more and more weight is added to one side, balance will be lost. The issue is therefore to what extent externally funded awards will replace funds issued as basic allocations, as well as how great a share of the institution’s own resources are allocated to obtaining and running externally funded research projects. Recent Norwegian governments have made it clear that research funding should in the first instance be increased through competition arenas such as the Research Council of Norway’s and the EU’s framework programmes and through partnerships with the business community. The report *Long-term plan for research and higher education 2015–2024* (on p. 41) also highlights expectations for institutions’ own funds to be increasingly channelled towards research environments that receive support from such arenas: “Consequently, the institutions will have to offer more attractive terms to successful specialist environments.”

At the individual level too, incentives for and expectations of research funds being sourced from external competition arenas will propel individuals’ research activities towards areas where funds are available to compete for, and thus potentially also away from what the researcher herself would have chosen if she had been free to follow her professional conviction in pursuit of the truth. One natural consequence of successful parties being offered more attractive terms under strained budgets will be that parties who are unable to raise corresponding funds will be offered less favourable terms. Parties who do not comply with the prioritisations or who work in other (less politically interesting or commercially profitable) areas will experience less access to resources and thus there is an imminent risk of scientific stagnation and disintegration of the research environment. A clear shift towards external research funding will therefore potentially have a major impact on professional development

and which disciplines, issues and people researchers focus on. This is worrying and a threat to ideals of academic freedom concerning critical and independent research and education.

Time and resources are prerequisites for academic activity. Insufficient resources to perform active R&D work will significantly curtail academic freedom. R&D resources are a scarcity that naturally needs to be weighed up against the individual's ability to perform high-quality and effective R&D work. However, the ability to perform effective research and the ability to procure external funding are not necessarily connected. Several international studies have demonstrated that heightened specialisation of competition arenas results in more dishonesty and "sensational" research findings, while precisely research that is more internally oriented, such as the performance of replication studies and similar, is being systematically underfunded.

With HE institutions also increasingly having to rely on contract income (cf. the new BOA indicator in the funding system), there is a risk of institutions prioritising research that satisfies the financier's needs and neglecting research that is critical of the assignments or the financier's activities.<sup>3</sup>

With an increasing share of research funding coming from competition arenas, which moreover is being determined on political or commercial grounds, the discussed balance between freedom of research, society's needs and commercial interests is being skewed. This will naturally have consequences for researchers and research.

### 3.5 Temporary employees in particularly vulnerable positions

University employees should not have to fear for their jobs as a result of communicating controversial results of research. This is precisely what makes academic freedom and independence so important. Strong employment protection for government officers plays a role in this context. Today temporary employees – who account for a growing share of staff in scientific positions in Norwegian institutions – face a significant degree of job insecurity. Their future careers will most often be best served by short-term and "safe" research, where they can be relatively certain of the results that will be achieved within the deadline, and where controversial conclusions that could ruffle the feathers of established researchers and managers – i.e. the very people who will next judge their work and thus future employment prospects – are avoided.

Temporary employees can also be exposed to "intellectual bullying", as Nils Christian Stenseth, professor of biology and member of The Norwegian Academy of Science and Letters, has termed it. By this we mean situations where established researchers exert undue pressure on younger researchers' research publication, by unfairly claiming greater authorship than they deserve, denying the use of data for certain types of conclusions and similar crass behaviour. This contravenes good research and publication practice, and threatens younger researchers' academic freedom. With the size of research teams and number of co-authors steadily expanding, this is expected to become a growing problem. In a recently issued report from Sweden, one in four doctoral candidates stated that their research results had been used in a way that goes against good research practice.<sup>4</sup> The Nordic Institute for Studies of Innovation, Research and Education (NIFU) will carry out a major survey of research fellows and doctoral candidates on behalf of the Norwegian Association of Researchers in 2017. This is expected to provide more information on the general situation in Norway.

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<sup>3</sup> For example, such as Prof. Svein Sjøberg claims to be the case at the Department of Teacher Training and School Research (UiO) with regard to PISA tests: <http://www.uniforum.uio.no/nyheter/2014/08/instituttet-sensurerer-meg.html>

<sup>4</sup> The Swedish Higher Education Authority – *Doktorandspegeln: En enkät om doktorandernas studiesituation [The Doctoral Mirror: A survey of the study situation of doctoral candidates]* (Report 2016:18).

## 3.6 Requirement for publication in certain types of channels

A key element of academic freedom involves the right to publish one's research results (a practice which is already established in law), along with the right to determine in which channel publication takes place. Within Norwegian institutions, a number of more or less well-defined requirements exist governing where and how research is to be published, whether in the form of instructions or stated desires, publication in open access channels, or mechanisms and remuneration schemes for specific publication channels. To be able to communicate the research results to relevant colleagues or the public, one important principle is that the researcher herself is able to choose the publication channel. Any adaptations to targets- and results-based management parameters or guidance on which channels are acceptable that are not purely based on quality criteria are likely to be problematical. This will have consequences for both quality and academic freedom, and must be subject to thorough discussion and evaluation. With the transition to research publication in periodicals with open access that is currently being facilitated, the publication support system will be critical. It is imperative that research quality, and not the funds available to institutions or individual researchers, continues to ultimately determine how and whether research articles are published.

## 3.7 Trends and surveys

Academic freedom can never be taken for granted. We have recently witnessed attacks on researchers' freedom of expression and other aspects of academic freedom, not just in "unstable" regions, but also in several western countries. For example, the previous Canadian government prohibited researchers in state institutions from expressing themselves without the approval of the institution's management and political authorities. Proposals have also been put forward in the UK prohibiting publicly funded researchers from "lobbying government and Parliament", which in practice involves a ban on giving advice directly to the authorities based on own research. *"Experiences from Canada and the UK show that freedom of research is not secure, even in countries that politically and academically are similar to ours. This should be a warning to us all,"* writes Trond Amundsen, Professor at NTNU, in an article on Forskning.no<sup>5</sup> (23.4.2016).

Fortunately there is also a certain political will in Europe to recognise and clarify academic freedom. Nearly 400 university rectors have signed the Magna Charta Universitatum, a declaration on academic freedom published to celebrate the University of Bologna's 900-year anniversary in 1988, which has been submitted for follow-up under the Magna Charta Observatory.<sup>6</sup> Together with its sister organisations in the Nordic region, the Norwegian Association of Researchers has adopted a resolution on academic freedom, and similar appeals are being made across the world.<sup>7</sup> In connection with the implementation reports prepared as part of the Bologna Process (BFUG), the Council of Ministers has requested that institutional autonomy and academic freedom also be included as an indicator. This is based on the notion that the implementation reports should contain a greater focus on fundamental values in a Europe beset by growing tension. Here it will be important to also convince the Council of Ministers of the value of academic freedom for individual teachers and researchers.

A survey from 2007, carried out by Terence Karran and his team from the University of Lincoln using a questionnaire sent to scientific personnel across Europe<sup>8</sup>, reveals that knowledge of academic freedom and its obligations and protection is somewhat limited in Norway:

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<sup>5</sup> <http://forskning.no/meninger/kronikk/2016/04/akademisk-frihet-ingen-selvfolge>

<sup>6</sup> <http://www.magna-charta.org/>. Other initiatives have been implemented to promote academic freedom, for example the Auckland Declaration: <http://unike.au.dk/the-auckland-declaration/>

<sup>7</sup> <https://www.forskerforbundet.no/nyheter/2016/forsvar-den-akademiske-friheten/resolusjon-fra-nordisk-mote-2016/>

<sup>8</sup> <https://www.lincoln.ac.uk/home/research/researchshowcase/academicfreedom/>

- As many as 60 per cent of respondents did not know whether their own institution had a policy for academic freedom.
- 35 per cent did not believe that they had an “adequate working knowledge of the concept of academic freedom”.
- Only 18 per cent believed that their own institution had given them an adequate introduction to the concept of academic freedom.
- Around 80 per cent said that they wished to have more information, and the same percentage called for seminars and discussions about academic freedom in their own institution.

It is thus easy to conclude that the institutions should feel responsible and be made to do more to discuss, illustrate and safeguard academic freedom.

Furthermore, the survey showed that scientific personnel support elected management and feel that the autonomy of institutions has been reduced in recent years, and that Norwegian scientific personnel stand out through their scepticism towards the majority of board members being appointed externally.

**Other main findings included:**

- More than 35 per cent of respondents believed that freedom of research had also been reduced in recent years.
- More than 60 per cent believed that the qualification systems placed too much emphasis on the number rather than the quality of research publications.
- Two out of three (65 per cent) agreed that having to “apply for funds for specific projects stops me from choosing topics that my ‘academic instinct’ tells me are worth while”.
- More than 80 per cent also believed that securing permanent employment was important for the quality of research and higher education and for academic freedom.
- More than 60 per cent believed that respect for academic freedom had diminished over the last decade.
- 22 per cent reported that they had exercised self-censorship due to professional opinions.
- 10 per cent believed that they had been threatened with or exposed to disciplinary measures due to opinions they had expressed in closed forums in their own institution.

## 4 The institute sector

While universities have traditionally been free to perform fundamental research, the institute sector has tended to focus more strongly on applied research. A number of foundations and research institutes were founded to cater for individual Ministries' needs for research within their respective administration areas. Several of these institutes still exist today, focusing on both administrative and research assignments, while others have been privatised and operate in a contract market. Other research institutes are offshoots of universities and colleges, and have from the outset been oriented towards applied research and commercial partnerships. The institute sector remains heterogeneous, comprising everything from large state institutes receiving basic grants directly from an individual Ministry to small private institutes with or without basic grants under a Research Council of Norway scheme.

The societal remit of the research institutes that receive basic state funding is to “*contribute research of high quality and relevance for application in the business community, administration and the community as a whole*” (Research Council of Norway, guidelines for basic state funding of research institutes). The sector shall function as a link between the business community and research, and as a supplier of knowledge to public bodies at local, regional and national level. The research institutes make up a key part of the Norwegian research system, and their scope, measured in terms of total R&D expenditure, nearly matches that of the HE sector.

Apart from a small amount of basic funding, the institutes' income derives from employees obtaining resources by applying for funds and assignments. The funding entity exerts varying degrees of influence on the choice of themes and implementation, and sometimes also on the results and their publication. For example, many assignments have a political dimension, which clearly brings into focus questions of freedom of research. Research intended to provide a knowledge base for political decisions, business development and measures with consequences for individuals or groups of people makes exacting demands of the researcher's integrity and independence and the validity and reliability of the research. Researchers in the institute sector thus also have to be guaranteed full freedom without instructions or pressure with regard to choice of method, implementation and publication of results.

For researchers in the institute sector, it is additionally important to retain ownership of the research results and be able to use the material from other self-initiated studies and publish these in the desired channels. However, freedom to publish can be subject to a degree of legitimate restrictions, whether on commercial grounds (such as patents, competition-distorting information or other types of business secrets) or in the interests of society (data protection or national security).

Structural changes and reorganisations across the entire research sector and a desire for different institutions and sectors to compete for the same research funds are contributing to a narrowing of differences between the HE sector and the institutes. In addition, the fact that the research institutes are also being exposed to competition, due to the public administration increasingly demanding consultancy services in a less clear consultancy market subject to quite different demands and agreements, also needs to be considered. Both areas are of importance for issues relating to terms of research, independence and academic freedom in the institute sector.

## 4.1 EU Charter and Code

The EU has published the European Charter for Researchers and the Code of Conduct for the Recruitment of Researchers (Charter & Code) as a tool to satisfy challenges relating to researcher recruitment and mobility at national and European level. The documents contain recommendations on responsibility and obligations for researchers, employers and funding bodies concerning terms of employment, furthering of knowledge, knowledge-sharing and career planning. In 2013 the Association of Norwegian Research Institutes and the Research Council of Norway appointed a committee to perform a variance analysis of the Charter and Code for the Norwegian institute sector. The first item in the document defines freedom of research, which should essentially be viewed as an equivalent to academic freedom. The analysis concluded that the principle was well established in Norway and that awareness of potential friction between freedom of research and other key issues was high.

### From the EU Charter & Code: 1.1 Research freedom

Researchers should focus their research for the good of mankind and for expanding the frontiers of scientific knowledge, while enjoying the freedom of thought and expression, and the freedom to identify methods by which problems are solved, according to recognised ethical principles and practices. Researchers should, however, recognise the limitations to this freedom that could arise as a result of particular research circumstances (including supervision/guidance/management) or operational constraints, e.g. for budgetary or infrastructural reasons or, especially in the industrial sector, for reasons of intellectual property protection. Such limitations should not, however, contravene recognised ethical principles and practices, to which researchers have to adhere.

## 4.2 International comparative research on academic freedom in the institute sector

In an article Bryden and Mittenzwei discuss challenges to academic freedom in the institute sector in several countries.<sup>9</sup> They emphasise academic freedom as a valid universal concept, independent of political opinion and ongoing political processes, and therefore of importance for democracy and the public debate. The authors differentiate between two levels of academic freedom and the threats they face. One threat consists of active attempts to manipulate research results and prevent publication, the other a delimiting dimension, relating to access to resources, such as research time, data registers, required equipment and literature. The study concludes that it is difficult for researchers and institutions to resist demands and pressure from their sources of funding, and that academic freedom is under particular pressure in research institutes, as these do not enjoy the same degree of autonomy and self-governance as the HE sector. Securing academic freedom is nonetheless particularly important in this sector, since applied research is part of a research-, knowledge- and policy-development cycle. Historically there have been close ties between state research institutes and the public administration, and these close relationships could pose a problem for academic freedom.

Access to resources can also challenge requirements for validity and integrity of researchers. It is important to recognise that academic freedom involves more than choice of method and the right to publish. It is also an essential guarantor for the future independence, credibility and integrity of researchers.

To realise this, it will be particularly important to promote transparency in research and freedom of expression for researchers. It will also be critical to develop buyer expertise among external funders so that they have more knowledge of the type of answers research can provide, and what they can and cannot demand of researchers. This will improve the culture of collaboration as well as the quality of research used as a knowledge base for future policy development.

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<sup>9</sup> "Academic Freedom, Democracy and the Public Policy Process" in *Sociologia Ruralis* 53:3, 2013 162365

## 4.3 The Norwegian Association of Researchers' own surveys

A survey of the Norwegian Association of Researchers' members in the institute sector in 2014 (publication 7/14) found that external funders did not extensively interfere with researchers' work. The member survey revealed that researchers in the institute sector were most likely to experience a conflict of interest with the funder with regard to time and speed of implementation: 31 per cent of the researchers had experienced this to some degree, 18 per cent to a significant degree.

The survey further revealed that the standard contract is primarily used for research assignments; however, signals from the Association of Norwegian Research Institutes (FFA) suggest that use of the consultancy contract is spreading in some areas and that conclusions of such projects are being presented as research. Increasing time pressure and costs for obtaining data from public registers were also reported – which in turn were challenging the quality and integrity of the research.

## 4.4 Research-based administration?

The fact that the public sector and the administration are major commissioners of contract research requires buyer expertise and quality throughout the process. All parties must be confident that the research on which political and administrative decisions is based is performed in a professional and competent manner that maintains high qualitative standards and can be verified. This naturally also requires the researchers who perform the work to be independent and that the results of the research are not changed, censored, suppressed or misused in any other way. In this context, the “Pledge to researchers”, which was intended to boost respect for research and which representatives of all the major Norwegian political parties signed on 15 November 2016, was a welcome development.<sup>10</sup>

Independence can sometimes be challenged by the funding entity's desire to influence and instruct the researchers in a way that quite clearly compromises academic freedom. This, for example, was the case when in 2010 the Ministry of Labour wished to amend the conclusion of a research report on sick leave carried out by research institute SINTEF. In other contexts we have found that government funding bodies and officials have questioned researchers' competence or quite blatantly attempted to direct researchers following major pressure from a third party. Several examples of this have been witnessed recently in connection with the aquaculture and fish farming industry, involving research bodies at the Institute of Marine Research and the Norwegian Institute for Nature Research. On other occasions researchers have more or less been muzzled.

In 2009 a researcher at the Norwegian Agricultural Economics Research Institute (NILF) wrote an article critical of Norwegian agricultural policy. The Director General of the Ministry of Agriculture and Food's Department of Agricultural Policy Division reacted strongly, writing to NILF's Director stating that this was an ill-informed opinion piece that was harmful to the reputation of NILF. The NILF case attracted a great deal of attention. This case essentially related to researchers' freedom of expression and established an important precedent for interpretation of academic freedom in the institute sector. The case concluded with the Minister for Agriculture explaining that the administration cannot direct researchers and similarly that individual researchers cannot make statements on behalf of the institute. This was followed up by a unanimous recommendation to the parliament to clarify the principle of academic freedom for researchers not covered by the Norwegian Act relating to Universities and University Colleges (Recommendation to the Storting no. 135, 2009–2010).

The Recommendation was justified based on a Document 8 proposal submitted by the Norwegian Liberal Party (Document 8:7, 2009–2010), to also embed academic freedom for

<sup>10</sup> <https://educationin crisis.net/blog/item/1428-a-pledge-to-researchers>

researchers outside the HE sector in the legal framework. However, the Storting rejected the idea of regulating this freedom in law, although it did ask the government to “*submit proposals that would suitably clarify academic freedom for researchers at institutions not covered by the Norwegian Act relating to Universities and University Colleges*”. The then Research Minister stated that it was not necessary to separately regulate the institute sector in law on the grounds that the institutes’ activities are not always comparable with those of the HE sector. The principles cannot without adaptation form the basis for all organisations that perform research; however, the basic principle applies to all scientific production. What consequences this will have for the various research institutes that are currently being incorporated into the HE sector would appear not to have been discussed. Basic principles such as choice of methods and the right to publish are absolutely key issues here.

In this context it is particularly worth noting the comments of the then minority (currently forming the Norwegian government and its coalition parties) on the review of the Liberal Party’s Document 8 proposal (Recommendation no. 135, 2009–2010<sup>11</sup>):

*The Committee’s members from the Conservative, Christian Democratic and Liberal parties nonetheless believe that a number of factors potentially pose a threat to the fundamental principles of academic freedom, including increased results-based management and more robust political guidance, an increasing share of contract research in the institutional sector, and a growing number of projects requiring collaboration between different stakeholders in Norway and internationally.*

Two things happened in the wake of these cases and the parliamentary review. Firstly, a passage to secure freedom of research was incorporated in the Research Council’s guidelines for research institutes that receive the basic grant:

*8) The institute must make arrangements to ensure that the principles of academic freedom shall apply to all publicly funded research performed by researchers employed by the institute, provided this does not conflict with the employer’s managerial prerogative. The Research Council of Norway’s monitoring of academic freedom is limited to obtaining self-declarations from the institutes.*

Secondly, the then Minister of Education and Research Tora Aasland stressed the importance of using the standard contract for research assignments, in order to secure freedom of research for the discussed items, across the entire administration. However, there is evidence to suggest that the Ministries, Departments and other public administration bodies are now increasingly requiring consultancy contracts – including in cases where researcher contracts would presumably have been more appropriate – and that these bodies are treating and presenting consultancy reports as if they were research results. The consultancy contract (*Agreement on analysis and development assignments from the Consultant*, the Norwegian Agency for Public Management and eGovernment [DIFI]) is not to be used for research assignments; it was designed to give the client (the public administration) the right to dictate and examine the content and choice of methods, and to secure the client all rights to the results.

The spin-off and privatisation of more research institutes, the downscaling of government research activities and the growing share of consultancy assignments highlights the clear trend away from research-based administration to a more opaque “knowledge-based” administration, based on consultancy services. This is undermining the administration’s opportunities to build up and develop relevant research expertise and thus forces it to use the expertise available in the contract market at any one time. Together, these factors could weaken confidence that political and administrative decisions are made on the most appropriate professional basis possible, and in turn provide fertile ground for populism and distrust.

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<sup>11</sup> [Recommendation to the Storting no. 135 \(2009–2010\)](#)

## **The Ministry of Education and Research's description of the Standard agreement for R&D assignments**

The public sector is encouraged to always first consider using this agreement when entering into agreements on research and analysis work. All areas of the agreement can be adapted to the needs of the specific assignments. Deviating agreement terms for the main parts of the standard agreement should, however, be specifically justified.

The standard agreement provides a solid framework regulating how public funding entities can ensure that research and analysis assignments are implemented in accordance with recognised scientific and ethical principles, that both the financier and contractor have rights to the results and that the results enter the public domain. The agreement can be used by any party that wishes to obtain independent contract research of a high legitimacy. The basis for public decisions must be prepared in a professionally justifiable manner, and above all transparently. Only in this way can the public's general confidence in research and investigations and in knowledge-based policy be maintained.

### **Excerpts from standard agreement for consultancy assignments (DIFI)**

The consultant shall apply any standards and/or methods or similar that the Client may have stipulated in Annex 1.

The Client shall be given the opportunity to check and verify the Consultant's work and that the indicated standards/methods have been followed.

Ownership rights, copyrights and other relevant tangible and intellectual property rights to results of the assignment devolve to the Client when payment has been made, unless otherwise agreed in Annex 6, and subject to the restrictions established in another agreement or in invariable statutes.

These rights also cover the right to amend and assign, cf. Section 39b of the Act of 12 May 1961 no. 2 relating to Copyright in Literary, Scientific and Artistic Works (the Norwegian Copyright Act).

## **5 Research in other sectors**

Research is performed in many places and in many sectors outside the HE and institute sectors, such as in health trusts, private industry, organisations, the public administration and the archiving, library and museum sector. The parliamentary review of the Universities and University Colleges Act and the further specifications for the institute sector would appear to have had no impact on other sectors. Academic freedom and the concept of the researcher's integrity are far from equally established in all sectors. In private business, awareness and implementation of freedom of research will vary significantly, while the ideals are likely to be more firmly embedded among hospital researchers, who work more closely with academia.

## 5.1 Medical research in health trusts

Medical research has close ties with commercial stakeholders, patent development and external funding that sometimes involves strict guidance, as well as major, equipment-intensive projects. Highly problematic research-ethical aspects of medical research, including secrecy and “fabricated” research reports, are well known and this issue was presented at the Norwegian Association of Researchers’ Research Policy Seminar in 2015. Under the “AllTrials” initiative, researchers and institutions have joined together to call for all research results and studies of medical treatment to be published.<sup>12</sup> The movement believes that half of such studies do not see the light of day, with major adverse repercussions for patients and the research community.

Research on medical subjects is to a large extent regulated by laws on data protection and animal welfare, as well as research-ethical regulations designed to protect vulnerable parties and thus limit what and who can be the subjects of research, and how such research can be performed. The 1964 Declaration of Helsinki, which is based on the Nuremberg Code, and the general guidelines for research ethics, drawn up by the Norwegian National Research Ethics Committees, are central regulators in the choice of research object and method. From this perspective we can say that data protection and research ethics establish clear and legitimate boundaries for freedom of research for medical researchers.

It has been pointed out from several directions, including by professors of medical ethics, that a negative culture has developed in several medical research environments, which can spill over into dishonesty in research and intellectual bullying. The Vancouver Convention, prepared by the International Committee of Medical Journal Editors, establishes practical and ethical guidelines and requirements that most medical journals must follow when publishing scientific articles. However, research work and processes in the health sector are at times characterised by hierarchical traditions, where project managers are automatically credited as co-authors or can stop research projects that do not meet their approval. This tends to create discord, including with regard to authorship. Ph.D. fellows and younger researchers in particular tend to experience conflicts relating to authorship and other restrictions of their academic freedom. Together with an extremely high percentage of temporary contracts, this not only significantly challenges the individual’s professional freedom and independence, but also highlights the issue of responsibility for verifiability and honesty. The scope and consequences of these issues must be highlighted and further investigated. We must demand sound, research-based analyses in this field.

## 5.2 The Archives, libraries and museums sector

The most pressing problem for employees in archiving, library and museum institutions that perform research is securing time for research and development work. The Norwegian Association of Researchers’ member survey from 2013 (publication 5/13) revealed that R&D work is not extensively regulated and clarified, and therefore offers little predictability for many employees in the Archives, libraries and museums sector. Just over half of those surveyed stated that research assignments were supposed to be part of their work assignments, but only 64 per cent of this group had this stipulated in an employment agreement or similar. The same lack of clarity was evident in the Archiving Report (*Arkivmeldinga*).<sup>13</sup> R&D work is being shunted to the peripheries of the working day and extensively being performed in leisure time. This is not contributing to favourable framework conditions for research and academic freedom.

Researchers in the Archives, libraries and museums sector additionally lack an arena for recording research results. Only the National Museum can record its R&D work in the na-

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<sup>12</sup> <http://www.alltrials.net/>

<sup>13</sup> Report to the Storting no. 7 2012–2013, p. 73

tional research system CRIStin. The fact that the Archives, libraries and museums sector cannot record its R&D activities in the same way as the institute, health and HE sectors means this work has a low profile and provides an unbalanced picture of the research being carried out in the humanities subjects. This also restricts institutions' opportunities to collaborate with other research institutions in other sectors, and thus also inhibits freedom of research.

In the cultural field the "arm's length" principle applies, which is broadly speaking an equivalent to academic freedom. This principle also applies to the international cultural field, though with differing organisation and administration. In accordance with this principle, state authorities shall not micromanage or express opinions on communication at cultural institutions such as, for example, museums. The principle can also apply to decision-making processes and organisational structure.

The principle of professional freedom is established in the Museum Report (Report to the Storting no. 49, 2008–2009). This is related to the institutions' societal remit, which is to develop and communicate knowledge about people's understanding of and interaction with their surroundings.

*"Museums have significant professional freedom but also face major challenges in defining and delineating what is relevant and important from a societal perspective. This is a core issue for museums that requires continual analysis and reflection" (p. 145).*

The arm's length principle is also embedded in the same report, referring more to the institutional level than to individual researchers, and is an equivalent to institutional academic autonomy:

*"The museums shall have a professionally independent position that provides the latitude to pose critical questions concerning both the past and the present. This necessitates maintaining an arm's length distance to owners and public authorities."*

Here in Norway, Arts Council Norway is an "arm's length body" that is tasked with operating in the area between Ministerial control and expert knowledge. One example of the arm's length principle being put to the test was in spring 2016, when the Chief of Defence attempted to instruct the Norwegian Armed Forces' Museum to adjust texts in an exhibition on the Second World War following pressure from the Polish ambassador.

Important objectives for the Archives, libraries and museums sector moving forward will include defending robust professional integrity through the arm's length principle and fighting for resources for independent R&D activities.

## 6 Concluding comments

The Norwegian Association of Researchers' work to preserve academic freedom in active research sectors is embedded in both the Visions and values platform and Work Program for the period 2016–2018. This memorandum argues the case for high levels of awareness and vigilance concerning the institutions' autonomy and individual researchers' professional freedom and integrity. Academic freedom is facing a number of challenges, which individually and combined are giving cause for concern and require monitoring. As the policy programme states:

*Obstacles to real academic freedom are often experienced in the form of a lack of resources and time or uncertainty about future funding and employment. Ensuring academic freedom in practice presumes that both the institution and the individual employee are given the conditions and leeway to be able to fulfil their social responsibilities in a manner that ensures quality and legitimacy.*

The Norwegian Association of Researchers must assume a “watchdog responsibility” with regard to academic freedom. The Association must endeavour to raise awareness of external pressures that impact academic freedom and the potential consequences of changes in structure, funding and organisation of research and higher education. At the same time, both locally and centrally, we must continually strive to safeguard the absolutely critical issues of:

- securing individuals' job security, R&D time and opportunities for curiosity-driven, objective pursuit of knowledge,
- enabling the free and willing participation of individuals public debate and engagement in research communication,
- ensuring that teaching is research-based and hones critical thought,
- preventing intellectual bullying and dishonesty,
- preserving co-determination and collegiate bodies with responsibility for professional prioritisations and quality development.