

## Capacity

### About capacity

In the Code of Conduct (English original version) the concept of "conflict of interest" is defined as a situation in which financial or other interests have the potential to compromise or bias professional judgement. This corresponds to the concept of *incapacity* laid down in the Danish Public Administrations' Act.

One of the aims of DTU is to perform and disseminate research results and knowledge to the public on a neutral and reliable basis, and therefore the researchers' and others' financial, social or professional interests must not bias the research. If there is a risk that your work may be biased by your own and/or others' financial, social or professional interests, you are disqualified (*"inhabil"*) or as stated in the Code of Conduct: There is a conflict of interest.

### Personal capacity

In Denmark public servants, including administrative staff such as technicians and researchers, are covered by the rules in the Danish Public Administrations' Act about personal incapacity.

Sections 3-6 in the Act describe the cases in which a public servant cannot participate in decisions, give advice, be a member of councils and boards, committees, collaborations etc. due to incapacity, see also the examples in the below Act.

DTU employees shall comply with these rules. Whenever a DTU employee is involved in a task/project, the employee must consider whether he/she is disqualified (*"inhabil"*), i.e. whether a possible conflict of interests may prevent him/her from reaching a neutral and reliable result.

### Transparency

A good way to avoid accusations of incapacity is to ensure transparency about possible collaborations, secondary employments, if any, data collection method, testing method etc. Such transparency can for instance be provided in the form of an overview on the department's website with information about collaborators and project names. Similarly, the names of the collaborators and projects must be mentioned in the articles.

### Councils and committees in Denmark and abroad

A number of councils and committees, e.g. The Danish Research Council, EFSA and ESA, have laid down stricter rules for personal capacity than the Danish Public Administrations' Act. It is important that employees participating in such bodies evaluate whether they can comply with the rules on capacity while at the same time avoiding conflicts of interest with respect to their employment at DTU.

### Design of experiments, data collection, interpretation of the results and dissemination

Projects must be performed on a neutral basis from the design of the experiment and the collection of data till the interpretation and dissemination of the results. Personal interests must not bias the research.

### **Research collaborations with companies**

It is important that collaborations with companies do not bias the researchers' capacity with respect to ensuring correct results. Likewise, collaborations with other companies and universities, secondary employments or the ownership of for instance shares must not result in any conflicts of interest when a researcher enters into a new collaboration.

DTU's standard agreements contain provisions on capacity. When starting up a new collaboration, the issue of possible conflicts of interest, i.e. incapacity, must therefore always be considered on an individual basis. In addition, intellectual property rights (IPR) and confidentiality must also always be considered when starting a new collaboration. IPR and confidentiality do not, however, concern the assessment of possible incapacity.

### **Secondary employment**

DTU has laid down rules for both professional and commercial secondary employment that also take the issue of capacity into account. You should be particularly observant with respect to the risk of incapacity if you have a secondary employment. Please refer to the DTU rules on secondary employment which can be found [here](#).

### **Guest researchers and consultants**

Guest researchers at DTU must be informed about the Danish rules on capacity. In case the guest researchers participate in existing projects at the department, it must be ensured by the inviting DTU host that the guest does not have previous collaborations, ownerships or the like that could give rise to suspicions of incapacity with respect to the results obtained in the department's project.

### **Newly hired employees**

When hiring at DTU, it must be ensured that new employee is not disqualified ("*inhabil*") with respect to the tasks he/she has to carry out at DTU. For instance, the new employee must not be associated to competing companies.

### **Assistance with the assessment of capacity problems and the solution of such problems**

#### General questions

Please contact Susanne Schultz, Senior Executive Legal Officer, [susc@dtu.dk](mailto:susc@dtu.dk).

#### Capacity questions in relation to employment

Please refer to the relevant HR partner affiliated with your department/center, see [here](#).

/Susanne Schultz

## *Incapacity*

**Section 3.** Any person working for the public administration shall be disqualified relative to a specific case if

1) they have a particular personal or financial interest in the outcome of the case or if they have previously represented any person in the same case with such interests;

2) their husband or wife, any person related by blood or marriage in the direct line of ascent or descent or in a collateral branch as close as first cousin, or any other closely attached person, has a particular personal or financial interest in the outcome of the case or represents any person with such interests;

3) they are involved in the management of or are otherwise closely associated with any company, partnership, association or other private legal entity with a particular interest in the outcome of the case;

4) the case concerns a complaint about or exercise of the control or supervision of another public authority, and the person previously served with that authority and assisted in making the decision or in implementing the measures at issue in the case; or

5) there are other grounds for questioning the person's impartiality.

*Paragraph 2.* No person shall be disqualified if the nature or strength of his interest, the nature of the case, or his tasks in connection with the handling of the case are such that the decision on the case is unlikely to be affected by extraneous considerations.

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

**Section 4.** The provisions in Section 3 shall not apply if it would be impossible or cause substantial difficulties or misgivings to arrange for another person to act in place of that person in considering the case.

*Paragraph 2.* The provisions in Section 3 shall apply to members of a collegiate administrative 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 the composition of the authority would be called into question if the member could not attend its meetings, and if consideration of the case cannot be stayed without material damage to public or private interests.

*Paragraph 3.* Notwithstanding the provisions in Section 3, any member of a collegiate administrative authority may take part in electing members for specific duties, even if his own name is put forward. The provisions in Section 3 shall not apply to decision-making by local government councils on the remuneration etc. of their own members.

**Section 5.** After consulting with the Minister for Justice, the minister concerned may lay down more detailed rules by order on the scope of Sections 3 and 4 for specific sectors of the administration.

**Section 6.** Any person who is aware of circumstances relating to them as referred to in Section 3 (1) shall immediately advise their hierarchical superior thereof, unless it is clear that the circumstances are immaterial. In the case of a member of a collegiate administrative authority, the authority shall be advised.

*Paragraph 2.* Disqualification shall be decided by the authority referred to in paragraph 1.

*Paragraph 3.* The person concerned must not himself take part in considering or deciding his own disqualification, but see Section 4(1) and 2. This shall not apply to areas subject to other provisions laid down by law.