

CODE VII

SEVEN
KEY
DUTIES

FOR CIVIL SERVANTS
IN CENTRAL GOVERNMENT

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IN CENTRAL GOVERNMENT

**Seven key duties for civil servants in central
government - Code VII**
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INTRODUCTION

The aim of this code is to help employees and managers in central government to be aware of their key duties as civil servants. The code describes seven key duties for the work in central government that relates to advice and assistance rendered to the government and its ministers.

Some years have passed since the responsibilities and duties of civil servants were last described systematically. In 1993, a DJØF (Association of Danish Lawyers and Economists) working group headed by Lars Nordskov Nielsen published a comprehensive report on professional ethical principles in public administration. In 2001, the Ministry of Justice submitted a report to the Folketing (Danish Parliament) on certain issues in connection with civil servants' advice and assistance to the government and its ministers. The Folketing subsequently adopted the report. In 2004, a white paper was published on the same topic. In addition, there are a number of legal works on the interaction between civil servants and ministers as well as publications on codes of conduct for civil servants, see Literature on page 62.

The civil servants' work-related duties which these reports have identified still apply. Therefore, this code is among other things based on the above-mentioned publications.

The code is an updated presentation of seven key duties for civil servants in central government – with a focus on the duties of civil servants in relation to the advice and assistance they render to the government and its ministers. In addition, as a framework for the code, an overall presentation is provided of the position of central government's civil servants in Danish democracy and the Danish organisation of ministerial governance.

Central government is in charge of tasks that are important for our society. And ministers, the Folketing, the press and citizens must have confidence in the work performed by civil servants.

Civil servants must, therefore, be professionally competent and responsible and they must demonstrate commitment in the development of the field they are involved in. There must be a trustful collaboration between employees and management. And it is an important senior management task in the ministries to foster a culture where managers as part of day-to-day work guide employees on the responsibility and the duties of being a civil servant in central government.

All employees and managers must know their duties and fulfil them. It is decisive for the quality of their work and it is also decisive for others to be able to have confidence in the work of civil servants.

THE ROLE OF CENTRAL GOVERNMENT IN DANISH DEMOCRACY

In our parliamentary democracy, the executive power lies with the government made up of ministers who are accountable to the Folketing. A Minister shall not remain in office after the Folketing has passed a vote of no confidence in him/her. The democratic legitimacy of ministers is therefore embedded in the Folketing. On the basis of this legitimacy, ministers head their ministries where they are the representatives of democracy.

Civil servants in central government work in a politically headed organisation with the minister as the chief executive who is at the same time a member of the government and accountable to the Folketing. In accordance with the principles of ministerial responsibility, the minister has the authority to issue directions to the civil service which has a duty of obedience to the minister.

In brief, civil servants in the departments and agencies of the ministries are required to professionally and loyally advise and assist any government of the day and its ministers within the legislative framework.

Civil servants must work for their minister

Civil servants have a duty to render assistance to their minister. They must provide professional assistance and political advice to help the minister to perform his/her tasks as a minister. They must provide assistance with developing the professional basis for decision-making regarding new political initiatives, political and professional advice for negotiations with the political parties in the Folketing, answers to questions from the Folketing, specific administrative decisions, and with speeches and interviews.

And civil servants have a duty to be loyal to the government and its ministers and must be responsive to their wishes. Within the legislative framework, civil servants advising and assisting the minister must take as their starting point the minister's political course.

Civil servants' duty of loyalty applies exclusively in relation to the government and its ministers. This follows from the fact that our parliamentary democracy is based on ministerial governance with the minister being accountable to the Folketing. It would be contrary to our democracy if, for example, civil servants allowed themselves to be governed by their own political perception of what is in the best interests of the general public, or if their loyalty did not lie with the minister, but with political parties in the Folketing.

Civil servants must work within the boundaries of the law

Ministers are not only politically accountable to the Folketing. Denmark is a country based on the rule of law where ministers have a legal responsibility for complying with the Ministerial Responsibility Act (Ministeransvarlighedsloven) and other legislation. The Ministerial Responsibility Act establishes among other things that ministers must not give the Folketing incorrect or misleading information and that during the Folketing's consideration of a case they must not withhold information of essential importance to the Folketing's assessment of the matter in hand.

Civil servants' advice and assistance to their minister must for the same reason be provided within the boundaries of the law and the fundamental norms that apply to central government regarding, for example, professionalism and party-political neutrality. In this context, attention must be drawn to the Public Administration Act (Forvaltningsloven) which supports the protection of citizens' rights as well as the rules of the Act on Access to Public Administration Files Act (Offentlighedsloven) which among other things supports public scrutiny of public administration and the media's ability to communicate information to the general public.

Civil servants must live up to the values of our democracy and must perform their duties with high integrity.

Civil servants' tasks

As head of a ministry, a minister performs two different functions and civil servants are obliged to assist the minister with both functions:

- The minister has a political role as a member of a government that must develop its policy and see to its implementation.
- The minister has an administrative role in administering the legislation and appropriations within the minister's remit.

It is important for ministers and civil servants to be conscious of whether they are acting in one or the other role as there are differences in the rules they must comply with. The administrative role is far more rule-bound than the policy development role as the exercise of administration is a matter of administering given legislation and appropriations and requires compliance with a number of rules of administrative law.

Civil servants are to provide their minister with professional assistance and political advice in all situations where the minister acts as a member of the government. Professional assistance has always been at the core of civil servants' work. Over the years, such assistance has been supplemented with political/tactical advice – i.e. advice on how the government best succeeds in deciding, presenting and implementing its policy. Both professional assistance and political advice constitute a natural and integral part of the way in which civil servants serve their minister.

In recent years, communication has become a more integral part of many civil servants' tasks. The media of today provide very intensive coverage of political life and of ministers' work, and the demand for fast and clear communication of political messages and political initiatives has increased.

In addition, civil servants render professional assistance to their minister as head of administration – typically in that the ministry's civil servants prepare and make administrative decisions on behalf of the minister or carry out operational or supervisory tasks.

The tasks of civil servants are briefly set out on the next page.

Civil servants' tasks in advising and assisting ministers

Civil servants in central government provide their ministers with professional assistance and political advice. It is a very broad range of tasks. They include for example:

- The drafting of bills to be submitted to the Folketing.
 - Assistance in answering oral and written questions from the Folketing and in drafting answers when the minister is required to attend a consultation in a committee of the Folketing.
 - Assistance in handling negotiations on government proposals with the political parties of the Folketing.
 - Continuously briefing the minister on matters of relevance to the minister's work, including matters within the ministry's remit that may be improved.
 - Assistance in preparing new political initiatives, including material for written and oral presentations thereof.
 - Assistance for the minister's participation in the government's internal work, including the coordination taking place between ministers.
 - Assistance for political announcements, debates with the opposition and interviews on the minister's policy.
 - The implementation of decisions made by the minister, of bills passed, etc. and taking steps to monitor whether the objectives of the legislation are attained.
 - Assistance in drafting speeches which the minister is to give in the Folketing, at debates and at events with, for example, interest groups.
 - Assistance in handling – and participating in – international negotiations and meetings.
 - Assistance in answering queries from the press, citizens, companies, etc.
 - Assistance in answering questions, etc. from Rigsrevisionen (Danish national audit office) and the Danish Parliamentary Ombudsman as part of their supervision of the ministries.
 - Handling of cases as part of the administration of the legislation and appropriations within the remit of the ministry in relation to, for example, other public institutions, citizens and companies.
 - Scrutiny and evaluation of existing legislation.
 - Meetings with and supervision of the institutions subordinate to the ministry.
-

SEVEN KEY DUTIES

Civil servants in central government are required to advise and assist the government and its ministers professionally and loyally within the boundaries of the law.

In order to perform this task, a good civil servant must possess a number of competencies that are of the essence to high-quality advice and assistance. These include, inter alia, professional insight, the ability to express oneself, an interest in societal conditions, an understanding of political decision-making processes, an understanding of political communication, the ability to think innovatively and creatively, a good sense of judgment, and the ability to provide advice that encompasses both coaching and sparring.

A civil servant must also fulfil a number of duties that follow from fundamental legal norms in our constitutional law.

Seven of these duties are presented here in a code under the following headings:

1. Legality
2. Truthfulness
3. Professionalism
4. Development and cooperation
5. Responsibility and management
6. Openness about errors
7. Party-political neutrality

Compliance with these duties is essential for the quality of the work performed in central government and, in turn, for ensuring that the work of civil servants is perceived as credible by ministers, the Folketing, the press and citizens. The government and the ministers need to have confidence in the advice and assistance they receive. The Folketing needs to have confidence that the proposals submitted by the minister meet high professional standards and that all information is correct. Compliance with these duties is also important for

the control exercised by Rigsrevisionen and by the Parliamentary Ombudsman and, naturally, also for the individual citizen's confidence in the government.

All civil servants must therefore know and comply with the key duties in their day-to-day work.

The seven duties are described in this code that is intended to provide a clear and simple presentation of their content. The code is not a detailed guide setting out civil servants' duties in all situations and in all detail. It is meant to serve as a general guideline.

The seven duties of the code apply to all civil servants in ministries and agencies, irrespective of what tasks they perform. In the description of the duties, special focus is however placed on the tasks that civil servants carry out in interaction with the minister, i.e. on civil servants' advice and assistance to the minister. The focus is therefore not on, for example, the many administrative and supervisory tasks performed by ministries and especially agencies nor on the operation of government authorities, institutions and enterprises.

The duties presented in the code are formulated primarily so as to target the individual civil servant. In central government, most tasks are carried out in collaboration between several employees and in continuous dialogue between employees and their managers and between managers. Irrespective of the type of collaboration in question, the individual civil servant must comply with the duties of the code.

As mentioned above, the code is based on principles that are fundamental to our democratic government system.

The minister's political accountability to the Folketing and the rules on legal liability that apply to the minister under the Ministerial Responsibility Act and other legislation imply a number of derived duties for civil servants. These duties relate both to how civil servants act in relation to the minister so that the latter receives assistance enabling him/her to live up to his/her responsibility and to how civil servants themselves act in that they always act on behalf of the minister.

Two of the essential duties are presented here: the duty to comply with the legislation and the duty of truthfulness. In their daily work, civil servants will rarely find themselves in situations which give rise to problems regarding these two duties. Nevertheless, it is important to recall the duties of legality and truthfulness.

At the same time, it is a fundamental principle in central government that civil servants must exercise professionalism when rendering assistance and advice. They are to contribute to ensuring a professional basis for political decisions and advise the minister professionally on, for example, political negotiations and political messages.

Civil servants must, furthermore, be able and willing to think innovatively about political wishes from the minister, to pay attention to improvements that could be made in their remit, and they must cooperate with relevant parties in other ministries and also externally.

In their advice and assistance to the minister, civil servants must be party-politically neutral in order to ensure that future governments and ministers can be confident about receiving advice from the same civil servants.

The code comprises only some of the key duties

The code addresses the key duties that are most essential to the work that civil servants in central government carry out in interaction with their minister. It focuses on duties relating to advice and assistance provided to the government and its ministers.

The code is not exhaustive. Many norms of administrative law are not mentioned in the code, including the principles of good administrative practice which must be complied with in relation to citizens, companies, organisations, etc.

In the list on page 62, literature is presented that provides further information on the duties of civil servants. In, for example, "Code of Conduct in the Public Sector" (the State Employer's Authority, Local Government Denmark and Danish Regions, 2007) the duties of confidentiality, impartiality, acceptance of gifts and sideline occupation are described.

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LEGALITY

THE FIRST OF SEVEN KEY DUTIES

THE DUTY MEANS

Civil servants must always act within the boundaries defined by existing laws. They must not act contrary to the Constitution or other legislation, including existing EU law.

In a country based on the rule of law, it is fundamental that everybody - naturally including ministers and civil servants - act within the boundaries defined by the law. All advice and assistance to ministers must therefore be provided within the framework of existing laws.

In addition, it is characteristic of the exercise of public authority that it may only take place on the basis of legislation. There must be substantive authority to perform the tasks and financial appropriations to bear the costs involved. Decisions must be based on the considerations laid down in the legislation.

THE DUTY IMPLIES

- Civil servants must ensure that bills submitted to the Folketing by the minister are not contrary to the Constitution.
- Civil servants must ensure that bills submitted to the Folketing by the minister are not contrary to Denmark's international legal obligations, including EU law and the European Convention on Human Rights. In the special circumstance that the government makes the fundamental decision to submit a bill that is contrary to these, the bill must clearly state this.
- Civil servants must ensure that the decisions made in the ministry are in accordance with relevant legislation in the field concerned, including that they have the requisite legal basis and comply with existing rules of administrative law.
- Civil servants must be aware when the minister acts as head of administration - for example in connection with specific administrative decisions - as a special legal basis governs such action. There are, for example, fundamental rules of administrative law on impartiality and a prohibition of unjustified discrimination.
- Civil servants must not provide advice that will lead to action which is contrary to existing laws. And they must warn the minister if he/she is taking steps to act in a manner that is contrary to existing laws.
- If the minister or a superior issues directions to act, civil servants must refuse to comply provided it is clear that the action would be unlawful, see the fifth duty on responsibility and management.

There may be cases of doubt where the law is not clear and unambiguous. Cases, for example, when an EU directive is to be implemented and the interpretation of key provisions in the directive gives rise to doubt. In such cases, it is decisive that the civil servant presents the minister with the considerations on which the interpretation of the provision is based. If a bill that is submitted to the Folketing gives rise to more comprehensive considerations of legal questions of doubt - for example regarding EU law - such considerations should be presented in outline in the explanatory notes to the bill.

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TRUTHFULNESS

THE SECOND OF SEVEN KEY DUTIES

THE DUTY MEANS

Civil servants must live up to the duty of truthfulness. They must not contribute to the minister's disclosing incorrect or misleading information to the Folketing or withholding essential information from the Folketing. And they must not themselves disclose – or otherwise contribute to the minister's disclosing - information that is incorrect or misleading in the context.

As part of their service, civil servants are subject to a duty of truthfulness. This applies to their advice and assistance rendered to the minister. This applies in relation to other employees internally in the ministry. And this applies in relation to everyone external to the ministry: the Folketing, supervisory authorities, other authorities, organisations, the press, citizens, companies and the general public.

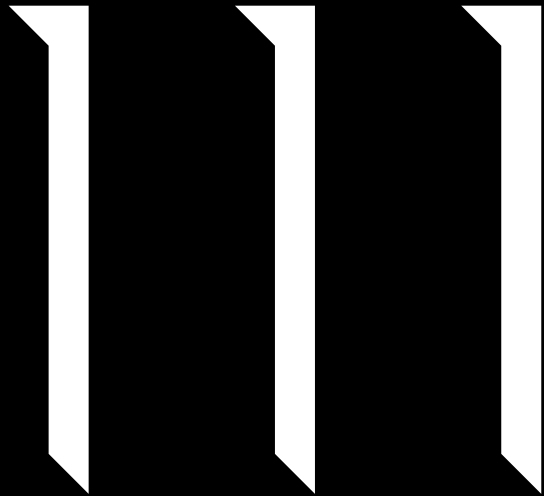
In their advice and assistance, civil servants must contribute to ensuring that ministers comply with their duty of truthfulness towards the Folketing. Compliance with the duty of truthfulness is crucial for the Folketing to have confidence in the information which it receives in connection with, for example, the consideration of a bill, and for the Folketing to exercise its functions of parliamentary control of government ministers. Under section 5 of the Ministerial Responsibility Act, a minister is liable under criminal law if he/she "provides the Folketing with incorrect or misleading information or, during the consideration of a case by the Folketing, withholds information that is of essential importance to the Folketing's assessment of the matter".

THE DUTY IMPLIES

- Civil servants must not disclose - or contribute to the minister's disclosing - information which is incorrect or misleading in the given context, for example in the ministry's publications, on the ministry's website, to the press or to citizens.
- Civil servants must not contribute to a minister or a ministry disclosing incorrect or misleading information to the Folketing or withholding information that is essential to the Folketing. For example in answers to questions from the Folketing or in bills that are submitted to the Folketing.
- Civil servants must not advise the minister in a manner entailing a breach of the duty of truthfulness, for example through the disclosure of incorrect information or the withholding of information. And they must warn the minister if he/she is taking steps to act in a manner that is contrary to the minister's duty of truthfulness.
- If the minister or a superior issues directions to disclose information, civil servants must refuse to comply provided it is clear that the directions are contrary to the duty of truthfulness, see the fifth duty on responsibility and management.

The duty to provide true and non-misleading answers implies among other things that when answering questions from, for example, the Folketing, efforts should be made to interpret the assumptions on which the questioner presumably based his/her question, and to draw up the answer in the light of this. In case it is very difficult to do so, the answer should be based on an ordinary linguistic interpretation of the question.

The duty of truthfulness does not imply that all factual information in all cases must be included in the answers that a minister or a ministry presents to the Folketing. But civil servants must ensure that no factual information is omitted that is of decisive importance to the understanding of the answer or to the matter or case in question so that the answer does not become misleading.



PROFESSIONALISM

THE DUTY MEANS

Civil servants must act within the framework of generally accepted professional standards. They must particularly do so when performing tasks such as the drafting of bases for decisions, statements to and written material for the Folketing, the press and the general public where this work appears to reflect professional assessments.

Civil servants must advise and assist the minister within the framework of generally accepted professional standards to ensure that the minister, the Folketing and others can have confidence in the quality of their work.

The duty of professionalism applies to all types of assessments based on professional insight into factual circumstances and connections.

Civil servants' professional advice and assistance must satisfy the professional standards that are generally recognised within the field in question. In some fields, there will be clear professional standards for what is right and wrong among researchers and other experts which must also be met by the professional advice offered. In other fields, the framework of generally accepted professional standards will be broader, and some fields may be characterised by unclear or contradictory professional standards.

THE DUTY IMPLIES

- Civil servants must inform and advise the minister about the relevant professional basis in connection with the minister's decisions regarding for example a new political initiative or an administrative decision.
- In their advice and assistance to the minister about the professional basis, civil servants must live up to generally accepted professional standards of analysis and assessment regarding for example legal questions, economic conditions, health conditions and environmental conditions.
- In their advice and assistance to the minister about the professional basis for, for example, political decisions and answers, civil servants must be guided by what they consider to be professionally correct. Along with this professional assistance and advice, civil servants provide political/tactical advice on how the minister best succeeds in deciding, presenting and implementing his/her and the government's policy.
- Civil servants may assist a minister in drafting purely policy-based answers to, for example, a proposal tabled by the opposition, but must not contribute to giving purely policy-based answers a false professional appearance.
- Civil servants must not assist in using professional analyses and assessments to present a politically founded solution as the only professionally well-founded solution if there are in actual fact several professionally well-founded options.

The professional advice and assistance will never per se determine a particular policy. Whether the minister wishes to take action, and when and how he/she does so, will always be a political decision. Situations may also arise where the minister wishes to implement initiatives in a particular field on the basis of purely political considerations.

In order to give the Folketing, the general public and experts outside ministries the opportunity to check the professional basis of the policy presented, the ministries must be open about their professional approaches, methods and data - for example with respect to economic conditions, health conditions and environmental conditions. This will enable outsiders to present critical assessments which may contribute to enhancing the quality of the professional advice and assistance to the minister (see the fourth duty of development and cooperation). Such openness should also include continuous dialogue with relevant professional environments outside the ministry on developments in professional matters in the field.

The task of communicating political initiatives, etc. to the general public in an easily understandable form makes up a considerable part of civil servants' work. This task requires professionalism by way of good drafting skills and an understanding of political communication. Performing this communication task may entail less accuracy in the presentation of economic, legal or technical subjects, but it must not detract from the requirement of professionalism in relation to these subjects.

IV

DEVELOPMENT AND COOPERATION

THE DUTY MEANS

Civil servants must at all times strive to improve their advice and assistance to the minister. In their effort to achieve the best results, they must keep up with developments in their field, focus on possible improvements to quality and efficiency in their remit, be open and responsive to the outside world and cooperate with others.

The ministries must at all times strive to become even better at providing advice and assistance to ministers. The ministries must develop actively with a view to achieving better results and reaching new goals. This requires openness to professional criticism from the outside world (see the third duty of professionalism) and openness to new inspiration from outside. And it requires that civil servants have the ability and willingness to think innovatively - for example in relation to the minister's political wishes or in light of new challenges and opportunities.

In order to achieve the best results, the ministries should also engage in dialogue with citizens, organisations and companies. And they should act as part of a coherent public sector.

THE DUTY IMPLIES

- Within their remit, civil servants must pay attention to conditions that may be improved. For example by way of professional analyses of key areas within the ministry's portfolio. If conditions in a key area develop contrary to expectations, the minister should be briefed on this.
- Within the framework established by senior management, civil servants must participate actively in the ministry's development and innovation in order to achieve better results and reach new goals. They must be prepared to seek out knowledge and allow themselves to be inspired by others and be open-minded about the possibility that tasks and work processes can develop.
- In their considerations, civil servants must include relevant knowledge from users, organisations and companies, etc.
- In connection with their participation in advising and assisting their minister, civil servants must cooperate with other ministries to ensure that tasks are performed in a coordinated and coherent manner.
- In their advice and assistance to the minister, civil servants must support a coherent performance of tasks between the state sector, municipalities and regions to ensure that the performance of tasks in the public sector is coherent.

V

RESPONSIBILITY
AND MANAGEMENT

THE DUTY MEANS

Civil servants must actively contribute to carrying out the tasks, strategies and goals established by the minister and the administrative management. Within the legislative framework, they must comply with the directions they receive from their superiors in accordance with the distribution of responsibility in their organisation.

Civil servants must contribute to the implementation of their minister's decisions. This is part of their general duty of loyalty towards their minister. It does not merely imply that the minister's decisions are to be translated into changed rules or that funds are to be allocated for specific purposes. Civil servants must also contribute to the translation of decisions into actual changes. And they must monitor whether the policy pursued has the desired impact.

Civil servants in central government are employed in departments and agencies where a distribution of responsibility and a specific superior-subordinate relationship exist between managers and other employees.

Day-to-day work will normally be performed in informal collaboration between staff involving discussions of how the tasks should be carried out. In case of several views, the superior will make a decision which the employees must comply with. Employees are as a general rule subject to a duty of obedience to the authority where they are employed, which implies that they must comply with directions issued by their superiors. This follows from the general principles of managerial powers and the authority to issue directions.

The responsibility held by superiors in the organisation also manifests itself if questions of doubt arise as to, for example, compliance with the duty of truthfulness or professional issues. Such questions are to be decided by the superior who in so doing assumes legal liability for having made the right decisions.

THE DUTY IMPLIES

- Civil servants must demonstrate responsibility and willingness to cooperate in connection with the tasks they are to perform.
- Civil servants must contribute to the implementation of decisions made by the minister and the government and they must in general monitor whether the decisions have the desired impact.
- Civil servants must draw the attention of their superiors to any doubt about the lawfulness of an action or to doubt about professional issues or compliance with the duty of truthfulness in order that the superior may decide on the matter. In case of disagreement, a civil servant must as a general rule comply with his/her superior's decision.
- Civil servants must refuse to comply provided it is clear that a manager issues directions to carry out unlawful actions or to violate the duty of truthfulness. If the manager insists that his/her directions be complied with, the civil servant must inform the manager's immediate superior of the matter and at the same time inform the manager of this.

Managerial responsibility and compliance with directions

Cases of doubt

Normally, there will be no doubt as to whether an action is unlawful or contrary to the duty of truthfulness. Cases of doubt may, however, arise. In such cases, the question must be decided. Such clarification should be brought about according to the following principles:

- A civil servant who is aware of a question of doubt must draw the attention of his/her superior to the matter and should brief the superior on the facts of the case and his/her assessment of it.
- The superior must make a decision resolving the question. The superior must base his/her decision on an assessment of what falls within the framework of the law and of the duty of truthfulness. The superior may incur liability for this provided that it subsequently turns out that the decision was wrong (for example in cases where a court of law arrives at another result than the civil servant's superior).
- A civil servant has a duty to comply with his/her superior's decision in cases of doubt. The exception to this is, however, situations where the civil servant has strong reasons for believing that the superior civil servant's decision is contrary to the law or to the duty of truthfulness. In such situations, the civil servant has a right to refuse to comply, but not a duty to do so. In these cases, the civil servant - after having briefed the superior on the facts of the case and his/her assessment of it - cannot incur liability for complying with the decision.

The principles imply therefore that responsibility is removed from the employee. It is the superior who makes the decision and holds the responsibility for making the right decision in cases of doubt.

The principles for handling cases of doubt do not, therefore, address the extent to which it is permissible to violate the law or the duty of truthfulness. The principles address the question of who makes the decision and holds the responsibility in cases of doubt: It is a superior civil servant or possibly a minister who makes such a decision and holds the responsibility for this.

The principles for cases of doubt set out here in relation to legality and the duty of truthfulness also apply to cases of doubt regarding professionalism.

Breach of legality and the duty of truthfulness

In the special circumstances that a superior - be it a civil servant or a minister - issues directions which are clearly contrary to the law or the duty of truthfulness, the subordinate civil servant has a duty to refuse and must not comply with the directions. If the civil servant fails to refuse to comply in such a situation, both he/she and the superior may incur liability for acting contrary to the duty of truthfulness or the law (as was the case in for example the Tamil case, see the report of the court of inquiry of 1993).

VI

OPENNESS
ABOUT ERRORS

THE DUTY MEANS

Senior management must ensure a culture where errors are handled as soon as possible and where lessons are learned from past errors.

It is senior management's responsibility to ensure a culture in the ministry which allows all employees and managers to feel free to approach their superior if an error has been made. The superior must then decide on the nature of the error and on how to handle it.

Civil servants must make every effort to avoid committing errors. But errors cannot be completely avoided. The ministries must have a culture where errors are attended to so as to rectify them and learn from them. If errors are committed, this must not be denied and cover-up attempts must not be made.

THE DUTY IMPLIES

- Civil servants who discover that a not insignificant error has been committed in the organisation must immediately inform their manager of the problem to ensure that the error is rectified.
- Civil servants must not count on the likelihood that an error will not be discovered.
- Civil servants must not attempt to cover up errors.
- Civil servants must participate in a culture where lessons are learned from past errors, enabling everybody to become better at avoiding the re-occurrence of errors.

A culture where it is natural to give information about errors in order to ensure they will be handled

Even if civil servants make a great effort, errors cannot be avoided. Errors are committed in all organisations from time to time.

There may be situations where it is difficult for the individual employee to pluck up courage to inform the manager that he/she has discovered an error. However, it is important for the individual and for the ministry and the minister that the manager is informed to ensure that the error will be dealt with.

Errors may give rise to criticism. However, matters are aggravated if cover-up attempts are made and others discover the error.

Therefore, civil servants have a duty to inform their manager of not insignificant errors. And senior management in the ministry must ensure that a culture prevails where it is safe for the employees to inform their manager of errors.

WMI

PARTY-POLITICAL
NEUTRALITY

THE DUTY MEANS

Senior management must perform their work in a party-politically neutral manner so as to ensure that they can function as credible civil servants for successive governments. Civil servants must not provide advice and assistance for purely party-political purposes.

Civil servants must loyally provide any government of the day and its ministers with professional assistance and political/tactical advice. They must be loyal to their present minister and government and render assistance in developing and implementing the government's policy. At the same time, they must equally loyally be able to assist another minister and another government with a different policy and another party-political allegiance. This requires the civil service to be party-politically neutral, and it requires consistency in terms of the professional advice given before and after a change of minister.

THE DUTY IMPLIES

- Civil servants must not allow their own political views to influence the advice and assistance they render to the minister, but must professionally and loyally ensure the best possible implementation of the minister's and the government's policy.
- Civil servants must assist the minister in his/her political work as a member of the government vis-à-vis the Folketing, the press and the general public. However, civil servants must not assist the minister in his/her purely party-political activities - for example the minister's tasks within a political party organisation, considerations regarding an election campaign for a general election, or the minister's party-political tasks in connection with local elections.
- Once a general election has been called, civil servants must not assist the minister with tasks that relate to the election campaign of the minister, the government or the party, apart from practicalities such as assistance from the ministerial secretariat regarding the minister's diary, transport, etc.
- In connection with a referendum on a bill, civil servants may provide advice and assistance on the preparation and implementation of the bill, including the drafting of information material. However, civil servants must not participate in campaign-like tasks, and in the period prior to a referendum they must abstain from providing advice and assistance to the government and its ministers on the theme of the referendum in a manner that might present the civil service in a light that is not party-politically neutral.

The duty of party-political neutrality does not apply in the same way to advice and assistance provided by the special advisers whose employment is linked to the minister's term in office. These civil servants are, however, subject to the same duties of legality, truthfulness and professionalism, etc. (see the other six duties) as other civil servants.

As a private citizen, the individual civil servant may be politically active and, for example, be a member of a political party, see also the Constitution's provisions on freedom of association and freedom of expression.

For a description of civil servants' freedom of expression, reference is made to white paper no. 1553/2015 on public employees' freedom of expression and whistle blower schemes.

Overlapping functions

A minister's party-political activities may overlap with his/her functions as a member of the government and head of administration. It may, for example, be a matter of a minister participating in a party-political event about topics that fall within the minister's field of responsibility. In such a situation, civil servants may draft a contribution to a speech or a speech about the topics within the minister's remit.

CODE VII

CODE VII

THE CODE AND YOUR WORK

The main focus of the seven duties of the code is on civil servants' advice and assistance to the government and its ministers. However, the duties of the code apply to all civil servants in ministries and agencies, irrespective of what tasks they perform.

Talk to your superior if you are in doubt

Managers and employees may find themselves in situations where they are in doubt as to what their duties imply in relation to a specific case or a more general issue. In such situations, they should talk to their immediate superior.

Information measures in the ministries

Senior management in the ministries must ensure that the code and its seven duties are disseminated to all managers and employees.

Managers at all levels must be aware that they are role models for compliance with the seven key duties and managers must make sure that their employees are taught to comply with the duties of the code.

In connection with the publication of the code, introductory meetings on the code will be held in all ministries. At the introductory meetings, the code will be presented to managers and employees. The ministries must follow up on the code, for example by organising activities to support managers and employees in achieving the skills to apply the code in relation to their tasks.

In connection with the appointment of new managers and employees, the ministries will, furthermore, give an introduction to the code.

Part of the evaluation of managers and employees

The way managers and employees comply with the code will be a component of the evaluation of their performance. This may for example take place in connection with the staff development interviews taking place at regular intervals.

Proficiency in using the code

Under each of the seven duties, a number of key examples are presented of what the duties imply. These examples are not exhaustive, but underline key aspects of each of the seven duties.

In order to support the ministries' effort to enhance knowledge of the seven duties among managers and employees, a number of fictitious cases have been prepared as supplementary material to the code. These cases describe some specific situations requiring that a problem must be solved on the basis of one or more of the duties in the code, and where a choice must be made. The cases are not meant to provide a complete picture of civil servants' day-to-day work but are designed to draw attention to situations where the civil servant may experience uncertainty or face a dilemma.

The aim and objective is that when civil servants discuss and decide on these cases, they will gain more specific insight into what the seven key duties of the code mean in relation to their work.

Answers have been prepared to each individual case. They may be used in the ministries' work on the code.

The idea is to prepare new supplementary cases in the time ahead, which may be used in future introductory programmes for managers and employees.

Fixed component of management training programmes

The code will be included as a fixed component of the management training programmes organised by the Agency for the Modernisation of Public Administration for employees in central government.

Consequences of not complying with the code

Whether insufficient compliance with the code may have consequences for the individual civil servant will need to be decided according to existing rules, etc. on this matter.

Insufficient compliance with certain duties of the code may give rise to actual legal liability by way of criminal law sanctions or disciplinary or similar employment law liability (for example the duties of legality and truthfulness) as has been the case so far. Other duties, including in particular the duties referred to under the fourth duty of development and cooperation, relate to a greater extent to the quality of the performance of the employee or the manager and may primarily be of importance to the ongoing evaluation of the person in question.

LITERATURE

This publication is based to a great extent on the existing literature on current rules and norms for civil servants' advice and assistance to ministers. The following literature may be mentioned:

White paper no. 1354 (1998), *Forholdet mellem minister og embedsmænd*. Report of the expert committee on the relationship between ministers and civil servants.

White paper no. 1443 (2004), *Embedsmænds rådgivning og bistand*. Report of the expert committee on civil service advice and assistance to the government and its ministers.

Christensen, Bent (1992), "Lydighedspligt, Loyalitetspligt og centraladministrationens embedsmænd", the Danish weekly law reports 1992 B, pp 396-402.

Christensen, Jens Peter (1998), *Offentligt ansatte chefers ansvar*. Ministry of Finance.

Christensen, Jens Peter (2002), "*Embedsmandsansvaret*" in *Undersøgelseskommissioner, Embedsmandsansvaret & Folketingets rolle*, edited by Oliver Talevski, Jens Peter Christensen and Claus Dethlefsen. Copenhagen, DJØF Publishing.

Christensen, Jørgen Grønnegaard; Jens Peter Christensen; Marius Ibsen & Erik Ib Schmidt (1993), *Normer for god embedsmandsadfærd?* Discussion paper, 20 January 1993.

DJØF's fagligt etiske arbejdsgruppe (1993), *Fagligt etiske principper i offentlig administration*. Copenhagen, DJØF Publishing (the Nordskov Nielsen report).

Forum for Top Executive Management (2005), *Public Governance – Code for Chief Executive Excellence in Denmark*.

Ministry of the Interior and Health (1997), *God behandling i det offentlige*.

Ministry of Justice (2001), *Redegørelse om visse spørgsmål i forbindelse med embedsmænds rådgivning og bistand til regeringen og dens ministre*. Submitted to the Folketing on 4 October 2001.

The State Employer's Authority, Local Government Denmark and Danish Regions (2007), *God adfærd i det offentlige*.

