

## Privacy Statement

### Informal procedure for the prevention of harassment

#### Scope

According to *Regulation (EU) 2018/1725 of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data* any person involved in the informal procedure for the prevention of harassment has the right to certain information about the processing and the right to access and to rectify their personal data.

The formal procedure for the prevention of harassment shall not be covered in this document as during a formal procedure an administrative inquiry will be launched and reference can thus be made to the privacy statement regarding administrative inquiries and disciplinary proceedings.

During the informal procedure, the Data Protection principles below shall apply at any time.

#### What is the legal basis for processing your personal data?

According to Article 12a of the Staff Regulations, an official shall refrain from any form of psychological or sexual harassment.

As the Agency has the duty to provide a working environment free from harassment, it has adopted a Policy for Prevention of Psychological and Sexual Harassment (MB/42/2012 final).

Within the scope of this procedure it is inevitable that personal data will need to be processed.

#### What is the purpose of the collection of personal data?

When an informal procedure is launched, any personal data will be processed solely for the purpose of conducting this procedure, aimed at finding an amicable solution through informal discussions between the alleged victim and the other party with the mediation of the confidential counsellor.

#### What personal data is collected?

When dealing with cases of psychological or sexual harassment a wide range of personal data may be collected, including for instance:

- Identification and administrative data (name and directorate)
- Personal information of any kind if relevant to the case at hand (concerning both professional and private life). This data is by its nature subjective and can include allegations, statements, information on the case from the alleged victims, the alleged harasser, witnesses or persons involved in other ways;
- The dates of consultations with a confidential counsellor, types of efforts and contacts made by the confidential counsellor.

Due to the nature of this procedure, the processing of data concerning health or sex life cannot be excluded.

**Who has access to your personal data and to whom is it disclosed?**

When cases of psychological or sexual harassment are brought to the attention of the Harassment Prevention Coordinator, she shall provide the staff member involved with information on the existing policy and procedures. She shall be bound by the duty of confidentiality throughout the procedure. The staff members shall be referred to one of the confidential counsellors who can deal with the submitted case.

Only with the consent of the alleged victim, the confidential counsellor may contact the other party or other relevant services (e.g. the immediate superiors, the HR unit, the Medical Advisor).

When within five years the name of an alleged harasser is put to the register by three different persons, the Harassment Prevention Coordinator shall inform the Head of Unit HR and the Executive Director, who shall decide on the most appropriate action to be taken. This shall only happen with the consent of the alleged victims and for the sole purpose of detecting recurrent cases.

**Who is the data controller?**

Legally speaking the Agency is the responsible controller for the processing, but the main contact point shall be the Harassment Prevention Coordinator, who can be contacted for any questions on the procedure.

**How long are your personal data kept?**

When an informal procedure is opened, the confidential counsellor gives the opening form to the Harassment Prevention Coordinator. On closing a case, the confidential coordinator gives the closing form and the anonymous statistical form to the Harassment Prevention Coordinator. If the confidential counsellor has any additional documents, they have to destroy those at the latest when three months have passed from the closing of the informal procedure.

If the name of the respondent is not mentioned in the closing form, then the Harassment Prevention Coordinator destroys the opening and the closing forms at the latest three months from the closing date and only keeps the anonymous statistical form.

If the respondent is mentioned in the closing form, then the Harassment Prevention Coordinator puts the name of the respondent to the registry and keeps the opening and closing forms for five years from the opening date. In this case the confidential counsellor informs the alleged harasser and explains their rights. An anonymous statistical form is always collected when the confidential counsellors are being contacted by a staff member or by someone working at ECHA's premises.

The Harassment Prevention Coordinator will hold the historical memory of those informal procedures where the name of the alleged harasser was put to the registry. A central file of those cases will be kept with opening forms and closing forms for a maximum of five years from the start date of the informal procedure. Five years is the period considered necessary for the Harassment Prevention Coordinator to reply to any legal questions and to identify multiple or recurrent cases. Files may be held for a further five years if there is an administrative or legal procedure (requests from the Ombudsman, Civil Service Tribunal) necessitating their consultation.

Anonymous statistical forms are being held without limit in anonymous format. The purpose of the statistical forms is to monitor, analyse and develop the policy and the activities of the network.

### **What are your rights?**

Each person, whose personal data is processed in the course of an informal procedure, is entitled to be informed about the processing and to access and rectify that data. Under certain conditions, a right to erasure or restriction, a right to object and a right to data portability may also exist. The alleged victim also has the right to withdraw their consent to process their personal data at any time. To exercise the above mentioned rights, contact the data controller at [hr@echa.europa.eu](mailto:hr@echa.europa.eu).

The right to rectification can at all times be exercised with regard to identification data, but can be harder to implement with regard to subjective data (allegations and declarations based on a subjective perception). You can in any case always ask that your opinion is added to the file, as well as any other document to complete the file.

When experiencing difficulties in exercising these rights, you can contact ECHA's Data Protection Officer ([data-protection-officer@echa.europa.eu](mailto:data-protection-officer@echa.europa.eu)). Any person involved in the procedure also has the right to have recourse at any time to the European Data Protection Supervisor.

### **Are there any restrictions to these rights?**

Following Article 25 of the Regulation (EU) 2018/1725, the right to information and the right to access or rectify your personal information may be restricted where such restriction is necessary, e.g. for the prevention, investigation, detection and prosecution of criminal offences or for the protection of the rights and freedoms of others. In that case you shall at least be informed of the principal reasons for applying such restrictions and of your right to have recourse to the European Data Protection Supervisor.

It may be the case for instance that the alleged harasser experiences a limitation to their right of access in order to protect the alleged victim.

An alleged victim can indeed contact the confidential counsellors to discuss any issue confidentially, while the confidential counsellor will only contact the alleged harasser with the consent of the alleged victim. In cases where, upon the expiry of the intervention of the confidential counsellor, the alleged victim still refuses to allow the alleged harasser to be informed of the steps that he or she has taken, any data concerning this person will be erased from the file and nothing enabling this person to be identified will be kept in the files by the Harassment Prevention Coordinator.