



RECORD OF A PERSONAL DATA PROCESSING ACTIVITY

according to Article 31 of [Regulation \(EU\) 2018/1725](#)

Title

Anti-harassment informal procedure following alleged psychological or sexual harassment and Selection of confidential counsellors

1) Controller(s)¹ of data processing activity (Article 31.1(a))

EFSA unit in charge of the processing activity: Human Capital Unit (HuCap)

EFSA Data Protection Officer (DPO): DataProtectionOfficer@efsa.europa.eu

Is EFSA a co-controller? **Yes**

If yes, indicate who is EFSA's co-controller: appointed confidential counsellors

2) Who is actually conducting the processing? (Article 31.1(a))

The data is processed by EFSA itself

Indicate the EFSA units or teams involved in the data processing:

- Informal anti-harassment procedure: Co-controllership: Head of Human Capital Unit and appointed confidential counsellors

- Selection of confidential counsellors: Head of Human Capital Unit

The processing operation is conducted together with an external party

Please provide below details on the external involvement:

3) Purpose of the processing (Article 31.1(b))

- Informal anti-harassment procedure:
Personal data processing carried out by EFSA in the context of the informal procedure to prevent psychological or sexual harassment. The purpose of the data processing, the implementation modalities and the role of parties involved in the informal procedure are described in policy documents available to all staff on the EFSA Intranet Portal.

- Selection of confidential counsellors:
To organize the selection of confidential counsellors for a two-year voluntary appointment, which is renewable twice.

4) Legal basis and lawfulness of the processing (Article 5(a)–(d)):

¹ The controller decides on the purposes and means of the data processing. In case of joint controllership (e.g. systems of the European Commission applied by EFSA or jointly with another agency), EFSA is a co-controller.

<i>Processing necessary for:</i>	
(a) a task carried out in the public interest or in the exercise of official authority vested in EFSA	<input checked="" type="checkbox"/>
(b) compliance with a legal obligation to which EFSA is subject	<input checked="" type="checkbox"/>
(c) performance of a contract with the data subject or to prepare such contract	<input type="checkbox"/>
(d) The data subject has given consent (ex ante, explicit, informed)	<input type="checkbox"/>
<i>Further details on the legal basis:</i>	
<ul style="list-style-type: none"> - Staff Regulations and CEOS (Relevant part Articles 11-26a) - Decision of the Management Board of 22 June 2017 on the policy on protecting the dignity of the person and preventing psychological harassment and sexual harassment - Decision of the Management Board of 26 October 2019 on internal rules concerning restrictions of certain rights of data subjects in relation to processing of personal data in the framework of the functioning of EFSA 	

5) Description of the categories of data subjects (Article 31.1(c))	
<i>Whose personal data are processed?</i>	
EFSA statutory staff	<input checked="" type="checkbox"/>
Other individuals working for EFSA (consultants, trainees, interims, experts)	<input checked="" type="checkbox"/>
Stakeholders of EFSA, including Member State representatives	<input type="checkbox"/>
Contractors of EFSA providing goods and services	<input type="checkbox"/>
The general public, including visitors, correspondents, enquirers	<input type="checkbox"/>
Relatives of the data subject	<input type="checkbox"/>
Other categories of data subjects (please detail below)	<input checked="" type="checkbox"/>
<i>Further details concerning the data subjects whose data are processed:</i>	
<p>In the context of the informal anti-harassment procedure, the following groups of data subjects are identified:</p> <ul style="list-style-type: none"> - Each and every person working at EFSA, regardless of grade or contract of employment (this includes the trainees and all those working under a contract under national law) in the situation of he/she being identified or defined as an alleged victim of harassment by a member of staff of EFSA ; - Any person aware of a situation of harassment in so far as he/she is involved in the procedure ; - The alleged harasser is also considered as a data subject in so far as he/she is involved in the informal procedure. 	

Selection of confidential counsellors: Applicants following a call for volunteers duly advertised on the EFSA Intranet portal.

6) Type of personal data processed (Article 31.1(c))

a) General personal data

The personal data concerns:

Name, contact details and affiliation	<input checked="" type="checkbox"/>
Details on education, expertise, profession of the person	<input checked="" type="checkbox"/>
Curriculum vitae	<input checked="" type="checkbox"/>
Financial details	<input type="checkbox"/>
Family, lifestyle and social circumstances	<input type="checkbox"/>
Goods and services the person provides	<input type="checkbox"/>
Other personal data (please detail):	<input checked="" type="checkbox"/>

b) Sensitive personal data (Article 10)

The personal data reveals:

Racial or ethnic origin of the person	<input checked="" type="checkbox"/>
Political opinions or trade union membership	<input checked="" type="checkbox"/>
Religious or philosophical beliefs	<input checked="" type="checkbox"/>
Health data or genetic or biometric data	<input checked="" type="checkbox"/>
Information regarding the person's sex life or sexual orientation	<input checked="" type="checkbox"/>

Further details concerning the personal data processed:

Informal anti-harassment procedure:

Personal data processed in the context of the informal anti-harassment procedure may comprise:

- Objective ("hard") data collected by means of the opening and closing forms of the procedure (see in Annex 5), complemented by any documents relevant and necessary to properly administer the case ;
- Subjective ("soft") data, collected particularly by means of personal notes of the confidential counsellor, based on statements and reflecting facts and perceptions of the alleged victim, of any person aware of a situation of harassment and of the alleged harasser (provided the victim provided the counsellor with a prior consent to contacting the latter). As far as relevant and necessary for the specific purpose of the case, data processed may comprise data qualified as sensitive in Article 10 of Regulation (EU) 2018/1725 (i.e. data revealing racial or ethnic origin, political opinions, religious or philosophical beliefs and data concerning health or sex life). Sensitive data are not contained in the closing form.

The collection of "soft" data does not follow systematic rules as to the type of data processed

and it is not possible to determine a priori the type of data collected. In accordance with the data minimisation principle in Article 4 of the Regulation, data collected should anyway be adequate, relevant and not excessive in relation to the case handled. This analysis must be conducted on a case-by-case basis by the confidential counsellor concerned.

The above concepts are highlighted in the general privacy statement, which is part of the EFSA Manual on informal procedures, made available on the dignity at work/anti-harassment page of the EFSA intranet portal. It is also proposed as annex to the confidentiality statement confidential counsellors sign.

Selection of confidential counsellors:

- The information provided by the applicant in his/her application and letter of motivation in view of the eligibility and selection criteria detailed in the Call for Volunteers. The application may include sensitive data in the sense of article 10(1) of the Regulation, which, as they form part of the application, may be considered to be covered by the data subject's express consent in the sense of article 10(2)(a) of the Regulation.
- Data resulting from the selection process outlined in the Manual of EFSA Informal Procedures and in the Call for Volunteers itself, comprising the evaluation against pre-defined eligibility criteria, selection criteria and incompatibility criteria ;
- Information on the results of the compulsory training of candidate confidential counsellors before confirmation of their appointment.

7) Recipients of the data (Article 31.1(d))

Line managers of the data subject	<input type="checkbox"/>
Designated EFSA staff members	<input checked="" type="checkbox"/>
Other recipients (<i>please specify</i>):	<input checked="" type="checkbox"/>

Informal anti-harassment procedure:

As suggested in the relevant Guideline of EDPS, a distinction is made between structural transfers, ad hoc transfers and external transfers:

Structural transfers: The following persons receive personal data in a structured way:

- The Head of Unit and the staff member in charge of Welfare issues at the HuCap Unit, providing administrative support in the informal procedure, solely with regard to the objective ("hard") data ;
- Confidential counsellors, in charge of the core activity in the informal procedure and therefore keeping their personal notes (subjective/"soft" data) and any information provided by the alleged victim in strict confidentiality;
- Exceptionally, the recipient role of the HuCap Unit may be extended to subjective ("soft") data, namely in case the alleged victim wishes the case to be handled by a staff member of the Unit rather than by a confidential counsellor.

Ad hoc transfers: Case-by-case transfers of objective ("hard") data (opening & closing forms) are possible to:

- The Appointing Authority (Executive Director), the Director of Administration, the Head of Human Resources Unit, for the sole purpose of identifying multiple or recurrent harassment cases;
- The investigation panel or Disciplinary Board in the context of formal follow-up on the case by means of an administrative inquiry or disciplinary procedure, the European Data Protection Supervisor, the European Ombudsman, as well as the Court of Justice of the European Union or competent national judicial authorities in the context of legal action,

which may justify a transfer also to the EFSA Legal unit in charge of follow-up on legal action involving EFSA.

External transfers:

The EFSA Medical Adviser is identified as an external recipient and any data transfer/transmission to him should meet the conditions laid down in Article 9 of Regulation (EU) 2018/1725. According to EFSA practice rules, the alleged victim should contact the Medical Adviser him/herself directly.

In case of urgency and/or when vital interests of the alleged victim are endangered, the confidential counsellor may contact directly external recipients such as the EFSA Medical Adviser.

Selection of confidential counsellors:

- The HuCap Unit, Welfare staff
- The members of the selection panel
- The Director of Administration and the Executive Director
- The Internal Audit Service (IAS), the European Court of Auditors (ECA), OLAF, the Court of Justice of the European Union (CJEU), the European Ombudsman, the European Data Protection Supervisor (EDPS)

8) Transfers to recipients outside the EEA (Article 31.1 (e))

Data are transferred to third country recipients:

Yes No

If yes, specify to which third country:

If yes, specify under which safeguards:

Adequacy Decision of the European Commission

Standard Contractual Clauses

Binding Corporate Rules

Memorandum of Understanding between public authorities

9) Technical and organisational security measures (Article 31.1(g))

How is the data stored?

On EFSA's Document Management System (DMS)

On a shared EFSA network drive or in an Outlook folder

In a paper file

- Using a cloud computing solution (please detail the service provider and main characteristics of the cloud solution, e.g. public, private)
- On servers of an external service provider
- On servers of the European Commission or of another EU Institution
- In another way (*please specify*):

Please provide some general information on the security measures applied:

Informal anti-harassment procedure:

Data storage by means of paper filing:

- In locked cupboards of the confidential counsellors, subjective ("soft") data until max. 3 months after a case is closed
- In a central file of opening/closing forms under the supervision of Welfare staff of the Human Capital Unit

The confidentiality statement signed by confidential counsellors reminds on the need to implement measures to ensure confidentiality of documents, mainly by means of a locked filing cabinet for which the counsellors keep the key and are the only persons with authorized access.

Selection of confidential counsellors:

Data storage by means of paper filing with Welfare staff at the HuCap Unit and members of the selection panel

10) Retention period (Article 4.1 (e))

Informal anti-harassment procedure:

- Confidential counsellors shall not keep personal data on a case for a period longer than three months following its closure. Personal data should be either destroyed or returned to the data subject who provided them ;
- The Human Capital Unit holds the historical memory of informal anti-harassment procedures by means of a central file of opening and closing forms on each case for maximum five years from the opening of the informal procedure. Five years is the period considered necessary for the Human Capital Unit to evaluate the harassment prevention Policy, to reply to any legal questions and to identify multiple or recurrent cases. Files may be retained for a further five years period in case an administrative or legal action is pending (e.g. with the European Ombudsman or the Court of the European Union) ;

Selection of confidential counsellors:

Information on unsuccessful applicants is kept for 2 months after closure of all stages in the selection procedure. Information on selected confidential counsellors is kept until 2 months after termination of their mandate.

11) Consultation with the Information Security Officer

Was the ISO consulted on the processing operation ?

Yes No

If yes, please provide some details on the consultation with the ISO:

12) Information given to data subjects (Articles 15 and 16)

Has information been provided to data subjects on the way their data is processed including how they can exercise their rights (access, rectification, objection, data portability)? Usually this information is provided in a Privacy Statement, specifying the controller's contact details. As possible, please provide a link to the relevant Privacy Statement or a description.

Informal anti-harassment procedure:

The information to be given to data subjects in the context of the informal anti-harassment procedure as referred to in art. 15 and art. 16 of Regulation (EU) 2018/1725 is provided in a privacy statement notice part of the Manual for EFSA informal procedures.

To exercise their rights, data subjects should contact either the confidential counsellor or the HuCap Unit. Requests will be dealt with within 15 working days. As concerns the right of rectification, inaccurate Objective ("hard") data (see point 6) shall be rectified without delay upon the data subject's request.

In accordance with Article 25 of the Regulation, restrictions to data subject's rights in the context of anti-harassment informal procedures are subject to the Decision of the Management Board of 26 October 2019 on internal rules concerning restrictions of certain rights of data subjects in relation to processing of personal data in the framework of the functioning of EFSA.

Selection of confidential counsellors:

Any future selection procedure for EFSA confidential counsellors will take account of the information to be given to data subjects as referred to in art. 15 and art. 16 of Regulation (EU) 2018/1725. To this end, any future Call for Volunteers will include a Note on processing of personal data in the context of the selection of confidential counsellors according to the draft provided.

To exercise their rights, data subjects/applicants should contact the HuCap staff member in charge, indicated in the Call for Volunteers.

Last update of this record: 24/02/2020

Reference: DPO/HR/9