



EUROPEAN MEDICINES AGENCY
SCIENCE MEDICINES HEALTH

4 November 2020
EMA/504095/2020

Joint Committee Opinion 27/2020

On criteria and restrictions for senior staff applying for occupational activities within two years after leaving the Agency

HAVING REGARD to Article 7 of the Conditions of Employment for Other Servants (CEOS)¹ according to which the Joint Committee provided for in Article 9 of the Staff Regulations may be consulted by the institution or by the Staff Committee on questions of a general nature relating to servants to whom Article 1 applies, i.e. temporary and contract staff;

HAVING REGARD to the European Medicines Agency's Executive Director's Decision to set up a Joint Committee 2020-2021² and its updates;

HAVING REGARD to the procedure governed by Article 16 of the Staff Regulations of Officials of the European Communities, as applicable by analogy to temporary staff of the Agency pursuant to Article 11 of the Conditions of Employment of Other Servants of the European Communities and to contract staff pursuant to Article 81 of the Conditions of Employment of Other Servants of the European Communities;

WHEREAS, pursuant to Article 16 of the Staff Regulations, the Joint Committee shall be consulted by the Appointing Authority³ before taking any decision either forbidding or giving its approval to a member of staff to engage in an occupational activity after leaving the service;

WHEREAS, in order to ensure consistency and proportionality in the interpretative guidance, the Joint Committee considers that it is in the position to set some general criteria that can be relied upon when reviewing certain intended occupational activities of senior staff after leaving the Service;

HAVING REGARD to Article 17 of the Staff Regulations and the Agency's Code of Conduct (with regard to "Continuing duty of confidentiality")⁴;

WHEREAS this opinion is intended to supplement the Joint Committee General Opinion 13/2013 of 17/10/2013 revised May 2015;

AFTER THOROUGH CONSIDERATION AND DISCUSSION, UNANIMOUSLY ADOPTED THE FOLLOWING

¹ EUR lex website: [Consolidated text: Regulation No 31 \(EEC\), 11 \(EAEC\), laying down the Staff Regulations of Officials and the Conditions of Employment of Other Servants of the European Economic Community and the European Atomic Energy Community](#) (2020)

² [Executive Director Decision on setting up a Joint Committee 2020-2021](#) (EMA/206990/2020)

³ In the context of the Agency and the Conditions of Employment of Other Servants of the European Communities, references to the Appointing Authority are replaced in the present opinion by reference to the Contracting Authority.

⁴ EMA website: [European Medicines Agency Code of Conduct](#) (2016)

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OPINION

This opinion is adopted based on Commission Decision of 29.6.2018⁵ on outside activities and assignments and on occupational activities after leaving the Service, in particular Title Four: Staff members leaving or having left the service, articles 19-24.

The Contracting Authority should pay due regard to the principle of proportionality, and that its decisions should therefore not entail limitations that are not necessary and that would not genuinely meet the objective of protecting the interest of the institution.

Definitions

For the purposes of Article 16 only, the definition of Senior Staff as proposed by the Joint Committee refers to: Executive Director, Deputy Executive Director, Advisers⁶, Heads of Division, Heads of Task Force⁷, and Head of Legal Department.

In line with Ombudsman's recommendations⁸, advocacy or lobbying activities should be interpreted broadly ("*encompass any direct or indirect promotion of interests*"). It can mean using expertise and network of relations, to influence persons or outcomes in what EMA does and will do.

Criteria

In addition to the Joint Committee General Opinion 13/2013 of 17/10/2013 revised May 2015, the Agency will take into consideration the following criteria for senior staff:

In the Joint Committee opinion senior staff have a personal responsibility in protecting EMA's reputation. There are activities that will be immediately perceived as 'revolving doors' such as joining the board of pharma companies, of pharmaceutical trade associations, and advising pharmaceutical companies, and other activities close to pharmaceutical companies⁹, and those should be restricted.

Restrictions

The Joint Committee recommends that information about this Opinion be publicly available and reference to it is included in relevant vacancy notices.

The Joint Committee recommends that, as soon as a senior staff member makes an application under Article 16 or notifies their reporting officer of the intention of taking up employment elsewhere, that the staff member's tasks are reviewed and the Agency restricts access to relevant confidential information with immediate effect.

⁵ EC website: [Commission Decision of 29.6.2018 on outside activities and assignments and on occupational activities after leaving the Service](#)

⁶ Minutes of the 100th MB meeting: https://www.ema.europa.eu/en/documents/minutes/minutes-100th-meeting-management-board-6-7-june-2018_en.pdf. Decision of the European Medicines Agency concerning the function of advisor or equivalent (Management Board Decision - EMA/MB/296715/2018)

⁷ Minutes of the 105th MB meeting: https://www.ema.europa.eu/en/documents/minutes/minutes-105th-meeting-management-board-3-october-2019_en.pdf. Decision of the European Medicines Agency on types of post and post titles in the European Medicines Agency (Management Board Decision - EMA/MB/907298/2019)

⁸ Report of the European Ombudsman on the publication of information on former senior staff so as to enforce the one-year lobbying and advocacy ban: SI/2/2017/NF: <https://www.ombudsman.europa.eu/en/report/en/110521>

⁹ EMA website: [Decision of the European Medicines Agency on rules relating to Articles 11, 11a and 13 of the Staff Regulations concerning the handling of declared interests of staff members of the European Medicines Agency and candidates before recruitment](#)

In cases where a conflict with the legitimate interests of the Agency can be established, the following prohibitions or restrictions should be imposed under Article 16 of the Staff Regulations, according to the table below:

Senior staff	Prohibitions to take up employment	Other restrictions
<p>Executive Director</p> <p>Deputy Executive Director</p>	<p>For up to 24 months after leaving the service:</p> <p>Prohibition to take up employment in a pharmaceutical company as defined in the EMA rules on handling declared interests of staff and candidates⁹</p>	<p>For up to 24 months after leaving the service:</p> <p>Prohibition to engage in lobbying or advocacy vis-à-vis the staff of the Agency on behalf of their business, clients or employers on matters for which they were responsible during the last three years in the service</p> <p>For up to 24 months after leaving the service:</p> <p>Prohibition to establish professional contacts with the Agency staff by official or unofficial channels</p>
<p>Head of Division</p> <p>Adviser</p> <p>Head of Task Force</p> <p>Head of Legal Department</p>	<p>For up to 12 months after leaving the service:</p> <p>Prohibition to take up employment in a pharmaceutical company as defined in the EMA rules on handling declared interests of staff and candidates⁹</p>	<p>For up to 24 months after leaving the service:</p> <p>Prohibition to engage in lobbying or advocacy vis-à-vis the staff of the Agency on behalf of their business, clients or employers on matters for which they were responsible during the last three years in the service</p> <p>For up to 24 months after leaving the service:</p> <p>Prohibition to establish professional contacts with the Agency staff by official or unofficial channels</p>