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Joint Committee

Best practice guide for staff leaving the Agency¹

1. Introduction

Staff of the Agency are, in accordance with Article 16 of the Staff Regulations, required to inform the Agency of their intention to engage in an occupational activity whether gainful or not. This applies for every such activity intended to be undertaken for a two year period following their departure from the Agency.

The purpose of this provision is to allow the Agency to assess whether there might be a potential real or perceived conflict with the interests of the Agency. If the activity notified by the staff member is related to the work carried out during the last three years of service and could lead to a conflict with the legitimate interests of the Agency, the Executive Director can forbid the staff member from undertaking it or give his approval subject to any conditions he sees fit. This is normally done through consultation with the Joint Committee set up by the Executive Director for this purpose, who then issues an opinion to the Executive Director.

The Joint Committee advises the Executive Director as to whether the activity should be approved, forbidden or approved subject to specific conditions, having regard to the interests of the Agency. The Executive Director takes the final decision.

Staff members leaving the Agency continue to be bound by the duty to behave with integrity and discretion, and the duty of lifelong confidentiality.

In the interests of transparency and continuous improvement, the Joint Committee considered that it would be useful to elaborate a public guide, establishing best practices based on experience to-date.

This Best Practice Guide is intended to raise awareness and to clarify and explain the procedures in the interests of both staff members and the Agency. It does not constitute a legally binding document.

The Agency Staff Committee has been consulted on this document.

The present guide is published on the intranet and on the Agency's external website.

¹ Revised May 2015: Applicability to trainees removed following advice from the Legal Department.



2. Prior to taking up a position in the Agency

The Agency shall ensure that prospective staff members are made aware of their obligations under Article 16 and the possibility that conditions may be applied when leaving the Agency.

3. On taking up a position in the Agency

In attention to their obligations of confidentiality and the rules on conflicts of interest, HR reminds the staff member of the Article 16 provisions and their implications, drawing attention to any general opinions that may exist (cf. General Opinion EMA/29949/2014 Revised in May 2015) and the staff member signs indicating that he/she has understood the provisions.

4. Prior to leaving the Agency

As soon as possible, the staff member should inform HR and his/her line manager of his/her intention to take up employment following departure from the Agency. An application form has been prepared for this purpose, and is available on the HR website.

This should be done in advance of accepting any employment offer.

Prior to the staff member's departure, the Agency commits to keeping such information confidential either until the staff member considers it appropriate or until this information is in the public domain through no fault of the Agency.

Early notification allows the Agency to consider whether it is in the best interest of both the staff member and the agency to apply certain restrictions on existing activities. For example, if a staff member intends to work in the pharmaceutical industry dealing with products for which the Agency is responsible, the Agency may consider restricting product relating activities with which the staff member is currently involved, prior to the staff member leaving the Agency.

It is therefore in everyone's interest to provide as complete information as possible.

In accordance with Article 16, the Agency will inform the staff member of authorisation and/or conditions within 30 working days of receiving the information. If there is no reply from the Agency by the end of this period, this shall be deemed to constitute implicit acceptance.

Possibility to change existing activities prior to leaving the Agency

A staff member, may on his/her own initiative request to be removed from certain duties in advance of leaving the Agency.

As indicated above, similarly the Agency may require the staff member to adapt existing activities taking into account the intended post-employment occupational activities.

5. Following departure from the Agency

In the event that a former staff member has not already informed the Agency of his/her intention to engage in an occupational activity prior to departure from the Agency, he/she should send information on any new intended activities (using the appropriate form) as soon as possible to HR and in advance of taking up such activities.

The requirement to inform the Agency of an intention to engage in an occupational activity applies for a period of two years after leaving the service. The Agency will inform the staff member of authorisation and/or conditions within 30 working days of receiving the information.

If there is no reply from the Agency by the end of this period, this shall be deemed to constitute implicit acceptance.

6. Ensuring transparency of decisions and conditions

The Agency will ensure that it complies with relevant legislation on personal data protection and with any recommendations laid down by the European Data Protection Supervisor.

The Agency considers that it is in the interests of the Agency and its staff to ensure that decisions taken are transparent.

The Agency will publish annually a report on its activities related to Article 16, including a list of the cases assessed.

An internal register of former staff members on whom conditions have been applied will be maintained taking into account provisions on personal data protection.

An extract of the internal register will be made public within the Agency.

The Agency shall also ensure that any general opinions of the Joint Committee are published. These do not include personal data.

7. Access to documents

Staff members are reminded that applications, opinions and decisions under Article 16 may be requested under access to documents provision and will be handled in accordance with the requirement of Regulation (EC) No1049/2001.

8. General provisions

This Best Practice Guide will be revised and updated in the light of experience.