DECISION 28/2019
OF THE DIRECTOR OF
THE EUROPEAN INSTITUTE OF INNOVATION AND TECHNOLOGY (EIT)

ON THE ADOPTION OF A MANUAL FOR INFORMAL PROCEDURES FOR CASES INVOLVING
PSYCHOLOGICAL AND SEXUAL HARASSMENT

Having regard to the Treaty on the Functioning of the European Union,

Having regard to the Staff Regulations of Officials (‘Staff Regulations’) and the Conditions of Employment of Other Servants of the European Union (‘CEOS’), laid down by Council Regulation (EEC, Euratom, ECSC) No 259/681, and in particular Articles 1d, 12 and 12a of the Staff Regulations concerning behaviour which may infringe human dignity and Articles 10, 11, 80 and 81 of the CEOS,


Having regard to Decision 16/2016 of the Governing Board of the European Institute of Innovation and Technology on the EIT Policy on protecting the dignity of the person and preventing psychological harassment and sexual harassment,

After consulting the Staff Committee,
After consulting the EIT Data Protection Officer,

WHEREAS

(1) Psychological harassment and sexual harassment at work are serious problems which the Agency is continuing to strive to stamp out by promoting a culture free of all forms of violence in the workplace in which such harassment is unacceptable;

(2) The EIT Policy on protecting the dignity of the person and preventing psychological harassment and sexual harassment makes provision for a presumed victim of psychological harassment and sexual harassment


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4 Ref. 03363.EIT.2017.I.GB.WP
sexual harassment to initiate an informal procedure through the involvement of a confidential counsellor or proceed with a formal procedure;

(3) Every person working at the Agency, regardless of grade or contract of employment (this includes the trainees and all those working under a contract under national law) who feel they are the victim of psychological or sexual harassment, may open an informal procedure;

(4) The informal procedure is foremost to help and protect the presumed victim and likewise to detect recurrent cases in order to prevent future cases of harassment; it allows monitoring and may lead to an amicable resolution but it does not involve formal recording of the facts or the application of penalties;


HAS DECIDED AS FOLLOWS:

Article 1

The document entitled “Manual for Informal Procedures for cases involving Psychological and Sexual Harassment” annexed to this Decision is hereby adopted.

Article 2

This Decision shall take effect from the date of signature of this Decision.

Done at Budapest on 5 November 2019

Martin Kern
Director

Annex - Manual for Informal Procedures for cases involving Psychological and Sexual Harassment
ANNEX

Manual for Informal Procedures for Cases of Psychological and Sexual Harassment
Introduction

As laid down in the agencies’ decision on the policy on protecting the dignity of the person and preventing psychological harassment and sexual harassment of 7 July 2017⁵, every person working at the Agency regardless of grade or contract of employment (this includes the trainees and all those working under a contract under national law) may, if they feel they are the victim of psychological or sexual harassment by a person working at the Agency, initiate an informal procedure with the involvement of the confidential counsellors.

For the purposes of this manual, the definition of “victim” as provided for under section 2.4., last paragraph, of the abovementioned Policy applies: “In the informal procedure, therefore, the term “victim” refers to any person who defines themselves or identifies themselves as such. However, it is important to remember that there is a fundamental legal distinction between a person “who feels they are the victim of harassment” and one “who has actually suffered harassment” and is therefore recognised as a victim on the basis of proven facts, having gone through the formal procedure”. Therefore, whenever the term “victim” is used in this manual, it refers to a presumed victim rather than to a person recognised as a victim on the basis of proven facts.

The objective of this manual is to lay down the procedural steps to be followed by the different parties involved in an informal procedure as well as their rights and obligations thereof.

It is important to emphasise that the purpose of the informal procedure is foremost to help and protect the presumed victim and likewise to detect recurrent cases in order to prevent future cases of harassment. However, the informal procedure does not provide a precise establishment of facts or collection of proof, nor does it provide for the application of sanctions against the alleged harasser.

Instead, it provides support and guidance in finding a solution.

The selection of confidential counsellors and the informal procedure as laid down in this manual, and its implementation, need to comply with the provisions of Regulation (EU) 2018/1725 of the European Parliament and of the Council 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, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC⁶ (hereinafter “the Data Protection Regulation of the European institutions”). For further details about data protection, please refer to Chapter 5.

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It should be borne in mind that this manual is intended to be an evolving work which will be continuously updated where aspects and details of procedures require expansion on the basis of experience.

1. Confidential counsellors

1.1. General principles, role and mandate of confidential counsellors

Confidential counsellors are appointed by the EIT Director where they work and are authorised to intervene when they are allocated individual cases under the informal procedure.

Confidential counsellors exercise their role on a voluntary basis. Their role and mandate is to listen, help, support, provide information, and accompany persons seeking their assistance in situations perceived to involve psychological or sexual harassment. Foremost, confidential counsellors must attempt to ease the suffering of the victim by listening without making judgments. They also play an active role by taking the actions agreed with them, such as working as intermediaries between parties, notably in attempts at conciliation or to reach amicable solutions.

Confidential counsellors operate within the informal procedure on a voluntary basis. Their tasks are carried out within their normal working time. Their unit is advised to take account of the tasks of confidential counsellors and to help them carry out their work as far as possible. They remain allocated to their unit and, in parallel, will exercise their mandate under the responsibility of Human Resources.

1.2. Professional conduct of confidential counsellors

In the exercise of their role, confidential counsellors shall endeavour to comply with the general principles set out below.

1.2.1. Respect for the individual

The relationship between the confidential counsellor and the victim must be based on mutual respect. The well-being of the victim should be the primary concern of the confidential counsellor taking account of the fact that a person subject to harassment is fragile.

The role of the confidential counsellor implies:
committing to non-discrimination and equality of treatment

- respecting the victim’s moral values
- refraining from making moral judgments on the victim’s private matters
- mutual respect applies during the whole process

1.2.2. Confidentiality

Confidentiality contributes to the trust placed on a confidential counsellor and must be respected at all times (except where a breach of confidentiality is necessary in order to protect the victim).

Confidential counsellors shall not use their knowledge regarding victims for their personal ends or for any purpose which could harm them. The closing of a case does not remove the duty of confidentiality.

1.2.3. Skills and remit

In exercising their role, confidential counsellors will rely on their personal skills and seek to develop them, notably by taking part in continuous training.

Confidential counsellors must adhere to the limits of their mandate as defined under point 1.1. and shall exercise the utmost objectivity in the course of their activity. The confidential counsellor has the possibility to seek the support and advice of Human Resources (while upholding the confidentiality requirements). Delegation of cases to persons who are not confidential counsellors is not allowed.

1.2.4. Continuous help

The confidential counsellor strives to ensure continuous help for the victim as well as in the collaboration with the other confidential counsellors or with Human Resources.

1.2.5. Loyalty

The confidential counsellor is likely to establish a privileged relationship of loyalty to the victim, which must not be compromised. Any pressure or intimidation towards the confidential counsellor to compromise that loyalty must be reported to Human Resources which will take the necessary measures.

The confidential counsellor must work in cooperation with Human Resources without compromising the loyalty towards the victim. This cooperation may well include differences of opinion and constructive criticism.

1.2.6. Integrity

Honesty, consistency and recognising the limits of the mandate is essential in the role of the confidential counsellor. Any inaccuracy of information or untruths must be avoided. The victim
must be invited to actively engage in the process and the confidential counsellor must explain the process and the rights of all parties.

1.2.7. Ethical issues

When during the management of an individual case, a problem of an ethical nature (as defined by Article 11 to 23 of the Staff Regulations) arises, confidential counsellors must take account of this in seeking possible solutions, relying on the regulations in force and ensuring that they do not exceed their own means or abilities to resolve such problems. If necessary, they shall not hesitate to consult other confidential counsellors or Human Resources on any ethical issue or concern.

1.2.8. Neutrality

Confidential counsellors must attempt to avoid conflicts of interest. It is recommended that confidential counsellors do not take cases within their own unit. This recommendation may occasionally not be followed, however if the confidential counsellor feels there is a conflict of roles for professional or personal reasons, he/she should reconsider being involved in the case.

1.2.9. Relationships with other confidential counsellors

All confidential counsellors should work together in a joint effort to share the case load. The views of other confidential counsellors must be respected and mutual respect and constructive discussions is an important part of the role as confidential counsellor.

1.3. Call for expression of interest

The selection and appointment of confidential counsellors is based on an inter-agency call for applications and selection criteria which is published by the group of agencies interested in taking part in the call.

A panel made up of representatives from Human Resources and the Staff Committee of agencies involved in the inter-agency call will select the confidential counsellors (the panel should be composed as a minimum, of three members from two different agencies; one of the members should be a representative from the Staff Committee). The panel will take into account the eligibility criteria and will ensure a broad representation of the different categories of staff and a gender balance as far as possible.

The panel will decide on the procedure to select candidates (e.g. by way of a written exam, motivation letter or other. The panel may decide to include interviews in the selection procedure).
The deliberations of the panel are confidential and only the names of the selected candidates will be submitted to the Heads of agencies taking part in the inter-agency call via their relevant Human Resources department/unit/section.

Before the names of the selected candidates are communicated to the staff member concerned and subsequently to the Heads of the agencies taking part in the inter-agency call, Human Resources is requested to confirm the eligibility criteria of the selected candidates. Only upon confirmation by Human Resources, the names of the selected candidates will be communicated to the Head of Agencies and the individual staff member concerned.

The Heads of agencies (directors/Executive Directors) will appoint the confidential counsellors from their respective agency.

Confidential counsellors will receive specific training prior to their appointment.

For more information on the personal data protection within the framework of selection of confidential counsellors please consult the privacy statement in Annex VII.

**1.3.1. Eligibility criteria**

In order to be eligible as a confidential counsellor the candidate must:

- be employed at their respective agency as either a Temporary Agent or a Contract Agent and be established in their job (that is, probation period must be passed);
- have a contract duration so as to be able to serve the full term as a confidential counsellor;
- have two years of experience at their agency and a good knowledge of the functioning of their respective agency;

Candidates must be able to demonstrate the following skills and abilities:

- Good listening skills and empathy
- Good communication skills, including relationship-building abilities
- Discretion, confidentiality
- International and intercultural sensitivity
- Distance with relations to their own convictions, values and judgment
- Knowledge of policy on psychological and sexual harassment (including a good understanding of the difference between the informal and the formal procedure)
- Motivation to fulfil the role

Previous experience in a similar role will be an advantage (e.g. psychology degree, counselling certificate, human resources degree, etc.). Previous training in counselling/mediation/conflict resolution or similar fields will also be an advantage.
Candidates occupying the following positions are not eligible as confidential counsellor:

- Managers
- Staff in Legal Departments in charge of administrative issues
- Staff Committees members
- Staff in the Human Resources department/unit
- Assistants to the Director/Head of Agency

1.3.2. Term and withdrawal of mandate

Confidential counsellors of the EIT are appointed by the EIT Director where they work for a period of two years, which is renewable no more than twice.

Since their involvement in the informal procedure is on a voluntary basis, confidential counsellors may withdraw at any time from the mandate by informing their EIT Director in writing and inform Human Resources to organise by mutual agreement the transfer of their cases to other confidential counsellors.

The EIT Director may withdraw the mandate of a confidential counsellor in case of a serious breach of the Staff Regulations, the policy on psychological and sexual harassment and the content of this manual. The confidential counsellor is informed of the withdrawal decision in writing and must transfer any current case(s) with the relevant files to another confidential counsellor. The appeal procedure laid down in Article 90 of the Staff Regulations applies. The Staff Committee is also informed of the withdrawal 10 working days in advance.

If a confidential counsellor is the person complained of harassment in a formal procedure, he/she is required to temporarily withdraw from the mandate as confidential counsellor until that procedure is finalised. If following the conclusions of the EIT Director disciplinary proceedings are opened, the mandate will be definitively withdrawn. Otherwise the concerned person is reintegrated in his/her role as confidential counsellor.

In certain cases, temporary withdrawal of a confidential counsellor may be voluntary and based on personal reasons of a private nature, notably illness, long-term absence, etc. In such cases, they must notify Human Resources in writing and ensure that on-going cases are transmitted to it in order that it may assign them to another confidential counsellor. Except in very exceptional cases, this period of withdrawal may not exceed a total period of six months during the mandate.

1.3.3. Renewal of the mandate

Towards the end of each mandate, Human Resources will contact the confidential counsellors to discuss their intentions as regards renewal of their mandates. Subsequent renewals will be proposed by Human Resources to the EIT Director and, following the agreement of the EIT Director, Human Resources will notify the confidential counsellors accordingly. If a confidential
counsellor does not wish his/her mandate to be renewed, he/she will communicate this in writing to Human Resources.

It is preferable for these decisions to be made and notified at least two months prior to the end of the mandate of the persons concerned. If this has not been possible, their mandate may exceptionally be considered to be automatically extended for a maximum period of two months, but such extension cannot prejudge the final decision of the EIT Director or extend the overall term of a new mandate.

1.4. Training

Selected candidates will undergo specific training modules provided by an external trainer and must complete at least 50% of this training before their appointment is formalised. However, it is expected that all selected candidates complete all training modules. Dealing with cases of harassment can be emotionally demanding for the confidential counsellors.

At least two full modules must be completed prior to the official appointment of a confidential counsellor. However, following completion of the full training, where their suitability is not assessed satisfactorily by the external trainer agencies reserve the right to withdraw their mandate or not appoint them.

In addition, confidential counsellors shall strive to improve their skills on an on-going basis through peer-to-peer exchanges and participation in further training / supervisions sessions organised by agencies.

The supervision will be provided by an external trainer and Human Resources may also take part in the sessions. The primary objective of supervision is the methodical analysis, in strictly anonymous form, of situations encountered, of the possible routes to a solution and of the errors and pitfalls to be avoid, while enabling improved objectivity to be acquired with regard to personal attitudes, judgments and emotions leading to greater clarity in taking action. Supervision sessions will also enable confidential counsellors to air their own difficulties and experiences in managing cases, in order that they gain the benefit of advice and support in these areas.

Confidential counsellors will also receive a training session on the aspects regarding the processing of personal data and protection of personal confidential information provided by the Data Protection Officer or suitably qualified service provider.
2. The handling of complaints and steps of the informal procedure

One of the basic principles of the informal procedure is that all steps taken by confidential counsellors in this context are subject to the prior consent of the victim except in urgent cases where the victim may be in danger. Only anonymous data can be passed on for statistical purposes without the consent of the victim. The other underlying principle of the procedure is confidentiality, which must be strictly adhered to by the confidential counsellors.

2.1. Time frame

In order to avoid aggravating the situation of the victim, cases of alleged harassment within the informal procedure should be dealt with as promptly as possible and, in any event, within one month as from the opening of the informal procedure. This time frame may be extended to a maximum of two months if necessary, or to a longer reasonable time limit in case of absence of any of the involved parties.

It is important to deal with cases as promptly as possible to avoid any aggravation of the situation.

2.2. Opening of the informal procedure

The list of confidential counsellors can be found on EIT staff intranet. Victims normally contact the confidential counsellors directly. They may also contact Human Resources which, if contacted by the victim on a case, shall refer the person to the list of confidential counsellors.

The victim has the right to choose which confidential counsellor he/she would like to discuss his/her personal case with, but he/she may not request assistance from more than one confidential counsellor at a time.

2.2.1 First meeting

Before opening an informal procedure, the confidential counsellor shall arrange a first meeting with the victim with a view to listening informally to the person’s problems and needs and providing information about the purpose and opportunities offered by the informal procedure as well as the rights of the victim thereof. The role of the confidential counsellor is neither to give instructions nor advice, but to explore possible options.
To avoid a lengthy inefficient process and to avoid strain on both the victim and on the confidential counsellor, a maximum of three meetings can be held before the informal procedure is launched. The start date of the informal procedure is the date the victim gives his/her consent to open the informal procedure.

Following the first meeting(s) there are three possible scenarios:

1. The victim feels that the problem is solved and he/she does not wish to receive further help. This could happen if for example, it appears that the issue raised by the victim does not represent a case of harassment but rather a minor issue, such as a problem of communication, which may be easily resolved by means of further informal discussion through one or two additional meetings or telephone conversations. In this case there is no need to start an informal procedure and no need to record data, except for statistical purposes.

2. The victim can at any time decide not to go further with the procedure. In this case there is no need to record data, except for statistical purposes.

3. If, further to the meeting(s), the victim informs the confidential counsellor of the wish to open an informal procedure, the confidential counsellor will explain the procedure and the rights of the victim and will inform the victim of the policy on psychological and sexual harassment as well as the manual for informal procedures. Furthermore, the confidential counsellor shall draw the attention of the victim on the confidentiality and data protection requirements to be observed throughout the informal procedure and shall provide the victim with a copy of the Declaration of Confidentiality duly completed and signed and the Data Protection Privacy Statement (Annex I and VI of this manual).

The confidential counsellor will also inform the victim about the opening form (Annex II) with the names of the persons involved which will be sent to the Harassment Prevention Coordinator. The date of the victim’s agreement will be considered as the start date of the informal procedure.

The confidential counsellor shall also inform the victim of the possibility to contact other services for medical, social, or psychological assistance and the possibility to lodge a formal complaint to the Head of Services and Finance under Article 24 of the Staff Regulations. The confidential counsellor shall explain to the victim that, where a formal procedure is opted for, or is underway, no involvement of the confidential counsellor is foreseen.

Confidential counsellors are responsible for completing an anonymous statistical form (Annex IV) for each case handled, even where only a single meeting took place. The form will be sent to the Harassment Prevention Coordinator once a case has been closed or by no later than 31 December of the year in progress. The collection of such data will enable Human Resources to
evaluate the collective workload of the confidential counsellors and to monitor trends in harassment, if applicable.

2.2.2 File opening forms

The opening form contains the name of the victim, possibly of the alleged harasser (if the name of the alleged harasser appears the alleged harasser has to be informed of the informal procedure against him/her), their unit and the start date of the informal procedure. The harassment Prevention Coordinator will assign a unique number to the file, which is passed to the confidential counsellors in charge of the case. From this point onwards, with a view to retaining its confidentiality, a file will be identified exclusively by its numerical code and no names will be included in the file reference during communications with the Harassment Prevention Coordinator.

Confidential counsellors should send the opening form to the relevant Harassment Prevention Coordinator within 5 working days of opening a case.

2.2.3 Personal notes and documents

Confidential counsellors shall strive not to keep any documents or notes relevant to a case. In case such documents are collected anyway, they must ensure that all documents relevant to the case are kept confidentially and locked away and destroyed once the informal procedure is closed. It is highly recommended for confidential counsellors to anonymize their personal notes as far as possible by using, for instance, the initials or abbreviations instead of full names.

The confidential counsellor shall complete the opening and closing forms for each informal procedure which shall be forwarded to the Harassment Prevention Coordinator.

2.3. Involvement of the alleged harasser and attempt at conciliation

Within an atmosphere of trust, the confidential counsellor helps and guides the victim through the informal procedure. Together they look at different aspects of the case and examine options for conciliation.

While the informal procedure supports conciliation, the victim might seek assistance from the confidential counsellor in order to identify a solution to his/her personal case without openly making the alleged harasser aware of the situation.

Only with the consent of the victim, the confidential counsellor may inform the alleged harasser that an informal procedure was opened and arrange one or more meetings with him/her, either with or without participation of the victim, in an attempt to reach conciliation. The purpose of these meetings is not to perform an investigation and the role of the confidential counsellor thereof shall be limited to listening and facilitating an objective understanding of the facts of
the case, while helping the victim to express his/her unease to the other party. It may be that the other party is unaware of the impact of their behaviour.

Where, with the consent of the victim, the alleged harasser is made aware of the opening of an informal procedure against him/her, he/she shall be informed of the processing of his/her personal data within the informal procedure, and of his/her rights thereof, by means of the Declaration of Confidentiality (Annex I) and the Data Protection Privacy Statement (Annex VI).

If conciliation fails, other solutions must be examined, such as transfer of the victim or other persons to a new unit or section if necessary.

2.4. Involvement of other parties

Where appropriate, Heads of Unit or the Staff Committee where the victim works, may also be called upon to act within the informal procedure and the content of this manual must be followed in such a case.

Human Resources can assist managers and any other persons concerned with a case of harassment by giving advice and providing information about how to approach the situation and refer to the list of confidential counsellors. Human Resources may also, at the request of a victim or a confidential counsellor, arrange meetings with the person complained of or hierarchical managers.

As defined in the Policy, any person who is made aware of, or is a witness of harassment, has both the right and duty to inform whichever of the following parties: confidential counsellors, Human Resources or hierarchical managers and always to inform the victim about this action. However, if a third party approaches a confidential counsellor, the confidential counsellor cannot contact the victim directly following this information from a third party unless the third party indicates that his/her colleague is at risk (e.g. their personal integrity is seriously at risk; organisational interest seriously at risk; rape; physical assault; suicide risk/attempt or similar). The confidential counsellor shall encourage the third party to approach the victim and ask to come forward to the network of confidential counsellors or contact Human Resources. As Human Resources is responsible for the implementation of the policy, it will act accordingly in the event of situations being notified to them by a third party directly.

In case there is a need to contact the medical service for an occupational health review or for professional advice and support, this will be managed by Human Resources.

2.5. Closure of the informal procedure

An informal procedure is considered closed when:
a solution to the case has been identified with the agreement of the victim, or
the time frame set out under section 2.1. of this manual has elapsed without a solution being identified, or
the victim has decided to opt for a solution outside the informal procedure

In the abovementioned situations, a Closing Form (Annex III) shall be completed and signed by both parties. The Closing Form with the identification number and the file relating to the case will be passed to the Harassment Prevention Coordinator. This should be done within five working days from the closure.

The contents of the file are subject to the agreement of the victim, but normally contain the reference number, the steps taken, the result, the solution, move to formal procedure. If the alleged harasser was never informed of the existence of an informal procedure concerning him/her, no data relating to that person will be retained by Human Resources or by the confidential counsellor beyond an additional period of three months (the timeframe to enable a victim to potentially change his/her mind and to seek an amicable solution.

If the case was closed as “unresolved”, the victim may request to re-open it at any time unless an inquiry or disciplinary proceedings are launched.

**2.6. Relation with the formal procedure**

If no solution to the case is identified within the time frame set out under section 2.1. of this manual, the confidential counsellor shall inform the victim of the possibility to lodge a formal complaint under Article 24 of the Staff Regulations.

A decision to initiate a formal procedure is taken by the EIT Director on the basis of a written request for assistance by the complainant under Article 24 of the Staff Regulations.

Where a formal procedure is initiated, the confidential counsellor shall close the informal procedure, withdraw from the case and act as support to the victim if required. The confidential counsellor may be called as a witness in the formal procedure.

In exceptional circumstances where the vital interests (e.g. health) of the victim is at risk and the victim him/herself is not capable of initiating a formal procedure, the confidential counsellor may contact Human Resources without the consent of the victim.

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7 Or by his/her deputy in case the EIT Director is the alleged harasser.
2.7. Rights and duties of the victims

The victim shall be informed about:

- the policy on protecting the dignity of the person and preventing psychological and sexual harassment and this manual;
- the steps of the informal procedure and the possibility to request the opening of a formal procedure;
- the possibility to contact other services (e.g. the medical, social, or psychological services) for assistance;
- the rights as data subject under the Data Protection Regulation of European Institutions; in particular the right to request access to and review the file prepared by the confidential counsellor on his/her case, by receiving the Declaration of Confidentiality (Annex I) and the privacy statement (Annex VI).

In the informal procedure, victims have the right to:

- Select the confidential counsellors whose assistance they wish to seek and consult the confidential counsellor during working hours according to their availability;
- Be heard within the informal procedure;
- Be certain that any step concerning them is subject to their prior consent;
- Confidentiality in dealing with confidential counsellors and the Coordinator;
- Review the forms prepared by the confidential counsellor on their case;

The victim must notify confidential counsellors of the outcome of any steps which they have decided to undertake themselves, in order to enable them to judge whether a file may be considered closed.

A failure to demonstrate courtesy and respect towards the confidential counsellor, violent behaviour, psychological threats or intimidation will not be tolerated. Such conduct may constitute a valid reason for confidential counsellors to refuse to continue to provide the requested assistance.

If errors are made by the confidential counsellor or if there is an impression of error, the victim will not involve third parties but will sort it out directly with the confidential counsellor or Human Resources. The victim may only ask for help from one confidential counsellor and must inform the confidential counsellor if he/she is receiving help from other services or has started a formal procedure.
2.8. Rights and obligations of alleged harassers

Where, with the consent of the victim, the alleged harasser is made aware of the opening of an informal procedure against him/her, he/she shall be informed of:

- the policy on the prevention of psychological and sexual harassment and this manual;
- the steps of the informal procedure;
- the rights as data subject under the Data Protection Regulation of European Institutions, by receiving the privacy statement (Annex VI).

In the informal procedure, the alleged harasser has the right to:

- Approach, if necessary, the Harassment Prevention Coordinator for advice and information to obtain non-judgmental advice or assistance in complete confidence;
- Agree or refuse to see confidential counsellors and to agree or refuse any attempts at conciliation proposed by the confidential counsellor;
- Be informed at the latest upon closure of the informal procedure (if data concerning them is mentioned in files) that file forms will be kept for the record by the Harassment Prevention Coordinator.

2.9. Rights of witnesses

Where applicable, potential witnesses indicated by the victim shall also be informed of the opening of the informal procedure and of the processing of their personal data thereof by receiving Declaration of Confidentiality and the Data Protection Notice referred to under section 2.2. of this manual.

3. Human Resources

Human Resources responsibilities include three main areas:

- Policy management
- Management of requests
- Management of the confidential counsellors

Human Resources provides an interface between confidential counsellors, persons who approach it and the other parties involved in the implementation of this policy. For this purpose, a member of Human Resources may be appointed as Harassment Prevention Coordinator. Where no Harassment Prevention Coordinator has been appointed one or more staff members in Human Resources may be nominated as the contact person(s) in relation to the Policy and to manage the confidential counsellors.
The Harassment Prevention Coordinator or the contact points in Human Resources may assist with a case by giving advice and providing information about how to approach the situation and refer to the list of confidential counsellors. They may also, at the request of the victim or a confidential counsellor, arrange meetings with the other party or respective line manager(s).

3.1. Policy Management

Human Resources is responsible for the implementation of the Policy on protecting the dignity of the person and preventing psychological harassment and sexual harassment, for the evaluation of this policy and any amendments to it and for this manual. It is responsible for disseminating this policy within its agency through the organisation of information and awareness sessions for staff and management.

At the end of each year, statistical data are collected and analysed to enable an assessment to be made of developments in the situation and, where appropriate, to adapt the actions to be taken, notably as regards prevention.

Human Resources, via the Harassment Prevention Coordinator (or nominated contact persons) also has the role of identifying any recurrent or multiple cases of alleged harassment.

3.2. Management of requests

As regards requests, the Harassment Prevention Coordinator provides a link between victims who have contacted him/her directly and a confidential counsellor. If he/she receives a call for help from persons in difficulty (where they do not contact a confidential counsellor directly), then he/she directs them to the confidential counsellor who will be most suited to the management of their case.

In very exceptional cases the Harassment Prevention Coordinator may deal with a person directly if that person does not wish to be referred to a confidential counsellor or if a specific need has been identified, for instance if it is necessary or if the victim wishes to go straight to the formal procedure. In that case, the Harassment Prevention Coordinator shall act according to the same principles as the confidential counsellor.

If the Harassment Prevention Coordinator is approached by a third party, he/she shall act in accordance with the procedure described above under 2.4.

The Harassment Prevention Coordinator may also facilitate the victim’s access to the agency’s medical service provider, if requested. These actions must be undertaken with the victim’s consent, except where a victim is prevented from acting.
3.3. Management of the confidential counsellors

Human Resources coordinate the work of the confidential counsellors, and are therefore responsible for:

- Ensuring the proper functioning of the confidential counsellors in accordance with the operational rules and the procedures laid down by the policy and by this manual;
- Ensuring the support to confidential counsellors in the exercise of their mandate and the provision of advice and guidance when so requested, to ensure that cases are properly managed;
- Ensuring the management of selection, appointment and, where appropriate, the reappointment procedures for confidential counsellors;
- Arranging initial and regular training of confidential counsellors (in this regard the Harassment Prevention Coordinator should attend the training sessions led by an external specialist);
- Convening and organising periodic meetings;
- Allocating victims to a confidential counsellor who most closely meets their desired criteria (language, gender, etc.);
- Monitoring the progress of cases dealt with under the informal procedure, collecting and archiving data under the provisions of Data Protection Regulation, such as the opening, closing and/or anonymous statistical forms from confidential counsellors relating to situations dealt with in order to ensure that any recurrent or multiple cases are identified.

4. Document management

Documents are collected and held with the following objectives:

- To support and protect the victim;
- To be able to refer cases to relevant services;
- Efficient and proper administration of cases to be resolved as soon as possible;
- To guarantee confidentiality;
- To create conciliation;
- Prevention of cases;
- To follow up and evaluate the policy;
- To identify recurrent cases and provide reference for disciplinary actions;
- To provide data for the formal procedure;
- To reply to the Ombudsman or legal authorities at national or EU level.
5. Protection of personal data

The selection of confidential counsellors and the informal procedure as laid down in this manual, and its implementation, need to comply with the provisions of Regulation (EU) 2018/1725 of the European Parliament and of the Council 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, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC (hereinafter “the Data Protection Regulation of the European institutions”).

For further details about data protection, please refer to privacy statement about the informal procedure (Annex VI) and the privacy statement about the selection of confidential counsellors (Annex VII).
ANNEX I

Declaration of Confidentiality for informal procedures for cases of psychological and sexual harassment

Person(s) concerned and case reference number if available:

.......................................................... ..........................................................

I, ............................................................ the undersigned (name and surname of the confidential counsellor) confirm that I will keep all matters entrusted to me confidential. I will not communicate outside the meetings with the victim, the person complained of and/or any third party directly linked to the case, any confidential information that is revealed to me or that I have discovered or any information relating to the personal views expressed by the victim or the person complained of. I will not make any adverse use of information given to me.

I will only transmit confidential documents to the parties involved in the informal procedure in accordance with the provisions of the Manual for Informal Procedures for Cases of Psychological and Sexual Harassment.

With the consent of the victim I may take personal notes at the meetings which are not to be shared or further processed even if a formal procedure is initiated.

I will dispose of confidential documents immediately after the closure of the informal procedure, with the exception of the Opening and Closing Form which will be transferred to Human Resources and stored in accordance with the provisions of the Manual for Informal Procedures for Cases of Psychological and Sexual Harassment. All other confidential documents will be disposed of within a maximum of three months after the closure.

If the person complained of has not been informed about the informal procedure against him/her, I will delete all data regarding the person complained of from the forms and ensure that no elements permitting identification are kept anywhere.

Name of confidential counsellor..........................................................

Date and signature:..............................................................................
ANNEX II

Opening Forms - Informal Procedure

Case reference number 9

Name of the victim: ................................................................. (Category)

Department/Unit of the victim: ...........................................................

Name of confidential counsellor dealing with case: ...........................................

Name of the person complained of: ....................................................... (Category)

Department of the person complained of: .............................................

Start date of the informal procedure 10: .............................................. Date of first meeting ...............................

TYPE OF ISSUE:

<table>
<thead>
<tr>
<th>Psychological harassment</th>
<th>Conflict</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sexual harassment</td>
<td>Other (specify)</td>
</tr>
</tbody>
</table>

Tick boxes as appropriate:

☐ The victim has informed the confidential counsellor of his/her wish to open an informal procedure

---

8 Filled in by confidential counsellor; filed by the Harassment Prevention Coordinator where the victim works
9 Assigned by Harassment Prevention Coordinator (Human Resources) where the victim works
10 The start date is the date the victim gives consent to open an informal procedure
The victim has been informed, and received a copy, of the Policy on protecting the dignity of the person and preventing psychological and sexual harassment and the Manual on informal procedures.

The victim has been informed of the possibility to contact other services (e.g. medical, social or psychological) for assistance.

The victim has been informed of how his/her personal data will be processed and has received a copy of the Data Protection Notice.

The victim has been informed of the confidentiality in dealing with confidential counsellors and has received a copy of the Declaration of Confidentiality.

___________________________________  _____________________________  _____________________________
Name of confidential counsellor  Signature  Date

___________________________________  _____________________________  _____________________________
Name of the victim  Signature  Date

Provided to Harassment Prevention Coordinator (Human Resources) where the victim works on..........................
ANNEX III

Closing Form3 – Informal Procedure

Case reference number\textsuperscript{11}.......... 

Name of the victim: ______________________________________________________________________

Name of confidential counsellor closing the case: 
__________________________________________________________________________

Name of the person complained of: _________________________________________________

Type of problem identified:
_____________________________________________________________________________
_____________________________________________________________________________

Options explored and/or steps taken during the case:
_____________________________________________________________________________
_____________________________________________________________________________

Solution adopted: ______________________________________________________________________
_____________________________________________________________________________

Move to formal procedure (if relevant): _________________________________________________

\textsuperscript{11} Assigned by Harassment Prevention Coordinator (Human Resources) where the victim works
Hierarchical link between parties concerned, if any (specify):

____________________________________

Contacts with the medical or other services:

_________________________________________

Tick a box as appropriate:

☐ The person complained of has been informed about the opening of an informal procedure against him/her with the consent of the victim, and has received a copy of the Declaration of Confidentiality and the Data Protection Notice.

☐ The person complained of has not been informed about the opening of an informal procedure against him/her

The undersigned hereby declare that the above information is to the best of their knowledge true and accurate.

____________________________________  __________________________
Signature of confidential counsellor  Date

____________________________________  __________________________
Signature of the victim  Date
## ANNEX IV

### Statistical Anonymous Fiche

Confidential Counsellor _____________________________

<table>
<thead>
<tr>
<th>TYPE OF ISSUE</th>
<th>REQUEST</th>
</tr>
</thead>
<tbody>
<tr>
<td>(As reported by victim)</td>
<td>Urgent</td>
</tr>
<tr>
<td>Psychological harassment</td>
<td>Victim needed to talk</td>
</tr>
<tr>
<td>Sexual harassment</td>
<td>Victim needed information/support in</td>
</tr>
<tr>
<td></td>
<td>submitting the case for informal procedure</td>
</tr>
<tr>
<td>Other (please specify)</td>
<td>Other</td>
</tr>
<tr>
<td>Recurrent case (victim)</td>
<td>Recurrent case (alleged harasser)</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>VICTIM</th>
<th>ALLEGED HARASSER</th>
</tr>
</thead>
<tbody>
<tr>
<td>Female</td>
<td>Female</td>
</tr>
<tr>
<td>Male</td>
<td>Male</td>
</tr>
<tr>
<td>CONTRACT TYPE</td>
<td>□</td>
</tr>
<tr>
<td>-----------------------------------</td>
<td>---</td>
</tr>
<tr>
<td>Temporary Agent</td>
<td>□</td>
</tr>
<tr>
<td>Contract Agent</td>
<td>□</td>
</tr>
<tr>
<td>SNE, trainee, interim staff or</td>
<td>□</td>
</tr>
<tr>
<td>contractor/external service provider</td>
<td>□</td>
</tr>
<tr>
<td>Other (specify)</td>
<td>□</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>AGE</th>
<th>□</th>
<th>□</th>
</tr>
</thead>
<tbody>
<tr>
<td>20-29</td>
<td>□</td>
<td>□</td>
</tr>
<tr>
<td>30-39</td>
<td>□</td>
<td>□</td>
</tr>
<tr>
<td>40-49</td>
<td>□</td>
<td>□</td>
</tr>
<tr>
<td>50-59</td>
<td>□</td>
<td>□</td>
</tr>
<tr>
<td>60 and over</td>
<td>□</td>
<td>□</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>SOLUTIONS/ACTIONS TAKEN (tick as appropriate)</th>
<th>□</th>
</tr>
</thead>
<tbody>
<tr>
<td>The person only required support and advice (no further action taken)</td>
<td>□</td>
</tr>
<tr>
<td>Opening of an informal procedure</td>
<td>□</td>
</tr>
<tr>
<td>Information to the person complained of</td>
<td>□</td>
</tr>
<tr>
<td>Attempt at reconciliation</td>
<td>□</td>
</tr>
<tr>
<td>Contact/involvement of line management (Head of Unit)</td>
<td>□</td>
</tr>
<tr>
<td>Positive outcome of reconciliation attempt</td>
<td>□</td>
</tr>
<tr>
<td>Negative outcome of reconciliation attempt</td>
<td>□</td>
</tr>
</tbody>
</table>
Informal procedure closed

Initiation of the formal complaint procedure

Other (give details)

Signature of the confidential counsellors _____________________

Date ___________________
ANNEX V

To be filled out by candidates applying to an inter-agency call for applications

Declaration of honour

I, the undersigned, .............................................................., from [insert name of Agency], declare on my word of honour that I have taken note of the incompatibility criteria to apply as an inter-agency confidential counsellor and I confirm that I am not:

A manager

A staff member in the Legal Department (or equivalent entity name in other in other agencies)

A member of the Staff Committee

A staff member in the HR department (or equivalent entity name in other in other agencies)

Assistants to the Director

I am not subject to an administrative enquiry or a disciplinary procedure (or in the case where I was the subject to a disciplinary procedure or administrative enquiry the investigation concluded in no disciplinary sanctions)

Done in.................................................. Date..........................................................

Signature..........................................................
Annex VI

Privacy statement regarding the informal procedure within the EIT’s policy on protecting the dignity of the person and preventing psychological harassment and sexual harassment

This privacy statement provides information relating to the processing of personal data of data subjects carried out by the European Institute of Innovation and Technology within the framework of the informal procedure within the EIT’s policy on protecting the dignity of the person and preventing psychological harassment and sexual harassment.

The processing of personal data follows the provisions of Regulation (EU) 2018/1725 of the European Parliament and of the Council 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, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC (hereinafter “the Data Protection Regulation of the European institutions”).

What is personal data and what is a personal data processing operation?

**Personal data** shall mean any information relating to an identified or identifiable natural person (‘data subject’). An identifiable person is one who can be identified, directly or indirectly, in particular by reference to an identifier such as a name, and identification number, location data, an online identifier or to one or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity of that natural person.

**Processing** means any operation or set of operations which is performed on personal data or on sets of personal data, whether or not by automatic means, such as collection, recording, organisation, structuring, storage, adaptation or alteration, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination, restriction, erasure or destruction.

Who are the data subjects?

The data subjects are:
- Each and every person working at the EIT, 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 a victim of harassment by a member of staff;
- Any person aware of a situation of harassment in so far as he/she is involved in the informal procedure (witness);
- The alleged harasser in so far as he/she is involved in the informal procedure.
**Who is the controller of the data collection?**

The data controller is the Head of Services and Finance Unit of EIT.

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

The processing of hard data (as explained in the next point) by the parties involved in an informal procedure shall be limited to what is strictly necessary for achieving the following purposes:

- Identification and efficient administration of cases of harassment;
- Monitoring and evaluation of the Policy on psychological and sexual harassment and of the Manual;
- Prevention and identification of recurrent cases in view of undertaking disciplinary actions.

The processing of soft data shall be limited to what is strictly necessary for the purposes of dealing properly with a specific case of harassment within the informal procedure and identifying a solution with the agreement of the victim.

Following the provision of Article 4 of the Data Protection Regulation of the European institutions, collected soft and hard data may not be further processed in a way which is incompatible with the abovementioned purposes.

The data processing operations include the collection, recording, organisation, storage, consultation, use, disclosure by transmission, erasure and destruction of personal data. In particular, the personal information of the data subjects contained in the documents filled during the informal procedure are stored and eventually destroyed.

**What types of personal data are processed?**

The following types of personal data are processed for the above mentioned purposes in accordance with the Data Protection Regulation of the European institutions:

- Objective data (hereafter referred to as “hard data”) necessary for the identification of a case, namely the data contained in the Opening and Closing Forms (Annexes II and III of the Manual for informal procedures for cases involving psychological and sexual harassment) and in the Declaration of Confidentiality (Annex I).

- Subjective data (hereinafter referred to as “soft data”) based on the allegations and perceptions of the victim and on the declarations of the alleged harasser or witnesses, including the data contained in the personal notes taken by the confidential counsellor during his/her contacts with the parties involved in the informal procedure, the evidentiary documents and any other documents related to the case, irrespective of their medium, collected within the framework of the procedure.
Confidential counsellors shall ensure that the collected data are adequate, relevant and not excessive in relation to the purposes for which they are collected and further processed.

The processing of personal data revealing racial or ethnic origin, political opinions, religious or philosophical beliefs, trade-union membership, and of data concerning health or sex-life, is prohibited in accordance with Article 10 of Data Protection Regulation of the European institutions, unless in exceptional circumstances where the processing is relevant and necessary for the purposes of dealing properly with the case within the informal procedure, in particular where these data represent the reason for harassment or a key point within a case.

**Who has access to the personal data of data subjects and to whom can they be disclosed?**

**Within the EIT:**

The personal data of the data subjects is processed by the EIT authorised staff: confidential counsellor responsible for handling the informal procedure, the Harassment Prevention Coordinator of the EIT HR (the hard data is transmitted in a sealed envelope marked “Private and Confidential”). In the case of recurrent cases, personal data of the data subjects is also processed by the Head of Services and Finance Unit and Director of EIT. EIT legal officers cannot be involved in the informal procedure.

**Within the other EU institutions/bodies/agencies:**

Access to the personal data may be granted also to the European Ombudsman, the European Data Protection Supervisor, the General Court and the European Court of Justice upon request and to the extent necessary for handling the review procedure and litigation.

**Third parties subject to the GDPR** and third parties not subject to the GDPR:

Exceptionally and if necessary,

- Personal data concerning informal procedure may be disclosed to the medical or counselling services for specific and limited purposes only (for instance, in order to resolve the case). However, whenever possible confidential counsellors and Human Resources should prefer a solution whereby the victim is advised to contact directly the abovementioned services.

- Information concerning the informal procedure may be disclosed to external lawyers (advocates) subject to the GDPR for specific and limited purposes only. In this case a

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12 “Recurrent cases” shall mean a situation where at least three different victims have requested the opening of an informal procedure against the same alleged harasser within a timeframe of five years from the opening date of the first informal procedure.

13 Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation)
written contract (service contract) is signed between the EIT and the external lawyer in order to ensure that Article 29 of the Data Protection Regulation of the EU institutions is respected by the data processor. These written contracts follow the model of the Commission and include a specific article on data protection.

**How long do we keep your data?**

Confidential counsellors shall store soft data for no longer than necessary to deal with the case. Therefore, **three months** after the closure of the informal procedure, soft data shall be handed back to the party having supplied them or it should be destroyed by the confidential counsellor or the Harassment Prevention Coordinator.

After closure of the informal procedure, hard data shall be stored in the file created by the Human Resources section for a maximum of **five years** as from the date of commencement of the informal procedure. Five years is the period considered necessary for Human Resources to evaluate the Policy on protecting the dignity of the person and preventing psychological and sexual harassment, reply to any legal questions and identify multiple or recurrent cases.

Files with hard data may be kept for a further five years if administrative or legal proceedings necessitating their consultation are pending at the date of expiry of the abovementioned retention period of five years.

Hard data may be stored by Human Resources for an unlimited time period for statistical purposes in an anonymous form only.

**What are the rights of the data subject?**

In accordance with Articles 15, of the Data Protection Regulation of European Institutions the data subjects have the **right for information**. At the first meeting with the confidential counsellor, the data subject shall receive the Declaration of Confidentiality (Annex I of the Manual) and this privacy statement.

In accordance with Articles 17, 18, 19 of the Data Protection Regulation of European Institutions the data subjects have the **right of access**, the **right of rectification** in case their personal data is not complete or not accurate and the **right to erasure** (“right to be forgotten”).

In accordance with Article 18 of above mentioned Regulation the data subjects have the **right of rectification**. During the informal procedure two types of personal data are distinguished: hard data and soft data. Hard data can be rectified following the provisions of the abovementioned article, while the notion of inaccurate soft data refers to the fact that specific statements have been made by the data subject. In the case of soft data, the data subject may also ask to add his/her opinion to the file to ensure the completeness of the file (for instance, giving additional testimonies).
The right of access is granted to the data subjects following the provision of Article 17 of the Data Protection Regulation of European Institutions. Access will be granted for documents the data subject submitted him/herself as well as to the opening and closing forms. Access to personal data contained in other documents will only be given if they do not contain personal data relating to other persons or confidential statements, and if there is no risk that the transmission might negatively affect one of the parties involved in the case, or the smooth running of the procedure or future relations between the parties.

The alleged harassers’ right of access may be restricted according to Article 25(1) (h) on the ground of the protection of the data subject or the rights and freedoms of others. The EIT notes that this is not a blanket denial, and the data subject shall be informed of the principal reasons on which the application of the restriction is based and his/her right to lodge a complaint with the EDPS. Similarly, the same restriction can be applied to the right of information.

The data subjects have the right to obtain the erasure of their personal data in accordance with Article 19 of the Regulation and in particular in the cases when the personal data are no longer necessary in relation to the purposes for which they were collected, if the data subject withdraws its consent, or in case of unlawful processing.

Data subjects have also the right to restriction of processing of personal data in accordance with Article 20 of the Regulation, and the right to object on grounds listed in Article 23 of the Regulation.

The rights can be only exercised by sending a request in a written form to the Harassment@eit.europa.eu As a general rule, the requests for information, access, rectification, erasure restriction are handled without undue delay and in any event within one month of receipt of the request; this period may be extended by further two months where necessary, taking into account the complexity and number of requests. In case the data subject contests the accuracy of the data, upon request, the data is restricted immediately for the period of verification of the accuracy of the data, not exceeding one month.

Restrictions to the rights of data subjects may be applied by the EIT on a case-by-case basis, in accordance with Article 25 of the Data Protection Regulation of the European institutions and the EIT internal rules on restrictions.14

Who should be contacted in case of queries or complaints?

If you have any queries concerning the processing of your personal data, you may address them to the internal EIT department responsible for the informal procedure at the following email Harassment@eit.europa.eu or to the e-mail of the confidential counselor.

14 Currently under adoption. The final version will be published at the following link: https://eit.europa.eu/who-we-are/legal-framework/data-protection
You have the right of recourse at any time to the EIT’s Data Protection Officer (EIT-DPO@eit.europa.eu) and to the European Data Protection Supervisor (EDPS@edps.europa.eu) or contact the site: http://www.edps.europa.eu/EDPSWEB/.

How do we secure your data?

In order to guarantee data confidentiality and security, all parties processing data within the informal procedure shall ensure that the data is stored securely in locked cabinets and lock boards, or encrypted electronic files where applicable, with access limited to the party itself. All data communication to recipients within or outside the EIT shall be made by means of sealed envelopes delivered by hand and bearing the marking “Private and Confidential”, or using encryption techniques in case of electronic transfer. Exchange of soft data by electronic means shall be avoided.

Legal basis of the processing operation

General legal basis:

- Charter of Fundamental Rights of the European Union, thereof Article 1 and 31;15

- Regulation No 31 (EEC), 11 (EAEC), laying down the Staff Regulations of Officials and the Conditions of Employment of Other Servants (“CEOS”) of the European Economic Community and the European Atomic Energy Community, in particular Articles 1d, 12 and 12a of the Staff Regulations concerning behaviour which may infringe human dignity and Articles 10, 11, 80 and 81 of the CEOS.16

Specific EIT legal basis:

- Decision 16/2017 of the Governing Board of the European Institute of Innovation and Technology on the EIT Policy on protecting the dignity of the person and preventing psychological harassment and sexual harassment;17

- Manual for informal procedures for cases involving psychological and sexual harassment.

Grounds for lawfulness

In line with Article 5(a) of Regulation No. (EU) 2018/1725, the processing is necessary for the performance of a task carried out in the public interest or in the exercise of official authority vested in the EIT. The EIT carries out a fight against harassment in order to create a good working environment.

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16 OJ P 045 14.6.1962, p. 1385
17 03363.EIT.2017.I.GB.WP
Additionally, where a formal procedure is initiated, it shall be based on the consent of the data subject (Article 5(1)(d)) or on the protection of the vital interest (e.g. health) of the victim (Article 5(1)(e)).
Annex VII

Privacy statement regarding the selection of the confidential counsellors at the European Institute of Innovation and Technology

This privacy statement provides information relating to the processing of personal data of candidates carried out by the European Institute of Innovation and Technology within the framework of the selection of the confidential counsellors.

The processing of personal data follows the provisions of Regulation (EU) 2018/1725 of the European Parliament and of the Council 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, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC (hereinafter “the Data Protection Regulation of the European institutions”).

What is personal data and what is a personal data processing operation?

Personal data shall mean any information relating to an identified or identifiable natural person (‘data subject’). An identifiable person is one who can be identified, directly or indirectly, in particular by reference to an identifier such as a name, and identification number, location data, an online identifier or to one or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity of that natural person.

Processing means any operation or set of operations which is performed on personal data or on sets of personal data, whether or not by automatic means, such as collection, recording, organisation, structuring, storage, adaptation or alteration, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination, restriction, erasure or destruction.

Who are the data subjects?

The data subjects are the staff members of EIT who applied for the position of the confidential counsellor.

Who is the controller of the data collection?

The data controller is the Head of Services and Finance Unit of EIT.

In the framework of the joint controllership the personal data of the candidates is also processed by the responsible Unit of European Medicines Agency (EMA). The data subjects shall be also provided with the privacy statement of EMA regarding the selection of confidential counsellors.
**What is the purpose of the personal data collection?**

The purpose of the processing is to select and identify candidates best qualified to assume the role of confidential counsellor and to manage administratively the applications and the selection procedure.

The data processing operations include the collection, recording, organisation, storage, consultation, use, disclosure by transmission, erasure and destruction of personal data. In particular, the personal information of the candidates contained in their application are accessed, evaluated, stored and eventually destroyed.

**What types of personal data are processed?**

The following types of personal data are processed for the above mentioned purposes in accordance with the Data Protection Regulation of the European institutions:

- Name, gender, nationality, languages spoken, agency, contract category/grade, years in service, contract end date, current job title;
- Motivation letter;
- Experience in a field of confidential counsellor tasks;
- Relevant training in a field of confidential counsellor tasks.

The EIT does not require the applicants to submit any special category of data as part of the selection procedure. If participants decide to share such information, this is done spontaneously and thereby with unambiguous consent.

**Who has access to the personal data of data subjects and to whom can they be disclosed?**

**Within the EIT:**

The personal data of the data subjects is processed by the EIT authorised staff: members of the inter-agency selection panel, members of EIT HR Team responsible for the management of the selection, and Director of EIT.

Access to the personal data may be given to the Internal Auditor of the EIT by request if necessary for the performance of the duties of the Internal Auditor.

**Within the Commission and other EU institutions/bodies/agencies:**

Access to the personal data of the candidates is also given to the members of the inter-agency selection panel.

The authorized staff that may have access to relevant personal data for audit control or investigation purposes: Court of Auditors, Internal Audit Service of the European Commission, European Anti-Fraud Office (OLAF).
Access to the personal data may be granted also to the European Ombudsman, the European Data Protection Supervisor, the General Court and the European Court of Justice upon request and to the extent necessary for handling the review procedure and litigation.

Third parties subject to the GDPR\textsuperscript{18} and third parties not subject to the GDPR:

Exceptionally and if necessary, information concerning the selection of the confidential counsellors may be disclosed to external lawyers (advocates) subject to the GDPR for specific and limited purposes only. In this case a written contract (service contract) is signed between the EIT and the external lawyer in order to ensure that that Article 29 of the Data Protection Regulation of the EU institutions is respected by the data processor. These written contracts follow the model of the Commission and include a specific article on data protection.

The same applies to external IT contractors with whom the EIT has a framework contract in order to provide IT services for the EIT.

How long do we keep your data?

The retention period for the application files of the selected candidates is 2 years following the end of the mandate.

In relation to non-selected applicants, the personal data shall be retained for a period of 2 years following the end of the selection process for the possible review of the decision taken in the selection procedure.

What are the rights of the data subject?

In accordance with Articles 15, 17, 18, 19 of the Data Protection Regulation of European Institutions the data subjects have the right for information, the right of access, the right of rectification in case their personal data is not complete or not accurate and the right to erasure (“right to be forgotten”).

The rights for information and of access also include a right of a data subject to have access to the evaluation results regarding all the stages of the selection procedure (pre-selection, interview, written tests, if any). One should also keep in mind that in any case neither comparative data concerning other applicants (comparative results), nor to the individual opinions of the EIT staff participating in the inter-agency panel in charge of the selection of the candidates should be disclosed to the data subject.

The EIT points out that the right of the rectification of their inaccurate data during the selection process has the limits. A data subject after the closing date of submitting the applications can

\textsuperscript{18} Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation)
change only objective and factual data. This restriction is necessary to guarantee the fairness and justice of the selection procedure.

The data subjects have the right to obtain the erasure of their personal data in accordance with Article 19 of the Regulation and in particular in the cases when the personal data are no longer necessary in relation to the purposes for which they were collected, if the data subject withdraws its consent, or in case of unlawful processing.

Data subjects have also the right to restriction of processing of personal data in accordance with Article 20 of the Regulation, and the right to object on grounds listed in Article 23 of the Regulation.

The rights can be only exercised by sending a request in a written form to the HR@eit.europa.eu. As a general rule, the requests for information, access, rectification, erasure restriction are handled without undue delay and in any event within one month of receipt of the request; this period may be extended by further two months where necessary, taking into account the complexity and number of requests. In case the data subject contests the accuracy of the data, upon request, the data is restricted immediately for the period of verification of the accuracy of the data, not exceeding on month.

Restrictions to the rights of data subjects may be applied by the EIT on a case-by-case basis, in accordance with Article 25 of the Data Protection Regulation of the European institutions and the EIT internal rules on restrictions.¹⁹

Who should be contacted in case of queries or complaints?

If you have any queries concerning the processing of your personal data, you may address them to the internal EIT department responsible for the informal procedure at the following email HR@eit.europa.eu.

You have the right of recourse at any time to the EIT’s Data Protection Officer (EIT-DPO@eit.europa.eu) and to the European Data Protection Supervisor (EDPS@edps.europa.eu) or contact the site: http://www.edps.europa.eu/EDPSWEB/.

Legal basis of the processing operation

General legal basis:

- Charter of Fundamental Rights of the European Union, thereof Article 1 and 31;²⁰
- Regulation No 31 (EEC), 11 (EAEC), laying down the Staff Regulations of Officials and the Conditions of Employment of Other Servants (“CEOS”) of the European Economic

¹⁹ Currently under adoption. The final version will be published at the following link: https://eit.europa.eu/who-we-are/legal-framework/data-protection
Community and the European Atomic Energy Community, in particular Articles 1d, 12 and 12a of the Staff Regulations concerning behaviour which may infringe human dignity and Articles 10, 11, 80 and 81 of the CEOS\textsuperscript{21}.

Specific EIT legal basis:

- Decision 16/2017 of the Governing Board of the European Institute of Innovation and Technology on the EIT Policy on protecting the dignity of the person and preventing psychological harassment and sexual harassment\textsuperscript{22}

- Manual for informal procedures for cases involving psychological and sexual harassment.

Grounds for lawfulness

In line with Article 5(a) of Regulation No. (EU) 2018/1725, the processing is necessary for the performance of a task carried out in the public interest or in the exercise of official authority vested in the EIT. The EIT carries out a fight against harassment in order to create a good working environment.

Furthermore, the processing is also lawful based on Article 5(d) of Regulation No. (EU) 2018/1725. Participation in the selection procedure is voluntary.

\textsuperscript{21} OJ P 045 14.6.1962, p. 1385
\textsuperscript{22} 03363.EIT.2017.I.GB.WP