



## **Policy on transfer of personal data in the framework of administrative inquiries and disciplinary procedures**

### **1. Introduction**

This policy describes the Agency's measures to ensure a level of security appropriate to the risks represented by the transfer of personal data in the framework of administrative inquiries and disciplinary procedures in accordance with the provisions set in Article 22 of Regulation (EC) No 45/2001 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data.

### **2. Internal transfers of personal data**

In the framework of an administrative inquiry, personal data may be transferred to the Executive Director or the Chairman of the Management Board in their capacity of appointing authority; to the investigator(s) appointed by the Executive Director to carry out an investigation; to the person(s) being investigated; and to the designated staff member in the Human Resource Management Group responsible for the administration of such matters.

Article 7(1) of Regulation (EC) No 45/2001 provides that personal data shall only be transferred within or to other Community institutions or bodies if the data are necessary for the legitimate performance of tasks covered by the competence of the recipient.

The tasks to be performed for the opening and conduct of administrative inquiries are specified in the general implementing provisions on the conduct of administrative inquiries and disciplinary procedures adopted by the EEA Management Board on 15.2.2013, and in particular in Article 4 thereof.

Pursuant to Article 7(3) of Regulation (EC) No 45/2001, any recipient of the data shall be reminded of their obligation not to use the data received for other purposes than the one for which they were transmitted. To that end, any recipient shall be required to sign a declaration of confidentiality according to the model attached to this policy (see annex 1).

Transmission of documents between the appointed investigator(s) and the appointing authority or the designated staff member in the HRM Group must be delivered by hand in a sealed envelope marked 'confidential'. Electronic documents should be sent on a disk which is not accessible to third parties.

In the event where an administrative inquiry leads to the opening of a disciplinary procedure, personal data may also be communicated to the members of the Disciplinary Board and where appropriate to other EU offices and bodies such as the European Anti-Fraud Office (OLAF)<sup>1</sup>, the Office for the administration and payment of individual entitlements (PMO), the specialised financial irregularities panels referred to in the financial rules applicable to the general budget of the European Union, the European Ombudsman,

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<sup>1</sup> In accordance with Article 2(g) of Regulation (EC) No 45/2001, OLAF and the EDPS shall not be regarded as recipients in this context.

the Civil Service Tribunal, the General Court or the European Data Protection Supervisor (EDPS).

All written exchanges addressed to the EU offices and bodies referred to above shall be in hard copy in sealed envelope marked 'confidential'.

### **3. External transfer of personal data**

Following an administrative inquiry it may happen that data are transferred to the competent national authorities such as a national Court where there is an infringement of national law.

Article 8 of Regulation (EC) No 45/2001 provides that personal data shall only be transferred to recipients subject to the national law adopted for the implementation of Directive 95/46/EC, (a) if the recipient establishes that the data are necessary for the performance of a task carried out in the public interest or subject to the exercise of public authority, or (b) if the recipient establishes the necessity of having the data transferred and if there is no reason to assume that the data subject's legitimate interests might be prejudiced.

Therefore prior to the transfer of the data the necessity for the transfer must be assessed and established. If the request emanates from the recipient national authority the responsibility lies with it; if on the contrary the envisaged transfer of data is an initiative of the EEA, then the appointing authority shall establish the necessity of the transfer in a reasoned decision.

All written exchanges addressed to recipients other than Community institutions and bodies subject to Directive 95/46/EC shall be in hard copy in sealed envelope marked 'confidential'.

Transfer of data to recipients in countries that have not implemented a comprehensive data protection framework for judicial activities, shall comply with the provisions set in Article 9 of Regulation (EC) No 45/2001. In particular, data shall only be transferred following a review of the adequacy of the level of protection afforded by the recipient and an assessment of the necessity for the transfer.



### Declaration of confidentiality

Reference: Processing of personal data related to management of an administrative inquiry and/or a disciplinary procedure

I, the undersigned, \_\_\_\_\_<sup>2</sup>, being recipient of administrative and disciplinary related data processed in relation with an administrative inquiry and/or disciplinary procedure conducted against a staff member of the European Environment Agency, hereby confirm that I will keep all matters entrusted to me confidential. I will not communicate any confidential information that is revealed to me or that I have discovered or any information relating to the views expressed during the investigation. I will not make any adverse use of information given to me.

Furthermore, I confirm that I will process the personal data supplied by the data subject and/or any other parties involved in the investigation only for the purposes for which they are transmitted and that I will not collect and process data that are irrelevant or excessive to what is requested for the purpose of the investigation in compliance with Articles 4(1) (c) and 7(3) of Regulation (EC) No 45/2001 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data.

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

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<sup>2</sup> Please specify your first name, surname, function and department.