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ECHA'S CODE OF GOOD ADMINISTRATIVE BEHAVIOUR

(Document adopted by the Management Board)



CODE OF GOOD ADMINISTRATIVE BEHAVIOUR FOR THE STAFF OF THE EUROPEAN CHEMICALS AGENCY IN THEIR RELATIONS WITH THE PUBLIC

The Management Board,

Having regard to Regulation (EC) No 1907/2006 of the European Parliament and of the Council of 18 December 2006 concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH), establishing a European Chemicals Agency, amending Directive 1999/45/EC and repealing Council Regulation (EEC) No 793/93 and Commission Regulation (EC) No 1488/94 as well as Council Directive 76/769/EEC and Commission Directives 91/155/EEC, 93/67/EEC, 93/105/EC and 2000/21/EC, in particular Article 78(3) thereof,

Having regard to the provisions on openness and transparency in the Amsterdam Treaty, and in particular Article 1 of the Treaty on European Union, and Article 41 of the Charter of Fundamental Rights of the European Union,

Having regard to the own initiative inquiry of the European Ombudsman into the existence and the public accessibility in the different Community institutions and bodies of a Code of good administrative behaviour for their staff in their relations with the public,

Having regard to the proposal from the Executive Director,

Whereas the Amsterdam Treaty has explicitly introduced the concept of openness and transparency into the Treaty on European Union, by stating that it marks a new stage in the process of creating an ever closer union in which decisions are taken as openly as possible and as closely as possible to the citizen,

Whereas the Charter of Fundamental Rights of the European Union has guaranteed the right to good administration, by stating that every person has the right to have his or her affairs handled impartially, fairly and within a reasonable time by the institutions, bodies, offices and agencies of the Union,

Whereas, in order to bring the administration closer to the citizens and to guarantee a better quality of administration, a Code that contains the basic principles of good administrative behaviour for the staff of the Agency when dealing with the public should be adopted,

Considering it therefore desirable to establish a Code governing the principles of good administrative behaviour which the staff of the Agency should respect in their relations with the public and to make this Code publicly available,

has decided as follows:

Article 1 - General provision

In their relations with the public, the staff of the European Chemicals Agency, hereinafter ‘the Agency’, shall respect the principles which are laid down in this Decision and which constitute the Code of good administrative behaviour, hereinafter referred to as ‘the Code’.

Article 2 - Personal scope of application

The Code is binding on all staff covered by the Staff Regulations and by other legal provisions on relations between the Agency and its staff. However, persons employed under private law contracts, experts on secondment from national civil services and trainees and other relevant persons working for the Agency shall also be guided by it in their daily work. Hereinafter, the term ‘the staff’ will be used to cover all these persons.

The public refers to EU citizens and to natural and legal persons that reside or have their registered office in a Member State, including registrants under Regulation (EC) No 1907/2006.

Article 3 - Material scope of application

This Code contains the general principles of good administrative behaviour, which apply to all relations of the Agency’s staff with the public, unless they are governed by specific provisions of Community law.

The principles set out in this Code do not apply to the relations between the Agency and its staff.

Article 4 - Lawfulness

The staff of the Agency shall act according to law and apply the rules and procedures laid down in Community legislation. They shall in particular ensure that decisions which affect the rights of natural or legal persons have a basis in law and that their content complies with the law.

Article 5 - Absence of discrimination

In dealing with requests from the public and in taking decisions, the staff of the Agency shall ensure that the principle of equality of treatment is respected. Differences in treatment of similar cases must be specifically warranted by the relevant features of the particular case at hand.

The staff of the Agency shall in particular avoid any unjustified discrimination between members of the public based on nationality, gender, racial or ethnic origin, religion or belief, disability, age, or sexual orientation.

Article 6 - Proportionality

When taking decisions, the staff of the Agency shall ensure that the measures taken are proportional to the aim pursued.

When taking decisions, the staff of the Agency shall strike a fair balance between the interests of private persons and the general public interest.

Article 7 - Absence of abuse of power

Powers shall be exercised solely for the purposes for which they have been conferred by the relevant provisions. The staff of the Agency shall in particular avoid using those powers for purposes which have no basis in the law or which are not motivated by any public interest.

Article 8 - Impartiality and independence

The staff of the Agency shall be impartial and independent. They shall abstain from any arbitrary action adversely affecting members of the public, as well as from any preferential treatment on any grounds whatsoever.

The staff of the Agency shall not be guided by any outside influences of whatever kind, including political influences, or by personal interests.

The staff shall abstain from being involved in the taking of a decision on a matter concerning his or her own interests, or those of his or her family, relatives and friends.

Article 9 - Objectivity

When taking decisions, the staff shall take into consideration the relevant factors and give each of them its proper weight in the decision, whilst excluding any irrelevant element from consideration.

Article 10 - Legitimate expectations and consistency

The staff of the Agency shall be consistent in their own administrative behaviour as well as with the administrative action of the Agency. They shall follow the Agency's normal administrative practices, unless there are legitimate grounds for departing from those practices in an individual case.

The staff shall respect the legitimate and reasonable expectations that members of the public have in the light of how the Agency has acted in the past.

Article 11 - Fairness

The staff of the Agency shall act fairly and reasonably.

Article 12 - Courtesy

The staff of the Agency shall be service-minded, correct, courteous and accessible in relations with the public. When answering correspondence, telephone calls and e-mails, the staff shall try as much as possible to be helpful while respecting the Agency's rules governing external communication.

If the staff member is not responsible for the matter concerned, he shall direct the member of the public to the appropriate staff member, Agency unit or directorate.

Article 13 - Reply to letters in the language of the member of the public

Unless otherwise specified in the applicable rules, the staff shall ensure that any member of the public who writes to the Agency in one of the Community official languages receives an answer in the same language unless the author of the request agrees on receiving an answer in a Community language that had been agreed by and between him/her and the Agency.

Article 14 - Acknowledgement of receipt and indication of the competent staff member

An acknowledgement of receipt to a letter addressed to the Agency shall be sent within fifteen working days from the date of receipt of the letter by the responsible Agency directorate, except if a substantive reply can be sent within that period.

The reply or acknowledgement of receipt shall indicate the name and the telephone number and/or e-mail address of the staff member or Agency service who is dealing with the matter, as well as the service to which he or she belongs.

No acknowledgement of receipt and no reply need be sent in cases where letters or complaints are abusive because of their excessive number or because of their repetitive or pointless character.

Article 15 - Obligation to transfer to the competent service of the Agency

If a letter or a complaint to the Agency is addressed or transmitted to a directorate or unit which has no competence to deal with it, its services shall ensure that the file is transferred without delay to the competent service of the Agency.

The service which originally received the letter or complaint shall notify the author of this transfer and shall indicate the necessary contact details of directorate, unit or staff member to whom the file has been passed.

Article 16 - Listening to all parties with a direct interest

Where Community law provides that interested parties or other members of the public should be heard, staff shall ensure that an opportunity is provided to them to make their views known.

Article 17 - Reasonable time-limit for replying

The staff shall endeavour to ensure that, in addition to the acknowledgement of receipt referred to in Article 14 of this Code, a reply on every letter from a member of the public to the Agency is taken within a reasonable time-limit and in any case no later than two months from the date of receipt, unless otherwise provided in the Community legislation.

If the reply of the Agency cannot, because of the complexity of the matters which it raises, be decided upon within the above-mentioned time-limit, the staff shall inform the author thereof as soon as possible, unless otherwise provided in the Community legislation. In that case, a definitive reply should be notified to the author in the shortest time.

Article 18 - Duty to state the grounds of decisions

Every decision of the Agency which may adversely affect the rights of a natural or legal person shall state the grounds on which it is based by indicating clearly the relevant facts and the legal basis of the decision.

If it is not possible, because of the large number of persons concerned by similar decisions, to communicate in detail the grounds of the decision and where standard replies are therefore made, the staff shall guarantee that they subsequently provide the member of the public who expressly requests it with an individual reasoning.

Article 19 - Indication of the possibilities of appeal

Where Community law so provides, a decision of the Agency which may adversely affect the rights of a natural or legal person shall contain an indication of the appeal possibilities available for challenging the decision. It shall in particular indicate the nature of the remedies, the bodies before which they can be exercised, as well as the time-limits for exercising them.

Article 20 - Notification of the decision

The staff shall ensure that decisions which affect the rights of natural or legal persons are notified in writing, as soon as the decision has been taken, to the person or persons concerned.

The staff shall abstain from communicating the decision to other sources until the person or persons concerned have been informed.

Article 21 - Data protection

The staff dealing with personal data concerning a natural person shall respect the principles laid down in Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 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.

The staff shall in particular avoid processing personal data for non-legitimate purposes or the transmission of such data to non-authorized persons.

Article 22 - Requests for information

The staff member shall, when he/she has responsibility for the matter concerned, communicate upon request of a member of the public information that is clear and understandable.

If an oral request for information is too complicated or too comprehensive to be dealt with or if otherwise needed, the staff shall advise the person concerned to formulate his/her request in writing.

If, because of its confidentiality, a staff member may not disclose the information requested, he/she shall, in accordance with Article 18 of this Code, indicate to the person concerned the reasons why he cannot communicate the information.

Further to requests for information on matters for which he has no responsibility, the staff member shall direct the person making the request to the competent person, unit or directorate and indicate necessary contact details. Further to requests for information concerning another Community institution or body, the staff shall direct the person making the request to that institution or body.

Where appropriate, the staff shall, depending on the subject of the request, direct the person seeking information to the Agency unit responsible for providing information to the public.

Article 23 - Requests for public access to documents

The staff shall give access to documents requested in accordance with Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents and the ECHA Decision on the implementation of Regulation (EC) No 1049/2001.

Article 24 - Keeping of adequate records

The Agency's units and directorates shall keep adequate records of their incoming and outgoing mail, of the documents they receive, and of the measures they take.

Article 25 - Public access to the Code

The Agency shall take the necessary measures in order to ensure that this Code enjoys the widest possible publicity amongst the public. It shall, in particular, make it available on its Internet site and shall provide a copy of this Code to any member of the public who requests it.

Article 26 - Right to complain to the Agency and to the European Ombudsman

Members of the public may lodge complaints concerning a possible breach of the principles set out in this Code directly with the Executive Director of the Agency, who will forward it to the relevant Directorate.

The relevant Director shall reply to the complainant in writing within two months. The complainant then has one month in which to apply to the Executive Director of the Agency to review the outcome of the complaint. The Executive Director shall reply to the request for a review within one month.

Members of the public are also entitled to lodge complaints with the European Ombudsman in accordance with Article 195 of the Treaty establishing the European Community and the Statute of the European Ombudsman.

Article 27 - Entry into force

The Code shall take effect from the date of its adoption by the Management Board and shall be published on the Agency's Internet site.