

<b>Standard Operation Procedures</b>	SOP_067
<b>Effective Date:</b> 03/04/2024	<b>Supersedes:</b> Public

# Pre and post-employment occupational activities

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<b>Process Responsibility</b>	Process owners are accountable this procedure being adhered to within their respective or unit. All relevant staff is responsible for the correct implementation of the procedure. Responsibilities for performing specific steps are outlined in the document.
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## SCOPE AND OBJECTIVES

The scope of this Standard Operating Procedure (SOP) is to regulate how EFSA processes notifications submitted by its staff members or former staff members pursuant to Articles 11(3) and 16 of the EU Staff Regulations (EU SR). The objectives of this SOP are the provision of practical guidelines to be followed by staff members implementing the procedure, and of clear screening criteria that may be implemented by concerned staff members, as well as the adoption of procedural clarifications and enhancements to ease the task of implementing these processes, achieve equal treatment and avoid discrimination.

The present SOP articulates into two sub-procedures. Sub-procedure 1 describes the steps of the screening of conflict of -interest pre-employment or upon return from unpaid leave. Instead, sub-procedure 2 describes the steps of the screening of conflict-of-interest post-employment. This SOP cover the process 9.2.1 Ethics and integrity.



## RELEVANT STANDARDS, LEGISLATION AND DOCUMENTS

- Charter of fundamental rights of the EU, and in particular Article 41 thereof
- Treaty on the Functioning of the European Union
- Regulation (EC) No 178/2002 of the European Parliament and of the Council
- Regulation No 31 (EEC), 11 (EAEC) laying down the Staff Regulations of Officials and the Conditions of Employment of Other Servants of the European Economic Community and the European Atomic Energy Community (OJ P 045 14.6.1962, p. 1385)
- EFSA's Policy on Independence
- COMMISSION DECISION of 29.6.2018 on outside activities and assignments and on occupational activities after leaving the Service, C(2018) 4048 final
- Decision of the EFSA Executive Director on Competing Interest Management
- Decision of the EFSA Executive Director on Declarations of Interest
- Decision of the Executive Director on the delegation of powers conferred by the Staff Regulations on the Appointing Authority and by the Conditions of Employment of Other Servants on the Authority responsible for concluding contracts of employment
- Decision of the Executive Director laying down rules on the Guest Programme
- Decision of the Executive Director laying down rules on the secondment to the European Food Safety Authority of national experts
- SOP\_39\_A Management of competing interests
- SOP039/04 EFSA WIN on Competing Interest Management for candidates for EFSA staff members vacant positions, EFSA staff members and trainees proposed as co-authors of EFSA scientific outputs

## ABBREVIATIONS AND DEFINITION

AA/AACC	Appointing Authority/Authority authorized to conclude contracts
Confidential information	Information of a sensitive nature classified as confidential pursuant to Articles 39-39e of Regulation EC No 178/2002, as last amended, or other sectoral legal acts regulating the award of confidential or trade secret status
CIM	Competing interest management
CoI	Conflict of interest
Complete notification	Notification under Article 16(2) of the EU SR containing all mandatory elements required in the form annexed to this SOP
Directly or indirectly impacted by EFSA's scientific outputs	Directly impacted means when a legal or natural person has their application dossier or notification being actually or potentially the subject of an EFSA's scientific output. Indirectly impacted means when the activities of a legal or natural person make them concerned with the content of an EFSA's scientific output.
DoI	Declaration of interest
DMS	EFSA's Document Management System, irrespective of the actual technical solution deployed
EC	European Commission
ED	Executive Director
EEA	European Economic Area
SR	REGULATION No 31 (EEC), 11 (EAEC), laying down the Staff Regulations of Officials and the Conditions of Employment of



	Other Servants of the European Economic Community and the European Atomic Energy Community (OJ P 045 14.6.1962, p. 1385), as last amended
HoU	Head of Unit
HoD	Head of Department
HUCAP	Human Capital Unit
Inadmissible notification	Notification notified prior to eight months before the envisaged date of end of service.
Lobbying and advocacy activities	<p><b>Lobbying activities:</b> those activities carried out with the objective of directly or indirectly influencing the formulation or implementation of EFSA's scientific decision-making process.</p> <p><b>Advocacy activities:</b> activities conducted by the former staff member of EFSA which relate to EFSA's scope of action and intend to influence the work or the public perception of EFSA.</p> <p><b>Directly influencing:</b> means influencing by way of a direct contact or communication with the staff working for EFSA or other action following up on such activities.</p> <p><b>'Indirectly influencing':</b> means influencing through activities not conducted directly by the former staff member vis-a-vis the staff of EFSA but on which he/she is involved, e.g. managing a team of people who will conduct those activities, or designing such activities, or providing advice to the organisation for which he/she works or provides professional services.</p>
LA	Legal Affairs Services unit
LA function	Staff member of the LA unit to which a task is assigned, irrespective of the actual contractual relationship linking him or her to EFSA.
MB	Management Board
Occupational activity	In accordance with Article 1, lett. c of the EC decision on outside activities and post employment occupational activities, an 'occupational activity' as referred to in Article 16 of the SR means any professional activity, whether gainful or not, other than the activities meeting the conditions set out in Article 20(3)".
PI	Public institution as defined in Article 2(1), lett. m of the Decision of the Executive Director of the European Food Safety Authority on Competing Interest Management, ref. EFSA/LA/DEC/19568050/2018, according to which "Public Institutions (PI)" means any organisation included in the list drawn up by EFSA's Management Board according to Article 2 of Commission Regulation (EC) 2230/2004. It also means any other international, national, regional, local or academic institution, public authority, research institute or other body which carries out tasks related to EFSA's remit, pursues public interest objectives, and receives more than 50% of its budget from public entities."
Senior official	Temporary agent or official occupying functions corresponding to the basic post of Director in grade AD14 or above



<u>Senior staff</u>	Heads of Departments, Senior Advisers and Heads of Units
Sensitive information	In accordance with EFSA's Information Management Policy, Information or documents that EFSA must protect because of legal obligations laid down in the Treaties or in legal acts adopted in implementation thereof, and/or because of its sensitivity.
<u>SOP</u>	Standard Operating Procedure
Staff members	EFSA staff members covered by the EU Staff Regulations, Seconded National Experts and participants in the Guest programme.
<b>PROCEDURE</b>	
<b>Sub procedure 1</b>	<b>1.0 Screening of conflict of interest pre-employment or upon return from unpaid leave</b>
<b>Step 1</b>	<b>Submission of a DoI</b>
<b>Candidate/staff member</b>	<p>1.1 Before recruitment or taking up duties in EFSA or, for statutory staff returning from unpaid leave, the candidate/staff member submits a declaration of interest using the relevant IT tool. The information provided includes also a description of tasks with the previous or other employer.</p> <p>1.2 This declaration does not relieve the candidate/staff member from his/her obligation to declare situations of conflict of interests via the ordinary process set out in the applicable regulatory frameworks and in the EFSA/SOP39A.</p>
<b>Step 2</b>	<b>2.0 Assessment of declared interests</b>
<b>LA function</b>	<p>2.1 The LA unit performs the screening of the declared interests by applying the principle whereby limitations may be applied only to future activities which overlap with the activities undertaken in the past two years.</p> <p>2.2 The LA function in charge for the screening mentioned in step 2.1 carries it out in accordance with EFSA's decision on declarations of interest of 31 July 2014 and according to the workflow detailed in Annex VII of EFSA/SOP/039A.</p>
<b>Step 3</b>	<b>3.0 Decision and notification</b>
<b>ED</b>	3.1 The ED signs off the decision in accordance with the workflow detailed in Annex VII of EFSA/SOP/039A.
<b>Sub procedure 2</b>	<b>Conflict of interest post-employment</b>
<b>Step 1</b>	<b>1.0 Assessment criteria, principles and measures</b>
<b>LA function</b>  <b>LA HoU</b>	1.1 EFSA's decision-making vis-à-vis notifications of new occupational activities after leaving service adheres to the principle whereby activities that are not in any way directly



<p><b>Joint Committee</b></p> <p><b>AA/AACC</b></p>	<p>related to the work of the (former) staff member in the past three years of service cannot by their very nature give rise to conflict of interest with the legitimate interests of EFSA. Moreover, the following criteria are taken into account:</p> <ul style="list-style-type: none"> <li>i. any relation between the occupational activity and the content of the work carried out by the former staff member during the last three years of service;</li> <li>ii. whether the occupational activity would involve working on specific files for which the former staff member was responsible during the last three years of service;</li> <li>iii. whether the occupational activity would risk harming the reputation of the former staff member and EFSA, for example by retroactively casting doubt on the former staff member's impartiality while he or she was still in service, thereby tarnishing EFSA's image;</li> <li>iv. the quality of a future employer (for example whether it is a public authority or a private/commercial company) or the situation of self-employment;</li> <li>v. whether the envisaged activity would involve representing outside interests vis-à-vis the institution;</li> <li>vi. whether or not the envisaged activity is remunerated;</li> <li>vii. the level of functional seniority at EFSA (i.e. if the staff member is a Head of unit, Head of Department, or senior advisor);</li> <li>viii. whether the staff member's future professional activities can be expected to have a material impact on the future employer's activities, e.g. where they will be in a senior management, senior adviser or senior control function position;</li> <li>ix. whether the scale of the organisation's activities in the EEA is significant, for example a food multinational company;</li> <li>x. whether the scale of the influence of the organisation on industry practices and policy making is material, for example the organisation is an influential food or feed services lobbying body.</li> </ul> <p>1.2 EFSA decisions vis-à-vis Article 16 of the EU SR notifications may, having regard to the interests of the service, either forbid former staff members to undertake the notified intended occupational activities or give its approval subject to any conditions it thinks fit. Measures imposed on former staff members are identified on a case by case by balancing the need to ensure integrity through temporary prohibitions and restrictions, and the need to respect the fundamental right to engage in work and to pursue a freely chosen or accepted occupation. In accordance with the proportionality principle, the type of measures adopted and their duration reflect the assessment of the extent of conflicts of interest identified. The least restrictive measures that adequately protect EFSA's interests are to be used.</p>
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	<p>1.3 Possible measures to be applied <i>vis-à-vis</i> Article 16 of the SR notifications, for a period of two years starting from the day after the last day of service, are as follows:</p> <ul style="list-style-type: none"> <li>i. taking into account the criteria set out in Step 1.1. of sub-procedure 2 of this SOP, and only in cases where the risk for EFSA's reputation would be particularly high, the prohibition from carrying out the intended occupational activity when the activity overlaps with the content of staff member's duties up to the last three years of service.</li> <li>ii. Restrictions between six months and two years on lobbying and/or advocacy of EFSA or its staff on matters for which the staff member was in charge of during the last three years of service.</li> <li>iii. Restrictions excluding the staff member for between six months to two years from professional contacts with EFSA colleagues and/or from representing opposing parties in meetings with EFSA.</li> <li>iv. Restrictions for between six months and two years prohibiting the staff member from dealing with files, cases or matters related to the work carried out by him or her during the last three years of service.</li> <li>v. Restrictions for between six months and two years prohibiting the staff member from participating in, or supporting tenders to, procurement procedures organised by EFSA.</li> <li>vi. Any other measure which may fit.</li> </ul>
<b>Step 2</b>	<b>2.0 Insertion of relevant references in vacancy notice</b>
<b>HUCAP recruitment team</b>	<p>2.1 HUCAP Talent Management team inserts in the vacancy notice of statutory staff position a notice replicating the text of Article 16 of the EU SR as well as a reference and link to this SOP.</p>
<b>Step 3</b>	<b>3.0 Submission of the form notifying the intention to engage in a new occupational activity</b>
<b>(former) staff member HUCAP</b>	<p>3.1 At least 30 working days before the envisaged starting date, and for two years after having left the service, the (former) staff members notify EFSA of the occupational activities they intend to engage in<sup>1</sup>. The above period of 'two years' is calculated starting from the first day after the last day of service.</p>

<sup>1</sup> In line with Article 20(2) of COMMISSION DECISION of 29.6.2018 on outside activities and assignments and on occupational activities after leaving the Service, C(2018) 4048 final, taking up employment at a European Union institution or body in the meaning of the Treaty on European Union and/or the Staff Regulations does not trigger the obligation to inform EFSA, as engaging in this activity does not lead to leaving the service of the Union for the purpose of applying Article 16, second paragraph, of the Staff Regulations.



	<p>3.2 Concerning staff members in service, in addition to the respect of the timeline indicated in step 3.1, notifications must be received not earlier than eight months from the envisaged date of end of service. EFSA may deem inadmissible the notification of an occupational activity not complying with the former timeline.</p> <p>3.3 (Former) staff members notify EFSA of their intention to engage in a new occupational activity by filling in all relevant entries in the form annexed to this SOP. The form requests to provide, inter alia:</p> <ol style="list-style-type: none"> <li>i. a description of the staff member’s activity during his or her last three years of active service at EFSA;</li> <li>ii. a description of the activity that he or she wishes to take up including information on the position he/she is to occupy and the expected duration of the activity;</li> <li>iii. the name, address, website link (if available), and telephone number of his or her potential employer as well as its fields of activity;</li> <li>iv. the envisaged date of leaving the service, if applicable; and</li> <li>v. the links with his or her former functions at EFSA, if any.</li> </ol> <p>3.4 The (former) staff member sends the filled-in form to the responsible service in HUCAP.</p> <p>3.5 No later than two (2) working days from receipt, HUCAP shares with <a href="mailto:ethics-integrity@efsa.europa.eu">ethics-integrity@efsa.europa.eu</a> functional mailbox the filled-in form together with the performance goals regarding the last three years of service of the (former) staff member. .</p>
<b>Step 4</b>	<b>4.0 Assessment of the notified post-employment occupational activity</b>
<p><b>LA function</b></p> <p><b>LA HoU</b></p>	<p>4.1. Once the request is received in the <a href="mailto:ethics-integrity@efsa.europa.eu">ethics-integrity@efsa.europa.eu</a> functional mailbox, the responsible LA function creates the relevant folder in the relevant DMS space.</p> <p>4.2 The LA function checks that the form contains all requested information. If the form submitted by the applicant is incomplete or unclear, the LA function in charge requests additional information via email and records the exchanges in the relevant DMS folder. Pending the provision of the requested information, the 30 working days period is suspended until the requested information is provided.</p> <p>4.3 Once the form is deemed completed, the LA function starts the assessment of the activity notified under step 3 of this</p>



	<p>sub-procedure of this SOP, reporting the outcome in a draft Legal Advice Memo.</p> <p>4.4 In case the supporting evidence enclosed in the form and in the performance goals shared by HUCAP is not sufficient to conclude on any relation between the intended occupational activity and the tasks carried out by the (former) staff member in the last three years of service, LA function triggers the consultation with the responsible line manager.</p> <p>4.5 Within three (3) working days from the consultation in step 4.4, the relevant line manager: (i) confirms to the LA function the description of the tasks provided by the (former) staff member or provides comments, as appropriate; and (ii) specifies whether the envisaged occupational activity overlaps or not with the (former) staff member's tasks carried out in the last three years of service.</p> <p>4.6 Regarding staff members still in service, when LA function identifies a conflict of interest with the staff member's work in EFSA, it also proposes the measures deemed appropriate under Article 11a of the SR.</p> <p>4.7 Concerning notifications of occupational activities by (former) staff members falling within the category of senior officials and senior staff, the LA function outlines in the draft Legal Advice Memo, as a proposed measure, the prohibition, during the 12 months after leaving the service, from engaging in lobbying and/or advocacy vis-à-vis staff of EFSA for their business, clients or employers on matters for which they dealt with during the last three years in the service, counting from the last day of service with EFSA.</p> <p>4.8 Within 13 working days from the receipt of the form, the LA HoU reviews the draft Legal Advice Memo and endorses it, making changes if necessary. He or she records its opinion in the dedicated part of the form, on the basis of the analysis and measures highlighted in the Legal Advice Memo.</p>
<p><b>Step 5</b></p>	<p><b>5.0 Opinion of the EFSA Joint Committee</b></p>
<p><b>LA HoU</b> <b>EFSA Joint Committee</b> <b><u>LA function</u></b></p>	<p>5.1 The LA HoU, not later than 13 working days from the day a notification was submitted as per step 3 of this sub-procedure, shares the Legal Advice Memo with the EFSA Joint Committee, seeking its opinion.</p> <p>5.2 Within three working days from the notification in step 5.1: (i) Each member of the EFSA Joint Committee expresses its opinion by email (ii) the Chair of the EFSA Joint Committee records the consolidated opinion of the Committee in the form and signs it.</p>





	5.3 LA function saves the emails from the EFSA Joint Committee in the relevant DMS folder.
<b>Step 6</b>	<b>6.0 Decisions under Article 16(2) of the SR</b>
<p><b>LA HoU</b></p> <p><b>AA/AACC (i.e. ED or MB)</b></p> <p><b>LA function</b></p>	<p>6.1 Within two (2) working days from the receipt of the form from the Chair of the Joint Committee, the LA HoU sends to the AA/AACC (i.e. the ED, or the Chair of the MB for what concerns (former) ED notified intended occupational activities after leaving service) the Legal Advice Memo and the opinion of the EFSA Joint Committee recorded in the form.</p> <p>6.2 Within two (2) working days from the notification in step 6.1, The AA/AACC (i.e. the ED, or the Chair of the MB for what concerns the (former) ED) shares the draft decision and the opinion of the EFSA Joint Committee with the (former) staff member, by giving him or her the possibility of commenting by five (5) working days. Absence of reaction from the (former) staff member within the established deadline is deemed to constitute implicit consent to the draft decision.</p> <p>6.3 After taking into account the comments by the (former) staff member (when submitted by the prescribed deadline), the AA/AACC takes the decision according to the following options:</p> <ul style="list-style-type: none"> <li>- approval of the occupational activity with no conditions;</li> <li>- approval of the occupational activity subject to conditions;</li> </ul> <p>or</p> <ul style="list-style-type: none"> <li>- prohibition of the occupational activity.</li> </ul> <p>6.4 Regarding staff members in service, if a conflict of interest with the staff member's work in EFSA is identified, the AA/AACC also decides on any measure deemed necessary under Article 11a of the SR.</p> <p>6.5 The AA/AACC records in the form the decisions taken under steps 6.2 and 6.3, and related reasoning. It signs the form off and informs the LA HoU accordingly.</p> <p>6.6. The LA HoU informs HUCAP about the decision taken by the AA/AACC by sharing the signed form.</p> <p>6.7 Not later than 30 working days from the notification of the intended occupational activity as per step 3,, HUCAP notifies the decision of the AA/AACC to the concerned (former) staff member and informs the LA function accordingly.</p> <p>6.8 The LA function saves the notification sent to the (former) staff member in the relevant DMS folder.</p>
<b>Step 7</b>	<b>7.0 Appeal under Article 90(2) of the SR</b>
<p><b>LA function</b></p> <p><b>LA HoU</b></p>	<p>7.1 If a (former) staff member submits an appeal under Article 90(2) of the SR against the decision notified to him or her under step 6.7, the procedures available under this provision apply.</p>



<b>Step 8</b>	<b>8.0 Implementation</b>
<b>LA</b>	8.1 Staff members for whom the AA/AACC identified a CoI and applied restrictions have an exit interview with LA HoU and/or other members of the LA Unit to examine the conditions set out in the decision under Step 6.
<b>Step 9</b>	<b>9.0 Monitoring compliance</b>
<b>LA function</b>	<p>9.1 For former senior official(s), an LA function performs an annual verification of whether former staff members having occupied positions equivalent to senior officials are complying with Article 16(2) of the EU SR and decisions taken by the AA/AACC on that basis.</p> <p>9.2 The verification in step 9.1 is made by searching publicly available information connected with the first name and family name of the former senior official by using search engines such as for example "Google"<sup>TM</sup>, or "Bing"<sup>TM</sup> as well as by sending reminders to the former senior official every six months for the period of two years.</p> <p>9.3 For senior staff, the LA function performs the verifications prescribed on a case-by-case based on the decision issued pursuant to step 6 of this SOP.</p>
<b>Step 10</b>	<b>10 Transparency</b>
<b>LA function</b>	<p>10.1. For former senior officials, following the notification in step 6.7, the LA function asks Servicedesk / SPOC without delay to make proactively available the core elements of the notifications in the register of occupational activities of former senior officials and senior staff.</p> <p>10.2 The core elements to be included in the register are the family name, the first name, the former occupation at EFSA, the future occupation, the subject matter with which the former senior official is supposed to be concerned with therein, the date of EFSA's decision pursuant to Article 16 of the EU SR and the restrictions applied, if any.</p>
	Following SOPs in the process: n/a



## RECORDS

<b>Reference</b>	<b>Title</b>	<b>Source or Link/Location</b>
<u>Step 3</u>	Notification under Article 16 of the EU SR	LA DMS
<u>Step 6</u>	Decision by AA/AACC under Article 16(2) of the EU SR	LA DMS
Step 6	Notification of the decision signed by AA/AACC	LA DMS
Step 6	Comments of the (former) staff member on the draft decision	LA DMS
(optional) Step 7	Complaint under Article 90(2) of the EU SR	LA DMS
Step 9	Monitoring compliance, outcome of annual verification online	LA DMS
Step 10	Register	EFSA's website