

[The informal procedure under EB Decision 2019/02 for dealing with psychological and sexual harassment](#)

The European Union Agency for Fundamental Rights (FRA or Agency) processes the personal data of a natural person in compliance with Regulation 2018/1725 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.

This data protection notice explains FRA's policies and practices regarding its collection and use of your personal data, and sets forth your privacy rights. We recognise that information privacy is an ongoing responsibility, and we will update this notice where necessary.

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1. Why do we process personal data?

In the context of the informal procedure defined in the Executive Board Decision 2019/02 on FRA's policy on protecting the dignity of the person and preventing psychological harassment and sexual harassment (FRA's Anti-Harassment policy), confidential counsellors process your data in order to prevent and to deal effectively with any actual or potential cases of psychological or sexual harassment at the workplace. For that purpose, personal data may be processed in the informal procedure by the confidential counsellors and/or by the coordinator of the confidential counsellors network to:

- support and protect alleged victims and to direct them in case of need towards the appropriate services;
- provide effective administration and seek to resolve cases as swiftly as possible;
- put in place preventive initiatives;
- monitor and evaluate implementation of the Anti-Harassment Policy;
- identify recurrent or multiple cases and provide advice accordingly;
- transmit appropriate information to the authorised parties in the event of initiation of the formal procedure;
- reply to the Ombudsman or legal authorities at national or EU level, or to pre-litigation activities.

Confidential counsellors are appointed following a call for expressions of interest amongst the staff of the Agency. Confidential counsellors are assisted by a network coordinator nominated by the Head of the Unit responsible for FRA's Anti-harassment policy. Confidential counsellors appointed by other agencies can also be contacted by FRA staff.

2. What kind of personal data does the Agency process?

The confidential counsellors and/or the coordinator of the confidential counsellor's network will process only the following personal data necessary for the processing operation described above.

(a) General personal data:

- Personal details (name, surname, gender)
- Contact details (email address)
- Employment details (contract type, any information on employment that the alleged victim shares with the confidential counsellor e.g. relating to grade or performance evaluations)
- Family, lifestyle and social circumstances (only if you choose to share these data with the confidential counsellor)

(b) Special categories of personal data (only if you choose to share these with the confidential counsellor):

- data revealing racial or ethnic origin
- political opinions

- religious beliefs
- genetic data, biometric data, data concerning health or sexual orientation

3. How do we collect and process your personal data?

3a. Information you provide to the confidential counsellors and/or to the coordinator of the confidential counsellors network.

The information is provided by you/by the alleged victim to the confidential counsellor and/or coordinator of the confidential counsellors network. The list of confidential counsellors appointed at FRA is available on FRA's Intranet site. You may contact a confidential counsellor directly (by email, phone or in person), or you may contact the coordinator and be referred to a FRA confidential counsellor or a confidential counsellor appointed by another agency if you so request.

Confidential counsellors complete opening and closing forms for each case. Only anonymised data is made available to the coordinator, human resources and the Director for statistical and reporting purposes.

FRA staff may also contact confidential counsellors appointed at other Agencies by approaching the coordinator at FRA and asking to be referred to an external confidential counsellor. In such cases, the confidential counsellor will receive the personal data only related to that specific staff member's case and the agency sharing the confidential counsellor will not receive any data.

4. Who is responsible for processing your personal data?

The Agency is the legal entity responsible for the processing of your personal data and determines the objective of this processing activity. The Head of Corporate Services is responsible for this processing operation.

5. Which is the legal basis for this processing operation?

The processing operations in the context of the informal procedure for dealing with psychological and sexual harassment cases is necessary for the management and functioning of the Agency. The legal basis for such processing can also be found in Staff Regulations (Regulation (EC, ECSC, Euratom) No 23/2005): Articles 1d, 12a, 24, 86, 90, and in the Executive Board decision 2019/02 of 16 May 2019 on the FRA policy on protecting the dignity of the person and preventing psychological and sexual harassment.

Therefore, the processing is lawful under Article 5.1.(a) of the Regulation (EU) No 2018/1725.

Confidential counsellors may refer the data subject to appropriate services such as the medical advisor, HR, staff responsible for learning and development or facilitate conciliation meetings with the other party. In this context, relevant data may be shared with the consent of the data subject. Such processing is lawful under Article 5.1.(d) of Regulation (EU) No 2018/1725.

The processing of special categories of personal data voluntarily disclosed by staff members to the confidential counsellors is lawful in accordance with Article 10.2.(a) of Regulation (EU) No 2018/1725 as they have given explicit consent by disclosing such special categories of personal data to the respective confidential counsellor.

6. Who can see your data?

The confidential counsellors are the recipients of the data. The designated coordinator for the confidential counsellors receives some data, usually limited to the names of staff who approach confidential counsellors (if the data subject contacts the coordinator rather than a confidential counsellor directly). The coordinator receives only anonymous data on the case opening and closing forms. Should a FRA staff member choose to make use of a confidential counsellor outside the Agency, they will provide the data to that external confidential counsellor.

Information obtained as part of the informal procedure is only shared with the consent of the data subject/person providing the information, for example if the alleged victim seeks a meeting with the alleged harasser to attempt reconciliation.

Transmission of certain information can only be made without consent in limited situations:

- when this is necessary to ensure the protection of those concerned, for example to the medical advisor, security or HR in the eventuality that the confidential counsellor believes a person concerned to be in real danger. The information transmitted will be limited to what the other person needs to know to perform their duties.
- Confidential counsellors may also be called as witnesses to testify to facts they have been informed of in the course of the informal procedure in the event of an inquiry being initiated under the formal procedure.

7. Do we share your data with other organisations?

Personal data is processed by the Agency only. In case that we need to share your data with third parties, you will be notified to whom your personal data has been shared with.

In case you decide to contact the confidential counsellors of other agencies, you will only share your personal data with the confidential counsellor, and the agency sharing the confidential counsellor will not receive any data.

8. Do we intend to transfer your personal data to Third Countries/International Organizations

No

9. When will we start the processing operation?

We will start the processing operation when you/the alleged victim approach/es a confidential counsellor or the coordinator of confidential counsellors.

10. How long do we keep your data?

Opening and closing forms are kept in a central archive by the coordinator of the network of confidential counsellors for five years. They will not contain the names of the alleged harassers who were not informed of the informal procedure. Files may be held for a further five years if there is an administrative or legal procedure necessitating their consultation.

Statistical data is held by the coordinator without time limit in an anonymous format.

Confidential counsellors shall not store any data of a personal nature beyond the period necessary for a case to be dealt with. Under no circumstances may they keep personal data for more than three months after the date of closure of a case.

11. How can you control your data?

Under Regulation 2018/1725, you have rights we need to make you aware of. The rights available to you depend on our reason for processing your information. You are not required to pay any charges for exercising your rights except in cases where the requests are manifestly unfounded or excessive, in particular because of their repetitive character.

We will reply to your request without undue delay and in any event within one month of receipt of the request. That period may be extended by two further months where necessary, taking into account the complexity and number of the requests.

In exceptional cases, your rights as a data subject may be restricted in compliance with Article 25 of Regulation 1725/2018 and Article 3(b) of the [MB Decision on internal rules concerning restrictions of certain rights of data subjects in relation to processing of personal data](#) when it is necessary to ensure the protection of those concerned or to ensure proper conduct of the inquiry if the alleged victim initiates the formal procedure.

You can exercise your rights described below by sending an email request to wellbeing@fra.europa.eu.

11.1. Do we need your consent?

Consent to the processing of your personal data by the confidential counsellors is provided when you contact a confidential counsellor and agree to the completion of a case opening form. By voluntarily disclosing any special categories of personal data to the confidential counsellors you are giving explicit consent to the processing of such special categories of personal data. Moreover, in some exceptional cases, processing of personal data without the consent of the data subjects may occur in compliance with Article 25 of Regulation 1725/2018 and Article 3(b) of the [MB Decision on internal rules concerning](#)

[restrictions of certain rights of data subjects in relation to processing of personal data](#) when it is necessary to ensure the protection of those concerned or to ensure proper conduct of the inquiry if the alleged victim initiates the formal procedure. You have the right to withdraw your consent at any time, and we will delete your data or restrict its processing. All processing operations up until the withdrawal of consent will still be lawful.

11.2. Your data protection rights

a. Can you access your data?

You have the right to receive information on whether we process your personal data or not, the purposes of the processing, the categories of personal data concerned, any recipients to whom the personal data have been disclosed and their storage period. Furthermore, you can have access to such data, as well as obtain copies of your data undergoing processing.

b. Can you modify your data?

You have the right to ask us to rectify your data you think is inaccurate or incomplete at any time.

c. Can you restrict us from processing your data?

You have the right to restrict the processing of your personal data. If you do, we can no longer process them, but we can still store them. In some exceptional cases, we will still be able to use them (e.g. with your consent or for legal claims). You have this right in a few different situations: when you contest the accuracy of your personal data, when the Agency no longer needs the data for completing its tasks, when the processing activity is unlawful, and finally, when you have exercised your right to object.

d. Can you delete your data?

You have the right to ask us to delete your data when the personal data are no longer necessary for the purposes for which they were collected, when you have withdrawn your consent or when the processing activity is unlawful. In certain occasions we will have to erase your data in order to comply with a legal obligation to which we are subject.

We will notify to each recipient to whom your personal data have been disclosed of any rectification or erasure of personal data or restriction of processing carried out in accordance with the above rights unless this proves impossible or involves disproportionate effort from our side.

e. Are you entitled to data portability?

Data portability is a right guaranteed under Regulation 1725/2018 and consists in the right to have your personal data transmitted to you or directly to another controller of your choice.

In this case, this does not apply for two reasons: I) in order for this right to be guaranteed, the processing should be based on automated means, however we do not base our processing on any automated means; II) this processing operation is carried out in the public interest, which is an exception to the right to data portability in the Regulation.

f. Do you have the right to object?

When the legal base of 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 Union institution or body*” which is the case in most of our processing operations, you have the right to object to the processing. In case you object, we have to stop the processing of your personal data, unless we demonstrate a compelling reason that can override your objection.

g. Do we do automated decision making, including profiling?

Your personal data will not be used for automated decision-making including profiling.

12. What security measures are taken to safeguard your personal data?

The Agency has several security controls in place to protect your personal data from unauthorised access, use or disclosure. We keep your data stored on our internal servers with limited access to a specified audience only.

13. What can you do in the event of a problem?

a) The first step is to notify the Agency by sending an email to wellbeing@fra.europa.eu and ask us to take action.

b) The second step, if you obtain no reply from us or if you are not satisfied with it, contact our Data Protection Officer (DPO) at dpo@fra.europa.eu.

c) At any time you can lodge a complaint with the EDPS at <http://www.edps.europa.eu>, who will examine your request and adopt the necessary measures.

14. How do we update our data protection notice?

We keep our data protection notice under regular review to make sure it is up to date and accurate.

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