

## MORAIS BISMARQUE GASPAR Ana Gloria

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**From:** BOUAZZA-ALVAREZ Laetitia  
**Sent:** 03 November 2014 16:32  
**To:** O'REILLY Emily  
**Cc:** HUSTINX Peter; CERVERA NAVAS Leonardo; PICARD Sylvie  
**Subject:** Response to EO own-initiative inquiry concerning whistleblowing (your ref. OI/1/2014/PMC)  
**Attachments:** Note PH-EO - whistleblowing.pdf; CODEEDPS.final.pdf

Dear Madam,

Please find enclosed a note signed by Mr Peter HUSTINX on the above-mentioned subject, as well as a copy of the EDPS code of conduct.

Kindest regards,



Laetitia BOUAZZA-ALVAREZ

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EUROPEAN DATA  
PROTECTION SUPERVISOR

**Peter Hustinx**  
European Data Protection Supervisor

Ms Emily O'Reilly  
European Ombudsman  
Av. du Président Robert Schuman, 1  
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Brussels, 03/11/2014

**Subject : Response to EO own-initiative inquiry concerning  
whistleblowing (OI/1/2014/PMC)**

Dear Ms O'Reilly,

In response to your inquiry referred above, I can confirm that the EDPS has taken some steps to comply with Article 22c of the Staff Regulation.

The EDPS recently adopted a new Code of Conduct (addressed herewith) in which the section "Raising concerns" addresses whistleblowing. As you can see, it covers the analysis of whistleblowing, the protection of confidentiality, the protection against retaliation and the whistleblower's protection, and the following principles apply:

- Members of the EDPS have a duty to report serious irregularities.
- The chain of reporting is the normal chain of hierarchical command including the Ethics Officer.
- Confidentiality is to be respected during the conduct of an investigation.
- The substance of an inquiry and/or the identity of staff members is to be only disclosed on a strict need-to-know basis.
- In case a disciplinary action or anti-harassment procedure is launched, both procedures will have to follow the ad-hoc Decisions adopted by the EDPS.
- Any staff who raises concerns in good faith is protected from retaliation.
- Staff members play a critical role in raising concerns, which help the EDPS better identify, address, and ultimately deter misconduct. The EDPS is committed to providing a safe environment for reporting and

addressing suspected misconduct. The Ethics Officer should be involved.

Having said that, I have instructed the HR unit to include a specific action for the Annual Management Plan 2015 where a procedure on whistleblowing will be discussed with the new team of Supervisors to further specify these principles and to ensure our full compliance with Article 22c.

Yours sincerely,

A black rectangular box redacting the signature of Peter HUSTINX.

Peter HUSTINX

Annex 1: EDPS Code of Conduct



EUROPEAN DATA  
PROTECTION SUPERVISOR

# Code of Conduct

-  General principles
-  My own governance
-  Trust and transparency
-  Raising concerns
-  Administration of the code





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# Foreword by the Director

*I am very pleased to welcome this new version of the Code of Conduct of the EDPS. It updates and modernises the original Code, which was adopted in December 2006 during the early start-up phase of the institution. Since then, the EDPS' evolution and the outcome of our activities have led to the development of good practices which were reviewed over 2011 and 2012 during the Strategic Review of the organisation. The Code has been adopted following the report on the Strategic Review (22 January 2013), the resulting Strategy 2013-2014<sup>1</sup> (the "Strategy") and the Rules of Procedure. The adoption of the Code is a further milestone in the maturity of the institution.*

*This new version of the Code is informed by the core values and principles enshrined in the Rules of Procedure and the Strategy 2013-2014. It also includes modern and concrete examples of good practice which match the highest levels of accountability and good administrative practice to be found in the Codes of Conduct of the other EU institutions.*

*It is also inspired by the work of the "DNA group" which prepared the discussions about the core personal and collective values of the staff of the institution and the unique elements of our organisational culture at the whole house conference (Away Day) of the EDPS on 23 October 2013. The group will continue its work on a collaborative "DNA paper" which will focus on the distinctive features of the culture of the EDPS as one of the institutions and bodies of the EU.*

*I invite all colleagues to read through the Code and, by doing so, to develop the necessary reflex proper to all the public servants of the EU institutions and bodies.*

Christopher DOCKSEY

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<sup>1</sup> [https://secure.edps.europa.eu/EDPSWEB/webdav/site/mySite/shared/Documents/EDPS/Publications/Strategy/13-01-22\\_Strategy\\_EN.pdf](https://secure.edps.europa.eu/EDPSWEB/webdav/site/mySite/shared/Documents/EDPS/Publications/Strategy/13-01-22_Strategy_EN.pdf)



# EDPS members and staff

Brussels  
23 October 2013





# Introduction

This Code of Conduct (hereafter “the Code”) is a revised version of the EDPS code of conduct of 2006, building on our experience and the evolution of the institution over the last years. The revision is meant to modernise and clarify the professional conduct of the staff working for the EDPS.

It also serves as a reference for our stakeholders and for the general public on the accountability of the EDPS as an independent European institution in the field of data protection, following the new EU institutional framework and the Lisbon treaty, in accordance with the principles of good governance and good administration.

The general mission of the EDPS is to ensure that the fundamental rights and freedoms of individuals, and in particular their right to privacy, are respected when the European institutions and bodies process personal data or develop new policies. A number of specific duties of the EDPS are

laid down in Regulation (EC) No 45/2001. The specificity of these duties entails the institutional independence of the core supervisory and advisory activities.

The adoption of this revised Code confirms the commitment of the institution to aligning the ethical standards and rules laid down in the Staff Regulations and Conditions of Employment of EU officials and other servants of the European Communities, with the new organisational structure adopted in 2010 and with a renewed emphasis on quality control and high professional standards, in particular in the dealings that the EDPS has with the public. As a result, we strive to develop an organisational culture of strong collaboration and high performance while providing for advanced working conditions, equal opportunities and personal and career development for the members of our staff.

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The Code is structured as follows:

- The Code in brief
- **Part I** describes broadly the general principles guiding the conduct of officials when delivering a high quality service
- **Part II** presents, also in general terms, the principles guiding a staff member in his/her own governance
- **Part III** offers guiding principles for officials in relation with trust and transparency
- **Part IV** describes all possible actions to address concerns and possible consequences
- **Part V** describes the way in which the Code is administered and its possible revision.
- List of annexes

# How to read the new EDPS Code of Conduct





# 1. Some basics about the new EDPS Code of Conduct



## What is it?

A guide that sets out principles for the professional conduct of staff working for the EDPS.



## Legal background:

Staff Regulations, the Conditions of employment of other servants (CEOS), and the regulations or instructions derived therefrom.

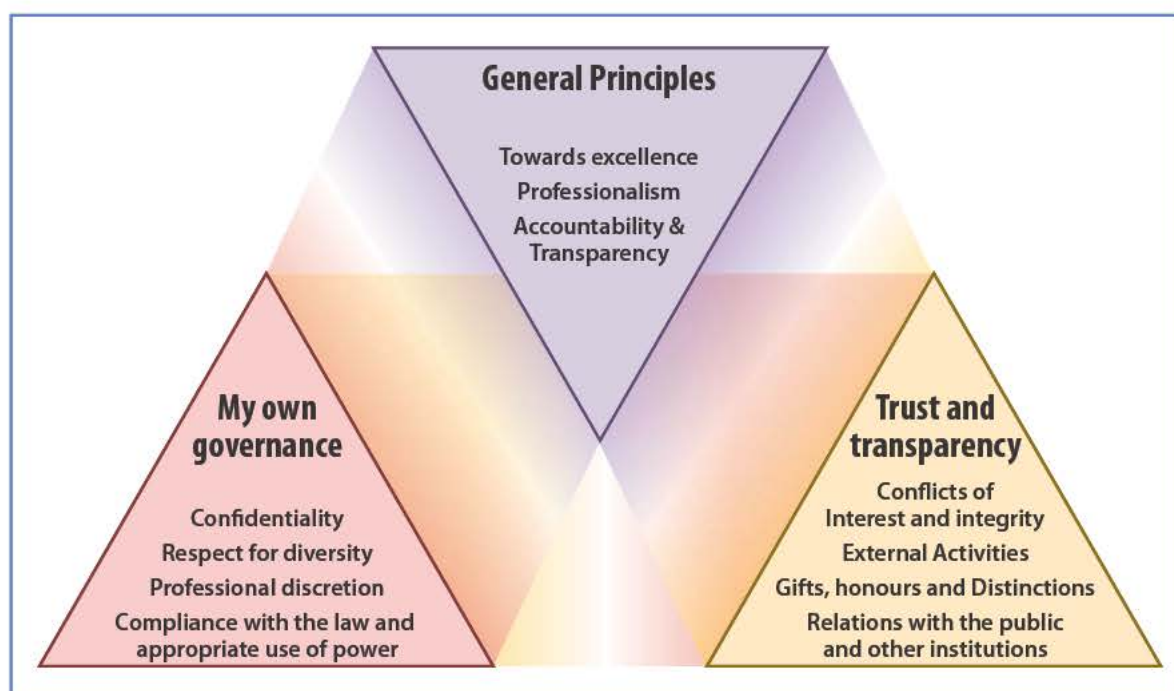


## Purpose:

The new Code aligns the commitment of the institution to high ethical and professional standards and rules with the new organisational structure and the guiding principles and core values enshrined in the Rules of Procedure. It also serves as a reference for our stakeholders and the public at large on the accountability of the EDPS as an independent European institution.

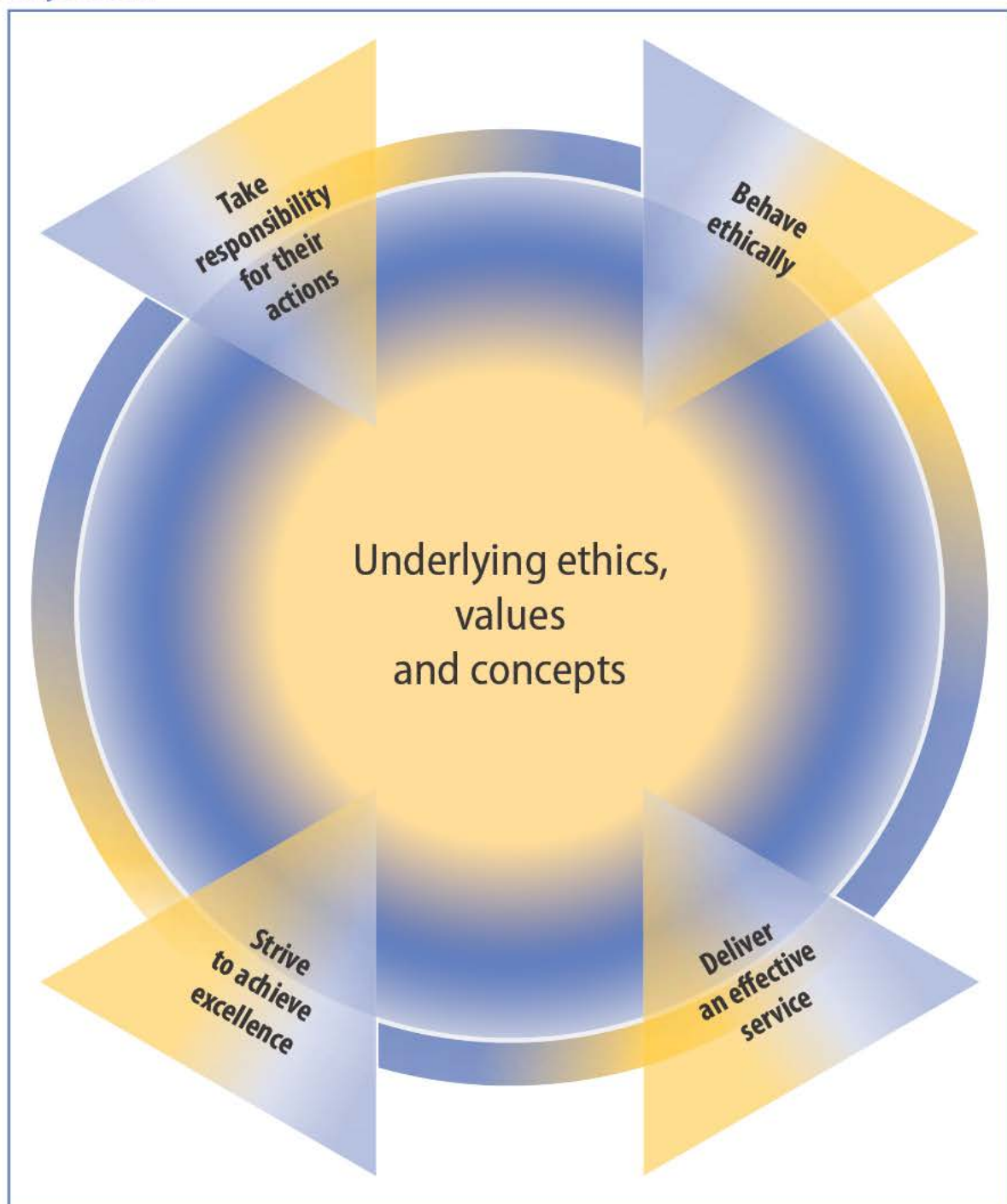


## Principles:





## Objectives:





## 2. The reflex



### Think first:

always be aware of the possible consequences of your actions (or inactions) (e.g. what you say when you participate in a meeting or when someone addresses a question to you).



*How might this affect the image of the EDPS?*



### React with independence

(from the outside world but with loyalty to the organisation):  
always (re)act transparently, impartially and independently of any authority or person external to the EDPS  
but consulting your peers or hierarchy if necessary and appropriate.

*Do I need an authorisation?*



### Reflect:

conduct yourself always at the highest personal and professional level, reflecting the EDPS core values and principles.



*Does my conduct always reflect Professionalism?*

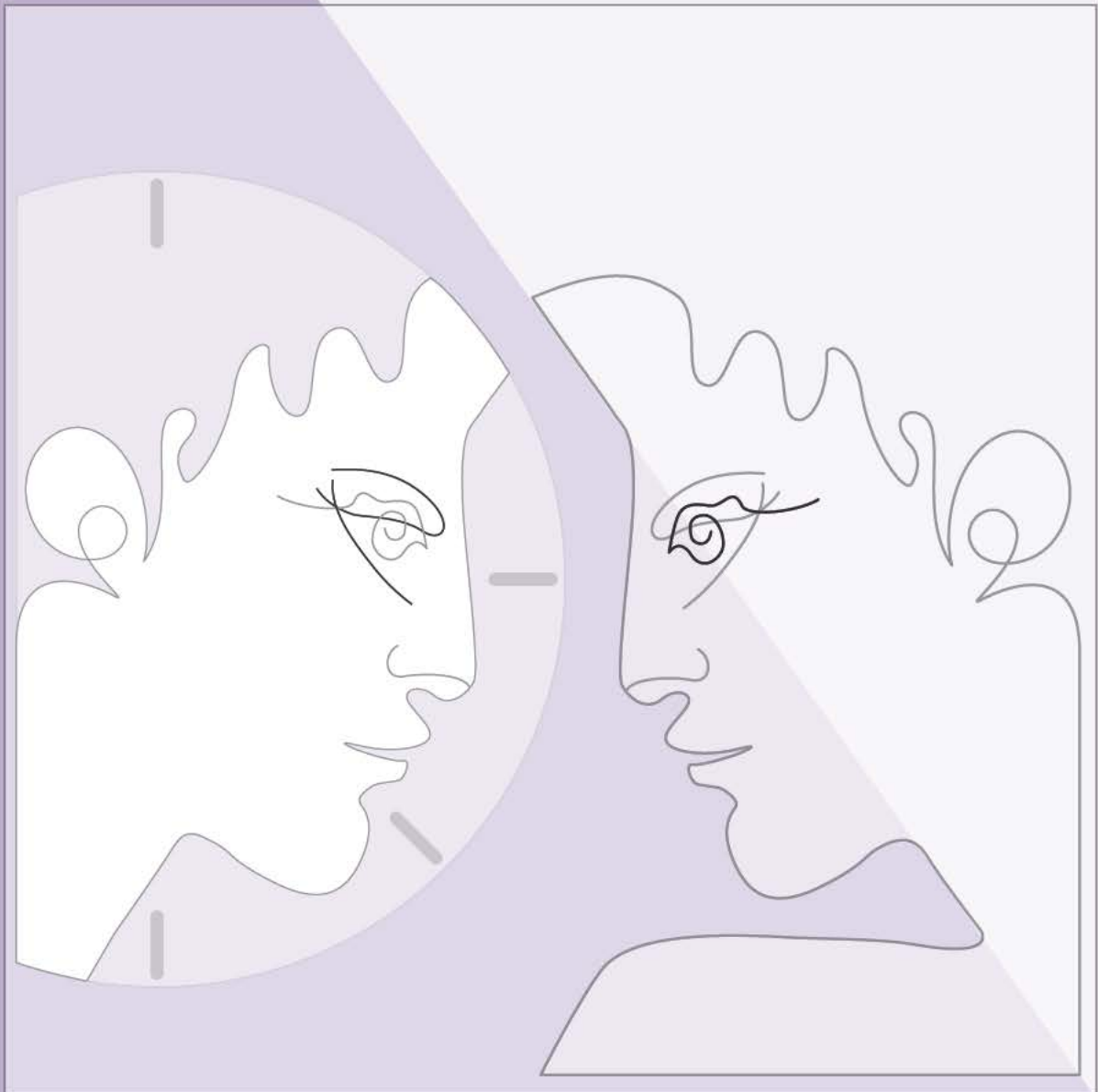


### 3. A few examples of the kind of lessons you can learn from reading this document

DO	DO NOT	REQUEST AUTHORISATION
Act independently	Incur in a conflict of interests	For any gift with a value of more than 100 Euros
Act professionally and strive for a high quality service	Forget your obligations of confidentiality	To publish a text dealing with the tasks and responsibilities of the EU institutions
Show loyalty	Hold simultaneously another job elsewhere	For any external activities that may raise a conflict of interest
Comply with the law	Abuse procedures	For any candidacy for public office
Your best to enhance the EDPS' image	Criticise publicly the institution or your colleagues (where necessary you can rely on through your line manager or through the HR team)	To give an interview to the media
Show courtesy and respect	Harass or harm the dignity of colleagues	N/A

# Part 1

## General Principles



*Truth is the daughter of time, not authority*

Francis Bacon



# 1. Towards excellence

In carrying out their duties, EDPS officials shall conduct themselves at the highest personal and professional level at all times, both on duty and off duty.

Acting as guardians of data protection, EDPS officials should strive to enhance the image of the in-

stitution. They act independently of any authority or person external to the EDPS, showing exclusive loyalty and refraining from any action or statement that might cast doubt on their ability to do the work to the best of their abilities with full impartiality and honesty.

## Strategy General principles

- We serve the public interest to ensure that EU institutions comply with data protection policy and practice. We contribute to wider policy as far as it affects European Data Protection.
- Using our expertise, authority and formal powers we aim to build awareness of data protection as a fundamental right and as a vital part of good public policy and administration for EU institutions.

## FOR EXAMPLE

➔ • *Demonstrate professional competence and mastery of subject matter*

➔ • *Develop clear goals that are consistent with agreed strategies*



## 2. Professionalism

By professionalism we refer to a style of behaviour in the work place that is courteous and efficient (*at the disposal of the institution<sup>2</sup>, the duty to perform the tasks assigned, the duty to comply with the instructions of immediate superiors, assisting and tendering advices to superiors and being responsible for the performance of the duties assigned<sup>3</sup> and the duty to assist investigating authorities*), delivering to the public a quality service and an administration that is open, accessible and properly run. We also refer to autonomy at work, supporting team-work and fair distribution of work.

In case of serious misconduct, the official may be subject to Article 22 of the Staff Regulation: *“an official (or other servant) may be required to make good, in whole or in part, any damage suffered by the Union as a result of serious misconduct on his part in the course of or in connection with the performance of his duties”*.

2 Article 55.1 of the Staff regulation (all references in this document to the Staff regulation refer to the new staff regulation of 01/01/2014)

3 Article 21 of the Staff regulation

Ethical accountability requires us to develop our professional expertise by the use of Learning and Development Programmes, Mentorship programmes for newcomers, Budgetary and financial control tools, Risk management workshop, etc., to ensure continuous improvement of personal and overall organisational performance.

### FOR EXAMPLE

➡ • **Plan in advance and identify priorities, allocating an appropriate amount of time, foreseeing risks and allowing for some contingencies**

➡ • **Use time efficiently and monitor and adjust plans when necessary**

### Strategy Objective 5

#### **Improve the use of EDPS human, financial, technical and organisational resources**

Tips for personal and organisational performance through lifelong learning:

- Actively and proactively seek to develop yourself professionally, making proposals and taking actions
- Contribute to the learning of colleagues and subordinates
- Show willingness to learn from others
- Seek feedback to learn and improve
- Show willingness to learn new technologies and keep abreast of new technological challenges



### 3. Accountability

The EDPS is accountable to many different stakeholders. The relationships that we maintain with each of these stakeholders, and the extent to which we demonstrate the Core Values in our interactions with them, collectively shape the EDPS' reputation. This reputation gives the institution credibility to move forward and work constructively on achieving its primary mission: to contribute to wider policy in data protection and its application within the EU institutions.

The EDPS, as a modern public institution, acknowledges and incorporates accountability in every day practice. Administrative accountability is ensured using well-known tools and mechanisms such as internal rules (see Rules of Procedure adopted on 17/12/2012)<sup>4</sup>, Internal Audit and Internal Control Standards.

The Supervisors and their staff enjoy independence but they are also transparent and accountable to third parties. By public accountability and transparency, the EDPS seeks to enforce high standards of behaviour.

<sup>4</sup> [http://www.edpsnet.ep.parl.union.eu/edpsnet/webdav/site/edpsnet2/shared/12-12-17\\_Rules\\_Procedure\\_EN.pdf](http://www.edpsnet.ep.parl.union.eu/edpsnet/webdav/site/edpsnet2/shared/12-12-17_Rules_Procedure_EN.pdf)

#### Rules of Procedure and Strategy core value

#### Transparency

- Explaining what we are doing and the reasons behind in clear language that is accessible to all
- Having an open and proactive communication strategy

#### FOR EXAMPLE

➡ **• Accept your own responsibilities to support organizational success and hold yourself accountable for behaviours that drive results**

## Part 2

# My own governance



***Recognition of the inherent human dignity  
of all members of the human family is the foundation  
of freedom, justice and peace.***

Universal Declaration of Human Rights - 1948 United Nations



# 1. Confidentiality

The obligation of professional secrecy is of particular importance when working for the EDPS. For this reason, all our staff formally undertake to observe this obligation by signing a confidentiality commitment during the first days after their recruitment, usually in the presence of the Supervisor and the Assistant Supervisor.

Upon the termination of their activity, staff should be aware of the fact that they are still bound by the obligation of confidentiality and to protect the information that has come to their knowledge.

## FOR EXAMPLE

- ➔ • *Treat EDPS documents carefully to protect their confidentiality, within and outside the office*
- ➔ • *Do not disclose internal information unless there is a clear decision by the institution to do so*
- ➔ • *In a social network always remain discreet about your professional activity inside the EDPS*



## 2. Respect for diversity

Diversity and inclusion are at the heart of how the EDPS defines organisational and professional excellence. The EDPS seeks to promote in house working relations based on mutual trust and respect. Relations between colleagues should be qualified by respect and understanding for differences in culture, nationality and sex.

We must work to achieve a positive work environment, characterised by professional, dignified, and respectful conduct—an atmosphere where every colleague is treated fairly. We must be particularly diligent in our multicultural environment to consider how our words or actions may be perceived.

When on duty, EDPS staff must never affront the dignity of colleagues, whatever their rank, by behaving improperly or using aggressive or slanderous language. Such behaviour, whether by actions or words, may result in disciplinary penalties<sup>5</sup>. EDPS staff must show consideration for others, be they their superiors, colleagues, or subordinates. Outright discourtesy or lack of a minimum sense of solidarity is not acceptable, such as refusing to carry out instructions received, or refusing to work with or assist an overworked colleague, or reporting for work in a state unbecoming the dignity inherent in the performance of their duties. In particular, harassment, discrimination and bullying of any kind are utterly unacceptable.

Should any member of the EDPS staff witness any form of harassment, discrimination or inappropriate behaviour as mentioned above, they are duty-bound to assist the victim and where appropriate report the situation to the hierarchical superior, the Director or the Head of the HRAB Unit, as appropriate. For more guidance on this highly sensitive matter, staff are strongly advised to consult the 2014 EDPS decision on anti-harassment policy and the part 4 of this Code.

### FOR EXAMPLE

- ➔ • *Treat all people with dignity and respect*
- ➔ • *Treat all colleagues as equal*
- ➔ • *Do not discriminate against any individual or group*

<sup>5</sup> See provisions of Articles 12 and 12a of Staff regulation



### 3. Professional Discretion

The Staff Regulations provide that “an official [or other servant] shall refrain from any action or behaviour which might reflect adversely upon his position” (Article 12) and that “an official shall refrain from any unauthorised disclosure of information ...” (Article 17).

The above provision establishes a general obligation of professional discretion, whereby officials and other servants, while remaining free to express their opinions as guaranteed by fundamental rights, must observe a degree of moderation and conduct themselves at all times with a due sense of proportion and propriety.

The obligation of professional discretion does not prohibit officials from participating in public life both as citizens and as elected representatives, but the Staff Regulations lay down provisions concerning two instances, namely standing for election (see Annexes 4 & 5) and publication of documents (see Annex 6).

Although specific reference is made to written material, officials and other servants must not underestimate the consequences of taking part in interviews or appearing on broadcasts on television, radio, or other media. If an interview or programme relates directly to their duties, they must transmit the request to the Information and Communication Sector (I&C). This is a simple acknowledgment that talking to journalists presents specific risks that need to be dealt with specific technics and experience.

Officials [and other servants] are entitled to exercise the fundamental right of freedom of association; they may in particular be members of trade unions or staff associations of European officials (Articles 24b of the Statute).

#### FOR EXAMPLE

- ➔ • *When contacted by a journalist for issues connected with your work, please refrain from answering any questions and refer the request immediately to the I&C sector*
- ➔ • *Always ensure a balanced, impartial and moderate participation in conferences*



## 4. Compliance with the law and appropriate use of power

EDPS staff shall act according to law and apply the rules and procedures laid down in European legislation. EDPS staff shall in particular ensure that the decisions which affect the rights or interests of third parties have a basis in law and that their content complies with the law.

Powers shall be exercised solely for the purposes for which they have been conferred by the relevant provisions. EDPS staff shall in particular avoid misusing procedures for purposes which have no basis

in the law or which are not motivated by any public interest.

Abuse of power is the misuse of authority in the course of performing work. It is important that EDPS staff use power wisely when performing their work. The effects can be damaging to working relationships. It can also be a factor in harassment. Requesting staff to do undue personal favours or personal assignments in an abusive manner will never be admitted.

### Strategy and Rules of Procedure core value

#### Impartiality

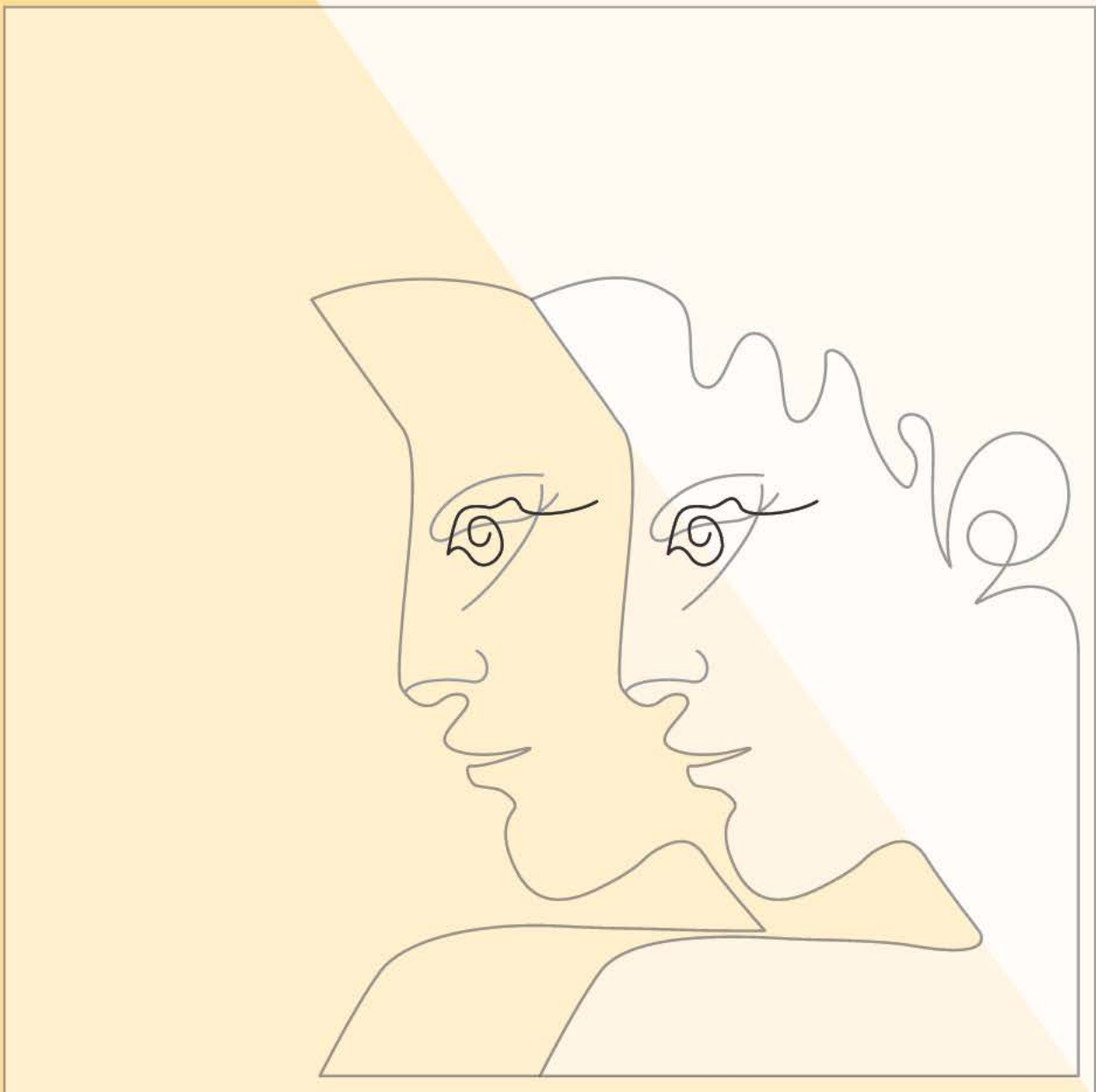
- Working within the legislative and policy framework given to us
- Being independent and objective
- Finding the right balance between the interests at stake

### FOR EXAMPLE

- ➔ • *Remain particularly vigilant when processing personal data*
- ➔ • *Never pressure a staff member to distort facts or break rules*
- ➔ • *Do not abuse your position within the institution for personal benefit*

# Part 3

## Trust and Transparency



***Wisdom and virtue are like the two wheels of a cart.***

Japanese proverb



# 1. Conflicts of interest and integrity

EU staff may not hold any personal interest likely to conflict with the interests of the European Union or their institutions and bodies. Staff members are entrusted with placing the interests of the EU institutions and the EDPS ahead of personal, intra-organisational, and inter-organisational interests. This commitment enables the EDPS to achieve its mission.

Should any member of staff be required to negotiate or conclude a contract with or supervise an undertaking in which they hold an interest<sup>6</sup> they must inform the Director. In turn, the Director will obtain the views of the Head of Unit/Sector concerned and when necessary, will inform the Supervisor of this fact in writing without delay and decide whether it is necessary to transfer or relieve the staff member of their duties. If a staff member acquires without prior authorisation an interest in an undertaking that could create such a conflict of interest, this may also result in disciplinary sanctions.

Given that the activity or interests of a staff member's spouse may also give rise to a conflict of interest, it is important that staff members declare the activities or interests of their spouses to enable a solution to be found whereby they can carry out their duties and conduct themselves solely with the interests of the European Union in mind, as required under Article 13 of the Staff Regulations (see Annex 3).

In general, the EDPS must be able to rely on the honesty and integrity of staff by asking them to inform the proper authority whenever their neutrality might be called into question or whenever their particular circumstances might cast doubt on their impartiality and hence on the impartiality of the EDPS itself.

## Strategy and Rules of Procedure core value

### Integrity

- Upholding the highest standards of behaviour, doing what is right, not what is popular

## FOR EXAMPLE

- ➔ **• Act with responsibility and without consideration of personal gain**
- ➔ **• Ensure that all actions and decisions are taken in the institution's best interests**
- ➔ **• Always follow an ethical approach**

<sup>6</sup> As referred to in Article 11a (3) of the Staff Regulations



## 2. External Activities

In general, EDPS staff should maintain an institutional approach when interacting with others.

EDPS staff may undertake non-remunerated and non-financial activities outside working hours in areas such as culture, education, sports, religion, social work or benevolent work, on condition that such activities do not have a negative impact on their obligations with regard to the EDPS.

Remunerated and other activities outside working hours of this nature require prior permission from the Director (see Annex 2). The same applies to persons wishing to carry out an assignment outside the EU.

Permission depends on two conditions being met:

- the activity or assignment which the staff wishes to carry out must not be *“such as to interfere with the performance of the official’s duties”*;
- the activity or assignment must not be *“incompatible with the interests of the institution”*.

EDPS staff may not be employed simultaneously in a public and private capacity (e.g. authorisation to work as a translator, doctor, nurse, architect, full-time teacher, lawyer or typist or to carry on a business, etc. is invariably refused).

The ban on holding two jobs also applies to EDPS staff working part time but does not affect those taking leave on personal grounds, provided that they conform to the ethos of the European Public Service and that there is no conflict of interest.

Particular caution is required when staff members are engaged in activities outside the EDPS which might prejudice their independence and neutrality (e.g. political activities). Officials or other servants who are candidates for public office must inform the Appointing Authority and ensure that a distinction is drawn between their status as candidates and their official duties (See Annexes 4 & 5).

When undertaking speaking engagements, EDPS staff should only aim at achieving the interests of the institution and should not accept a fee for speaking engagements. The EDPS has adopted an internal speaking engagements procedure to be followed by all EDPS staff members <sup>7</sup>.

EDPS staff may engage in research and academic activities and may associate with academic associations and groups solely in the event that they are acting in a private capacity. Their views may not bind or prejudice the position of the EDPS, unless they have received an authorisation to represent the institution.

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[http://www.edpsnet.ep.parl.union.eu/edpsnet/cms/site/edpsnet2/Speaking\\_engagement](http://www.edpsnet.ep.parl.union.eu/edpsnet/cms/site/edpsnet2/Speaking_engagement)



EDPS staff are authorised to publish texts on condition that they indicate that the opinions set out in the text constitute the personal opinion of the author, since this will enable the image and reputation of the EDPS to be maintained to the greatest possible degree. In the case of a staff member who intends to publish or cause to be published, whether alone or with others, any matter dealing with the work of the EU, they shall inform the Director in advance, who will seek the views of the Head of Unit/Sector concerned and, when necessary, the Supervisor (see Annex 6).

## FOR EXAMPLE

- ➔ • *Always seek authorisation when required to participate in an event that may lead to a publication.*
- ➔ • *Should you wish to pursue an external activity, always ask yourself whether:*
  - *It affects the activities of the institution*
  - *It affects the EDPS' relations with stakeholders*
  - *It can create an impression of EDPS partiality*
  - *It overlaps with your role or responsibilities at the EDPS*
  - *It takes up EDPS time or resources*



### 3. Gifts, Honours and Distinctions

Gift giving of low intrinsic value is a widely accepted way of showing appreciation to the individuals with whom we form working relationships. At the same time, officials and other servants need to proceed with the utmost caution and when confronted with a gift, they must show tact and exercise some judgment.

In principle, EDPS staff are generally advised not to accept gifts connected with work performed in the line of duty, except if the intrinsic value of the gift is less than EUR 100 and if it seems appropriate (for example, a simple bottle of wine after the participation as a speaker in a conference). Should any member of staff wish to accept an honour, distinction or gift from an outside source with an intrinsic value higher than 100 Euros, explicit permission has to be obtained from the Director (see annex 1) who will obtain the views of the Head of Unit/Secretary concerned and will inform, when necessary, the Supervisor.

Normal hospitality or reimbursement of expenses in the context of a mission paid by the organiser should not be regarded as a gift, provided that the hospitality offered corresponds to what it could be reasonably expected for a work assignment outside the office.

#### FOR EXAMPLE

- ➔ **• Always remain vigilant about gifts offered to you**
- ➔ **• If you ever accept a small gift, do not feel obliged to pay back in any way (e.g. a lobbyist may treat you to lunch but he or she cannot then expect you to keep him/her duly informed about the evolution of a given file)**



## 4. Relations with the public and other institutions

EDPS staff shall cooperate loyally with other EU bodies and national authorities. They shall provide them, to the possible extent, with the requested information and services guided by independence, efficiency and courtesy.

When dealing with requests from the public and taking decisions, EDPS staff shall ensure that the principle of equality of treatment is respected. Members of the public who are in the same situation shall be treated in a similar manner.

The EDPS respects the principle of non-discrimination and guarantees equal treatment for members of the public irrespective of nationality, gender, colour, racial, ethnic or social origin, genetic features, language, religion or beliefs, political or any other opinion, membership of a national minority, property, birth, disability, age or sexual orientation. Any differences in treatment of comparable cases must be specifically justified by the objective relevant features of the particular case in hand.

They shall also refrain from processing personal data for incompatible non-legitimate purposes or the transmission of such data to non-authorised persons or third parties.

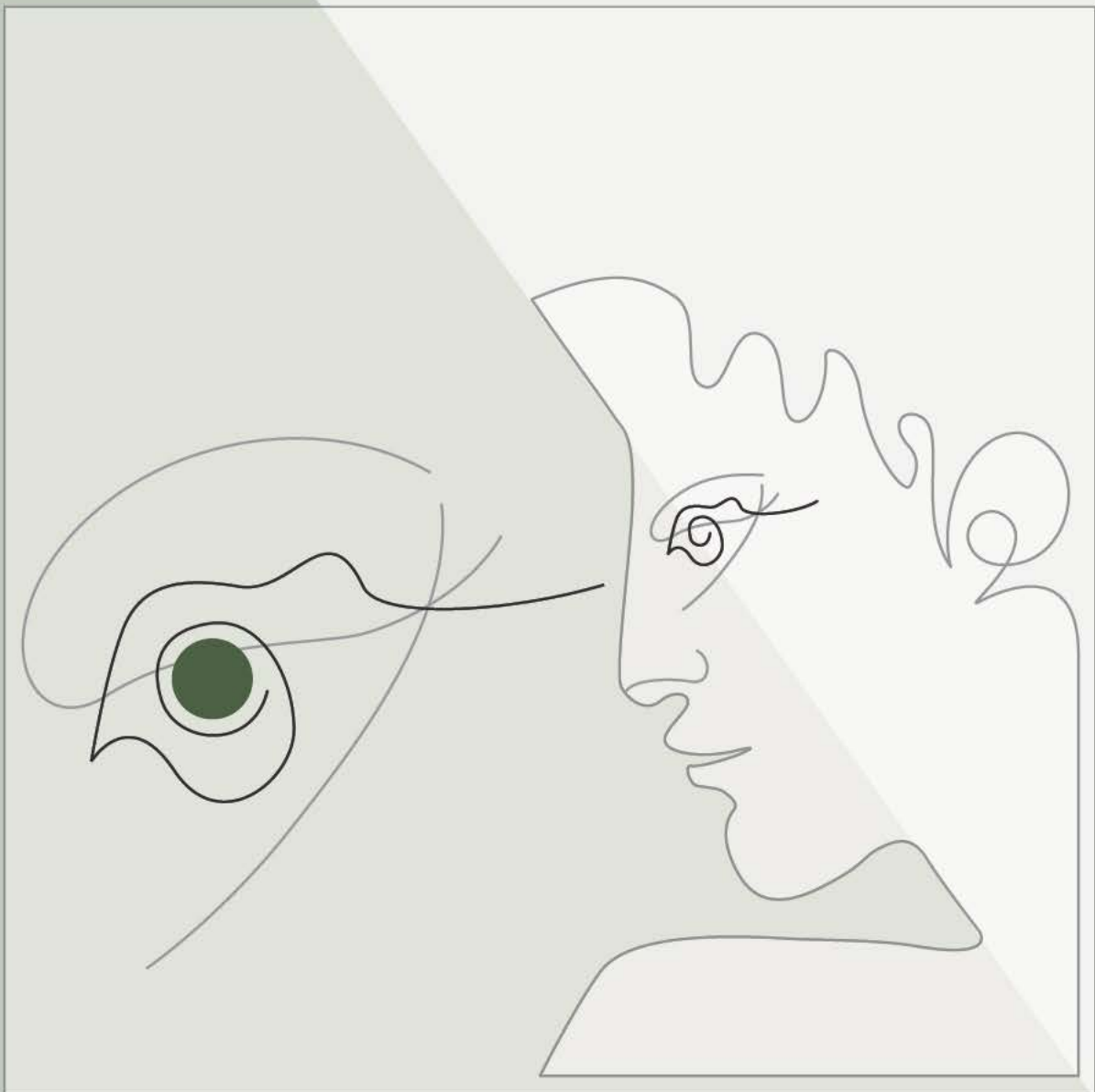
### FOR EXAMPLE

➔ • *When dealing with the public, please keep in mind the public service principles of the European Code of good administration behaviour (see section 5.1 below)*



## Part 4

# Raising concerns



*Our lives begin to end  
the day we become silent about things that matter.*

Martin Luther King



*It is not always easy to raise concerns  
when facing a challenging misconduct situation.  
In any case, EDPS staff members are advised to adopt  
a gradual and fair approach  
towards all parties involved with full consideration of their rights.*

## 1. Careful analysis and, where appropriate, dialogue

The first step when confronted with a potential misconduct situation is to make sure that indeed there is a clear wrongdoing. Cultural differences and misunderstandings in an international environment like the EU institution should never be underestimated. If after this assessment, you are still convinced that a colleague might be involved in an inappropriate conduct, you are advised to discuss the matter in confidentiality, where appropriate, as it may be the case that this person is not aware of the consequences of his/her action.

You may also consider discussing the matter with your Head of Unit/Sector or the Director, who might be better placed to conduct further dialogue, or drawing the attention of the Ethics officer.

If this gradual approach does not help, it might be necessary to conduct more formal investigations in serious cases.

## 2. Protection of confidentiality

Serious allegations and concerns should only be raised with the Head of Unit/sector, the Ethics Officer or the Director who will decide upon the procedure to engage and upon its urgency. Confidentiality is extremely important in the conduct of any investigation. The substance of an inquiry and/or the identity of staff members are only disclosed on a strict need-to-know basis. This is determined based on the facts needed to conduct a thorough investigation, respond appropriately, and resolve the situation. Staff members also have the option

of raising concerns or allegations anonymously, although this can impede the EDPS' ability to follow up and take action on a concern.

In case a disciplinary action or an anti-harassment procedure is launched, both procedures will have to follow the Decisions adopted by the EDPS in 2014.



### 3. Protection against retaliation

Retaliation is any direct or indirect detrimental action recommended, threatened, or taken because an individual has engaged in raising concerns. It undermines trust among staff members as well as between staff and management and can have a debilitating effect on morale and workplace productivity.

This can lead to serious consequences for the EDPS: nobody will bring issues forward if they fear retaliation. In the workplace retaliation encompasses a range of behaviour, from something as small as a personal remark to something as serious as an administrative action affecting a staff member's work program or employment.

When taken as a means of retaliation, other examples can include: a written warning; a reprimand; a deferment of advancement to a higher step for a period of between one and 23 months; a relegation in step; a temporary downgrading for a period of between 15 days and one year; a downgrading in the same function group; a classification in a lower function group, with or without downgrading; a removal from post <sup>8</sup>.

Any staff member who raises a concern in good faith is protected from retaliation.

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<sup>8</sup> See dispositions of Article 9 of Annex 9 of Staff regulation

### 4. Whistleblower protection

Staff members play a critical role in raising concerns, which help the EDPS better identify, address, and ultimately deter misconduct. The EDPS

is committed to providing a safe environment for reporting and addressing suspected misconduct. The Ethics Officer should be involved.





# Part 5

## Administration of the Code





# 1. European Code of good administration behaviour

In June 2012, following a public consultation, the Ombudsman published a high-level distillation of the ethical standards <sup>9</sup> to which the EU public administration adheres. These took the form of the following five public service principles:

1. Commitment to the European Union and its citizens
2. Integrity
3. Objectivity
4. Respect for the others
5. Transparency

These principles can be found in the present Code. In addition the EDPS publicly acknowledges and adheres to the principles in the European Code as the ethical foundations of an administrative culture of service, in which staff understand and internalise the principles of good administration.

<sup>9</sup> <http://www.ombudsman.europa.eu/en/resources/publicserviceprinciples.faces>

## 2. Administration of the Code

The Staff Regulations lay down a number of obligations that extend beyond the sphere of performance and encompass life outside work. Infringements may be punished after conducting disciplinary proceedings and, depending on the seriousness of the case, they may result in prosecution.

The Director, with the assistance of the Human Resources Department and notably the Ethics Officer, is responsible for ensuring that the rules and guidelines laid down in this Code are properly observed and reasonably followed.

The Director may deliver opinions at the request of any interested party on the application and interpretation of this Code seeking the opinion, where appropriate, of the Staff Committee of the institution. Staff members should address to the Human Resources Department or directly to the Director, where appropriate, their requests, declarations or applications for authorisation, pursuant to the provisions of this Code.

This Code is published on the EDPS website and the Intranet.

## 3. Future revision

All EDPS staff should apply the principles set out in this guide. They may seek further clarification and improvement of its content at any time. The Ethics Officer remains at their disposal for any guidance and assistance.

A specific section of the Intranet is devoted to this code of conduct and to provide ethical awareness-raising.

The EDPS shall review the implementation of this Code during the second half of the Third Mandate of the EDPS 2014-2019.

The background is a light gray with a diagonal split. The upper-left portion is a darker gray and contains several black stars of varying sizes, a large gray circle, and a trail of small black squares. The lower-right portion is a lighter gray and contains a line-art profile of a person's head with wavy hair. In the center, there are several white, irregular shapes that look like pieces of paper or documents.

# List of annexes





# List of annexes

- **Annex 1:**  
Request for prior authorisation: honour, decoration, favour, gift ...
- **Annex 2:**  
Request for prior authorisation to engage in an outside activity
- **Annex 3:**  
Declaration of gainful employment of spouse
- **Annex 4:**  
Declaration of candidacy for public office
- **Annex 5:**  
Declaration relating to the holding of public office
- **Annex 6:**  
Request for prior authorisation to publish a text dealing with the work of the Communities
- **Annex 7:**  
Form for change of private address

*Forms are available on Intranet.*





Code of Conduct  
European Data Protection Supervisor  
2014