

INTERNAL RULES ON IMPLEMENTING ARTICLE 51 OF THE STAFF REGULATIONS

THE SECRETARY-GENERAL OF THE EUROPEAN PARLIAMENT,

having regard to the Staff Regulations of Officials of the European Union (hereinafter ‘the Staff Regulations’), in particular Article 51 thereof,

having consulted the Legal Service, the Data Protection Officer, the Staff Committee and the Committee on Equal Opportunities and Diversity,

HAS ADOPTED THESE INTERNAL RULES:

Title I: General provisions

Article 1

Purpose of the Rules and definition of professional incompetence

1. These Rules govern the main stages in the procedure for dealing with professional incompetence provided for in Article 51 of the Staff Regulations (hereinafter ‘the remedial procedure’). They are intended to ensure that each case is dealt with systematically, and at an early stage, in order to help the official concerned, with the support of his or her immediate superior, to perform satisfactorily the duties assigned to him or her and thus obviate any need for the measures provided for in Article 51 of the Staff Regulations (demotion or dismissal) to be taken against him or her.
2. For the purposes of these Rules, professional incompetence shall be understood to mean the inability on the part of an official to perform his or her duties satisfactorily as a result of shortcomings as regards ability or efficiency or of inappropriate conduct in the service.
3. The procedure for dealing with professional incompetence is separate from the disciplinary procedure for failure to comply with obligations under the Staff Regulations, provided for in Article 86 of and Annex IX to the Staff Regulations, which makes the official concerned liable to disciplinary action.

Article 2

Role of the assessors

1. The first assessor as defined in Article 5(1) of the general implementing provisions in respect of Article 43 of the Staff Regulations (hereinafter ‘GIPs for the staff reports procedure’) shall ensure that each official is informed of the objectives and priorities of the functional entity to which he or she is posted and of his or her own objectives, including in the area of training, and of the working methods and procedures relevant to the correct performance of his or her duties.

2. The first assessor shall be responsible for identifying signs of professional incompetence on the part of an official, for implementing and following up the recommendations referred to in Article 4 below and for drawing up and keeping the documents relating to the remedial procedure.
3. The final assessor as defined in Article 5(2) of the GIPs for the staff reports procedure shall decide whether or not a remedial procedure should be initiated and, where appropriate, whether it should be continued or terminated, and shall take all decisions concerning the measures required.

Article 3 *Signs of professional incompetence*

1. As soon as the first signs of professional incompetence come to light, the first assessor shall invite the official concerned to an interview and specify the shortcomings noted and the action needed to remedy them. The first assessor shall also explain to the official concerned the provisions of Articles 44 and 51 of the Staff Regulations. An official record of the interview shall be drawn up and forwarded to the official concerned, by email or by registered letter against acknowledgement of receipt, who may, if he or she sees fit, add comments.
2. If, when preparing the draft staff report, the first assessor notes that the performance of the official concerned continues to be unsatisfactory¹, he or she shall include a remark to that effect in the staff report, but shall not formally initiate the remedial procedure. One staff report which deems the performance of the official concerned unsatisfactory shall not be enough to trigger the remedial procedure outlined in Title II.
3. If the official concerned is in his or her second year in step, the provisions of Article 44 of the Staff Regulations shall apply.

Title II - Remedial procedure

Article 4 *Initiation of the remedial procedure*

1. If, during the following assessment year, the first assessor sees no improvement in the performance of the official concerned, he or she shall invite him or her to an interview and inform him or her that a proposal is to be made to the final assessor for initiation of a remedial procedure in accordance with Article 51 of the Staff Regulations. An official record of the interview shall be drawn up and forwarded to the official concerned, by email or by registered letter against acknowledgement of receipt, who may, if he or she sees fit, add comments.

¹ In keeping with the internal rules on the award of merit points and promotions, an official whose performance is deemed unsatisfactory must be awarded zero merit points.

2. The first assessor shall then forward to the final assessor a formal request for initiation of a remedial procedure (form in Annex 1). The official concerned shall receive a copy by email or against acknowledgement of receipt.
3. The final assessor shall invite the official concerned to an interview held in the presence of the first assessor and, possibly, the human resources coordinator for his or her directorate-general. The official concerned may be accompanied by a member of the Staff Committee or any other European Parliament official of his or her choice.
4. At that interview, and after hearing the official concerned on the issue of his or her alleged incompetence, the final assessor shall decide whether there are grounds for initiating a remedial procedure. If he or she decides to initiate the remedial procedure, he or she shall inform the official concerned of all its implications and make recommendations regarding action to be taken.
5. The conclusions of the interview shall be entered in the form attached to these Rules as Annex 2, which shall be forwarded, after being dated and signed by the two assessors, by email or by registered letter against acknowledgement of receipt to the official concerned, who may, if he or she sees fit, add comments.
6. The final assessor shall inform his or her director-general¹ that the remedial procedure has been initiated.

Article 5

Definition of the reference period

1. The remedial procedure is linked to the staff reports procedure governed by the GIPs for the staff reports procedure.
2. It shall begin when the final assessor takes the decision to initiate the procedure; he or she shall ensure that the reference period is not, under any circumstances, less than three months. The reference period shall end on 31 December of the same year.

Article 6

Consultation of the Medical Service

1. If, during the interview provided for in Article 4(3) above, the final assessor concludes that the signs observed on the part of the official may be linked to medical problems, or if the official mentions problems of this kind, he or she shall immediately consult the Medical Service. If necessary, the official shall be required to undergo a medical examination. In that event, the decision to initiate the remedial procedure and draw up recommendations shall be deferred until the Medical Service has delivered its opinion.

¹ For the purposes of these Rules, 'director-general' shall also mean the senior official in an autonomous administrative unit which is not a directorate-general.

2. The Medical Service shall forward its opinion in writing to the final assessor and to the official concerned; in so doing it shall observe to the letter the rules on medical secrecy and on the protection of individuals with regard to the processing of personal data.
3. If the Medical Service decides that the official's problems are linked to his or her state of health, the final assessor shall not initiate the remedial procedure. The official concerned and the first assessor shall be informed of this decision.
4. Otherwise, the final assessor shall invite the official concerned and the first assessor to a further interview in order to initiate the remedial procedure and draw up the recommendations referred to in Article 4(4).
5. The provisions of the preceding paragraphs shall apply *mutatis mutandis* to the interview provided for in Article 3(1).

Article 7

Implementation of and follow-up to the recommendations

1. The first assessor shall facilitate the implementation of the recommendations by giving relevant instructions and advice to the official concerned.
2. During the reference period the first assessor shall hold an interview at least once a month with the official concerned with a view to assessing the progress he or she has made. In addition, the official concerned may ask for an interview with the first assessor.

Article 8

Continuation or termination of the remedial procedure

1. When the next draft staff report is being prepared, if the first assessor establishes, on the basis of the assessment of the ability, efficiency and conduct of the official concerned, that:
 - the official's performance is now satisfactory, he or she shall submit to the final assessor, in writing, a proposal that the remedial procedure be terminated. The official concerned shall receive a copy by email or against acknowledgement of receipt.
 - the official's performance remains unsatisfactory, he or she shall forward to the final assessor a request for continuation of the remedial procedure accompanied by proposed recommendations. The official concerned shall receive a copy by email or against acknowledgement of receipt.
2. As soon as he or she receives the draft staff report for the official concerned and the request from the first assessor, the final assessor shall organise an interview in accordance with the arrangements provided for in Article 4(3).

3. If the final assessor concludes that the performance of the official concerned is no longer such as to constitute professional incompetence, he or she shall terminate the remedial procedure and inform the official concerned of that decision in writing.
4. If the final assessor concludes that the performance of the official concerned is still such as to constitute professional incompetence, he or she shall inform the official concerned in writing of the continuation of the remedial procedure and shall forward to him or her modified and/or new recommendations by email or by registered letter against acknowledgement of receipt.
5. If the performance of the official concerned remains unsatisfactory, the procedure outlined in paragraphs 1 to 4 shall be repeated in the following year or years, as provided for in Article 51 of the Staff Regulations. The final assessor shall inform his or her director-general that the remedial procedure has been continued or terminated.
6. If, during the remedial procedure, the official concerned is transferred, the procedure shall be terminated automatically.
7. In accordance with Article 51(1)(a) of the Staff Regulations, if three consecutive staff reports deem the performance of the official concerned unsatisfactory, the final assessor shall forward to the appointing authority, through official channels, a request for referral to the Joint Advisory Committee on Professional Incompetence (hereinafter 'the Joint Advisory Committee') set up under Article 9(1) of the Staff Regulations, attaching his or her conclusions and all the documents relating to the procedure.

Article 9

Joint Advisory Committee and Disciplinary Board

The members of the Joint Advisory Committee may not sit on the Disciplinary Board.

Article 10

Data protection

Any processing of personal data pursuant to these Rules shall be subject to 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.

Title III – Final provisions

Article 11

Entry into force

1. These Rules shall enter into force on the first day of the month following that in which they are signed.

2. The forms drawn up pursuant to these Rules may be modified by decision of the Director-General of Personnel, after the Staff Committee has been consulted and the Secretary-General has given his or her approval, to take account of technical necessities.
3. They replace the internal rules on the remedial procedure applied in the context of the detection, management and resolution of possible cases of professional incompetence approved by the Bureau on 3 July 2006 and the Guide to the remedial procedure adopted by the Director-General of Personnel on 26 October 2006.

Done at Luxembourg, on 4 December 2015

Klaus WELLE

ANNEXES:

1. Request to initiate, continue or terminate a remedial procedure
2. Recommendations

REMEDIAL PROCEDURE

- Request to initiate Request to continue Request to terminate a
remedial procedure
(to be sent to the final assessor)

Details concerning the official who is the subject of the procedure

Mr/Ms: Staff number:

Grade:

Type of post:

Job description:

DG/unit/place of employment:

REQUEST TO INITIATE A REMEDIAL PROCEDURE *(please attach the recommendations)*

(a) Shortcomings and reasons for them:

- Problem(s) in adapting to the general environment in the European Parliament
Specify:
- Problem(s) in adapting to the department to which he/she is posted
Specify:
- Inadequate level of ability or efficiency to perform current duties
Specify:
- Inappropriate conduct in the service
Specify:
- Lack of motivation
Specify:
- Other
Specify:
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(b) Measure(s) taken prior to submitting the request to initiate a remedial procedure:

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(c) Remarks:

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REQUEST TO CONTINUE THE REMEDIAL PROCEDURE

(please attach any revised recommendations)

(a) Remarks on the initial phase of the remedial procedure:

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(b) Aspects of professional performance which are still unsatisfactory:

Ability

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Efficiency

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Conduct

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REQUEST TO TERMINATE THE REMEDIAL PROCEDURE

(a) Set out the reasons why termination is being requested:

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FIRST ASSESSOR

Date: **Signature:**

FINAL ASSESSOR

Approved

Proposal **not approved**

- Initiate a remedial procedure
- Continue the remedial procedure
- Terminate the remedial procedure

Date: **Signature:**

Copy to: Mr/Ms *(the official concerned)*

Annex: Recommendations

RECOMMENDATIONS

(in the context of a request to initiate or continue a remedial procedure)

DETAILS CONCERNING THE OFFICIAL WHO IS THE SUBJECT OF THE PROCEDURE

Mr/Ms: Staff number:
Grade:
Type of post:
Job description:
DG/unit/place of employment:

DETAILS CONCERNING THE OFFICIALS PRESENT AT THE MEETING

First assessor:
Final assessor:
HR coordinator:
Official who is the subject of the procedure:
Accompanying official:

Date of interview:

RECOMMENDATIONS

(a) Duration: from to 31/12/.... *(end of staff reporting year)*

(b) Shortcomings noted
(in accordance with the request to initiate or continue the remedial procedure)

Ability and/or efficiency
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Conduct
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ASSESSORS

Date and signature of first assessor

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Date and signature of final assessor

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Where appropriate, date and signature of HR coordinator

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Date of dispatch of the recommendations to the official: