

Helsinki,

18. 12. 2012

**Guidance on gifts and hospitality**  
**(Decision by the Executive Director)**

**Owner: Eric Rieger**  
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**Distribution:**  
**Executive Director**  
**Quality Manager**  
**Directors B and R**  
**Head of Unit ExO, B2, R2**  
**ECHANet**

**AS THE EXECUTIVE DIRECTOR OF THE EUROPEAN CHEMICALS AGENCY**

Having regard to the REACH Regulation and in particular Articles 83(2)(a) and (g) and 103(1) and (3a) thereof;

Having regard to the Staff Regulations of Officials of the European Communities (Staff Regulations), and in particular Articles 11, 12 and 16 thereof; and to the Conditions of Employment of Other Servants of the Communities (CEOS), and in particular Articles 11, 81 and 124 thereof;

**I HAVE DECIDED THE FOLLOWING:**

1. The Guidance on gifts and hospitality attached hereto shall apply to all staff members. The personal scope of this guidance shall include statutory staff – temporary and contract agents – and, by extension, people working for the Agency, such as seconded national experts and trainees.
2. This Decision shall apply as from the date of signature.
3. Executive Director Decision ED/05/2012 on Guidance on invitations and gifts as well as declarations of commitment and confidentiality of 30 January 2012 shall be repealed.

18. 12. 2012

Done at Helsinki,



Geert Dancet

Executive Director

## Attachment

# ECHA GUIDANCE ON GIFTS AND HOSPITALITY

## 1. INTRODUCTION AND LEGAL BASIS

The present ECHA Guidance on gifts and hospitality applies to any person working for the Agency, whether or not covered by the Staff Regulations and CEOS (hereinafter referred to as 'staff member'). The purpose of this guidance is to assist staff members to comply with their statutory obligations with respect to gifts and hospitality offered by parties outside the Agency. It does not apply to fees and honorariums obtained for outside activities<sup>1</sup>, which are further regulated by Commission Decision (2004) 1597/10 of 28 April 2004 on outside activities and assignments, applicable by analogy pursuant Decision of the Management Board MB/07/2009.

Staff members are expected to live up to the high standards of professional ethics, and to remain independent at all times. This is why the Staff Regulations, specifically the second indent of Article 11 applicable to temporary and contract staff by analogy, provide that a staff member shall not accept any favour, gift or payment from sources outside the Agency without the permission of the Authority Authorised to Conclude Contracts (AACC).

Although former staff members who have left the service at the Agency are not obliged to seek authorisation under Article 11 (and are not subject to this guidance), first indent of Article 16 of the Staff Regulations applicable to temporary and contract staff by analogy provides that they continue to be bound by the duty to behave with integrity and discretion as regards the acceptance of certain benefits.

It is the responsibility of all staff members to ensure that their conduct is in line with the Staff Regulations in both letter and spirit. Staff members are reminded that infringements of their statutory obligations expose them to the risk of disciplinary action pursuant to Article 86 and Annex IX of the Staff Regulations, applicable to temporary staff by analogy.

This Guidance remains in the remit of the Executive Director as part of the day-to-day management of staff issues pursuant to Article 83(2) (a) and (g) of the REACH Regulation and shall be adopted by his decision.

## 2. DEFINITIONS AND PRINCIPLES

### 2.1 Definition of gifts

A gift<sup>2</sup> is understood to mean:

- A sum of money or any physical object, or

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<sup>1</sup> 'Outside activity' means any activity, paid or unpaid, outside a staff member's employment with the Agency that is of an occupational character or goes otherwise beyond what can be reasonably considered a leisure activity.

<sup>2</sup> Low value items given for purely information purposes (such as, for example, brochures, booklets, catalogues, conference papers, etc.) are not considered as gifts in this context.

- The possibility to participate for free in events, either open to the public or private in nature, which are only accessible in return for payment and represent a certain value (such as complimentary tickets for sports events, concerts, theatre, conferences, etc.), or
- Any other advantage with a pecuniary value such as transport costs.

Indirect gifts are those which are not offered directly to staff members, but to a household member of the staff member. Indirect gifts will be treated in the same way as gifts offered directly to staff members.

Gifts that are offered to the Agency (Article 19 of the Financial Regulations) are not covered by these guidelines.

## **2.2 Definition of hospitality**

Article 11 of the Staff Regulations furthermore refers to favours. This guidance deals with hospitality offers, which are considered to be one particular type of favour. Hospitality is defined as an offer of food, drink, accommodation and/or entertainment from any source outside the Agency.

Indirect hospitality comprises those favours which are not offered directly to staff members, but to a household member of the staff member. Indirect hospitality will be treated in the same way as hospitality offered directly to staff members.

## **2.3 General considerations**

In general, staff members should not accept any direct or indirect gifts or hospitality that are related to the performance of their duties at the Agency and offered by third parties<sup>3</sup>.

In accordance with ECHA's Policy for managing potential conflicts of interests, any situation where the acceptance of a gift or hospitality may lead to a real, potential or perceived conflict of interest needs to be avoided. This is most evident where gifts are offered by persons, authorities or organisations which are involved in or are seeking official action by the Agency in an area in which the staff member is, has been or will likely be active in the foreseeable future. All such gifts should be refused.

Acceptance of gifts or hospitality may exceptionally be authorised (within the limits indicated under "Specific provisions related to gifts" below) when it is clear that this will not compromise or reasonably be perceived to compromise the staff member's objectivity and independence and will not damage the Agency's public image. This evaluation can only be based in the first place on sound judgement from the staff member in the given circumstances. In cases of doubt, the staff member should seek the advice of the line management.

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<sup>3</sup> Gifts and hospitality provided in the context of a family or personal relationship or in a context not related in any way to the staff member's duties do not, in principle, fall under the provisions of Article 11 of the Staff Regulations. However, even here situations may arise when acceptance can be perceived as compromising the staff member's professional objectivity and independence. If in doubt whether such gifts and hospitality offered outside the professional background can be accepted, staff members should carefully assess how an average third person would perceive the acceptance of such gifts and hospitality and check with line management if acceptance would be in conflict with the Agency's interests.

Criteria to be considered in this context are, in particular, if the acceptance of the gift or hospitality is counter to the interest of the service or presents a real or perceived conflict of interest for the staff member concerned, or if such acceptance would be in accordance with diplomatic and courtesy usage.

The following non-exhaustive list of factors should be taken into account when assessing on a case-by-case basis whether a gift or hospitality can be accepted:

- Does the gift or hospitality come from a public or private entity?
- Are there any apparent motives behind the offer of the gift or hospitality?
- Is there any link between the offering entity and the Agency (such as procurement or selection procedures, pending operational decisions, opinions or proposals)?
- What is the nature and estimated value of the gift or hospitality, including whether there have been one or several offers from the same source?
- Has the offer been given to the staff member individually or to a group of recipients, e.g. to all participants in a conference or panel discussion?
- What are the functions of the staff member at the Agency?
- Are there any benefits for the service expected from the participation of the staff member at the event in question?

### 3. SPECIFIC PROVISIONS

#### 3.1 Specific provisions related to gifts

As a general rule, staff members should always remember that **they should not accept any gifts** related to the performance of their duties. They should make use of sound judgement in order to assess, in the given circumstances, if acceptance could exceptionally be envisaged if required by social, courtesy or diplomatic usage. In that case, the following administrative arrangements apply:

a) Prior permission by the AACC is presumed to be granted, in accordance with Article 11 of the Staff Regulations and in the interest of expedient administrative procedures, for **gifts worth up to €50 received from the same source in any given calendar year**.

b) Explicit prior permission by the AACC is required for **gifts worth between €50 and €150 received from the same source in any given calendar year**. If the AACC authorises acceptance, the gift may be kept.

c) Authorisation for **gifts with a value exceeding €150** will be refused by the AACC. Generally, such gifts cannot be accepted, unless exceptional circumstances apply as contained in letter f) 2<sup>nd</sup> bullet point further below. For the sake of transparency, the staff member should inform the immediate superior that the gift or sum of money has been offered and refused.

d) Offers of **any sum of money** must always be refused by the staff member.

e) Staff members should not display, except in strictly private use, any **promotional items with visible logos** of organisations relating to the operating area of the Agency in the course of their work. An exception to this rule applies if the item concerned has been jointly issued by the Agency and an Accredited Stakeholder Organisation or by an EU institution or another EU agency.

f) **Operational aspects:**

- The value amounts mentioned above should be estimated in good faith.

- If the AACC refuses to authorise acceptance or if a gift is unwanted, it should be returned to the source, if this is feasible.
- Alternatively, it can be sent to the Agency's repository of gifts and authorisation requests, which is managed by the Executive Office, if a return would be against social and/or diplomatic rules. If appropriate, the gifts transmitted by staff members to the repository are donated by the Executive Office to a charitable organisation.
- As far as gifts returned to the source or sent to the repository are concerned, such action shall not be considered as "acceptance" in the meaning of the Staff Regulations, provided that the staff member immediately informs his immediate superior.
- As a courtesy, the staff member should inform the source of the gift, unless this would be diplomatically inappropriate, that the gift cannot be accepted and will be transmitted to charity.
- Where the staff member is in doubt as to whether the refusal of a gift would be contrary to social, courtesy or diplomatic usage or might create otherwise embarrassing situations, he/she should may seek advice from his/her Director or immediate superior.

### 3.2 Specific provisions related to hospitality

Staff members should always remember that **they should generally not accept any hospitality** related to the performance of their duties. They should make use of sound judgement in order to assess, in the given circumstances, if acceptance could exceptionally be envisaged if required by representational, social, courtesy or diplomatic usage. In that case, the following administrative arrangements apply:

a) Prior permission by the AACC is presumed to be granted for **occasional offers of simple meals, refreshments, snacks**, etc. The same applies to hospitality in the form of **lunches or dinners that can be considered to form a normal part of the function of the staff member**, and as such not prejudicial to the interests and public image of the Agency, in which the staff member participates in agreement with his line manager. Staff members should not accumulate a number of hospitality offers from the same source in any given calendar year.

b) **In all other cases** or if the staff member judges that there is a doubt as to the appropriateness of accepting or refusing a hospitality offer, explicit prior permission by the AACC is required. If prior authorisation is not feasible, the AACC's agreement should be sought as soon as possible subsequent to the hospitality. In any event the staff member's line manager should be informed.

### 3.3 Hospitality offered during missions

The mission order will as a rule cover all predictable offers of hospitality, based on the mission programme, notably meals, accommodation and transport. These will not be considered as hospitality offers if the programme of the mission and the participation of the staff member has been authorised, as they form part of the performance of his/her duties in the interest of service. The acceptance of these offers will then be declared in the mission expense statement. Reference is made to the Agency's work instruction on external speaking requests management for further advice on what mission expenses can be borne by the respective conference organiser. The acceptance of any additional hospitality offered during the mission should be made subject to the same considerations as applicable to all hospitality and be declared in the mission expense statement.