



European Maritime Safety Agency

**DECISION OF THE ADMINISTRATIVE BOARD OF THE EUROPEAN
MARITIME SAFETY AGENCY**

of 24 November 2006

**on general provisions for implementing Article 43 of the Staff
Regulations**

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THE ADMINISTRATIVE BOARD OF THE EUROPEAN MARITIME SAFETY AGENCY
(EMSA),

Having regard to Regulation (CE) N° 1406/2002 of the European Parliament and of the Council establishing a European Maritime Safety Agency, amended by Regulations (CE) N° 1644/2003 and 724/2004, in particular article 6,

Having regard to the Staff Regulations of Officials of the European Communities and the Conditions of Employment of Other Servants of the European Communities laid down by Council Regulation (EEC, Euratom, ECSC) No 259/68 and last amended by Council Regulation (CE, EURATOM EC) No 723/2004 of 22 March 2004 and in particular Article 43 thereof,

Having regard to the Commission Decision of 23 December 2004 on general provisions for implementing Article 43 of the Staff Regulations,

Whereas,

- (1) implementing rules for the Agency should be adopted pursuant Article 110 of Staff Regulations
- (2) the Commission has given approval to the present decision subject to the relevant Staff Committee referred to in that provision being informed of it when that Committee has been set up and subject to taking account, where appropriate, of any opinion given
- (3) the Staff Committee has been consulted and has given its opinion

HAS DECIDED AS FOLLOWS:

Article 1 Scope

1. In accordance with Article 43 of the Staff Regulations and Article 15(2) of the Conditions of Employment of Other Servants, an appraisal exercise shall be organised at the beginning of each year. The appraisal period shall be from 1 January to 31 December of the preceding year.

To this end, an annual report covering the reporting period, known as the career development report, shall be drawn up for every staff member (with the exception of the the Executive Director) who have been in active employment or seconded in the interest of the service for a continuous period of at least one month during the reporting period. The staff members concerned are referred to hereinafter as "jobholders". The report shall cover the periods in which the jobholder was in active employment or on secondment in the interest of the service.

2. The appraisal system shall be aimed in particular at assessing the jobholder's efficiency, competencies and conduct in the service.
3. Probationary staff shall be assessed in accordance with Article 34 of the Staff Regulations or Article 14 and 84 of the Conditions of Employment of Other Servants.
4. In the case of officials or temporary staff who
 - are to be retired automatically under Article 52 of the Staff Regulations in the year following the reporting period;
 - are the subject of a decision of the Agency leading to termination of their service within the meaning of Article 47 of the Staff Regulations;
 - in the year following the reporting period have been granted an invalidity pension by the Agency under Article 78 of the Staff Regulations which takes effect in the course of the reporting period or the year following the reporting period or
 - have either left the service of the Community institutions permanently during the reporting period or will do so in the year following the reporting period,

a report need be drawn up only if they submit an express request to that effect to the reporting officer referred to in Article 2.

Article 2 Respective roles

1. The jobholder is the official or member of the temporary staff, as defined in Article 1, who is being appraised.
2. The reporting officer shall conduct the appraisal. After a dialogue has taken place in accordance with Article 5(3) the reporting officer shall draw up a draft report. Reporting officers shall sign the reports for which they are responsible.
3. The countersigning officer shall ensure that the appraisal standards defined by the Agency are consistently applied to all the career development reports for which he or she is responsible. In cases of disagreement with the reporting officer, final responsibility for the review shall rest with the countersigning officer.

Article 3: Rank of the reporting officer and countersigning officer

1. As a general rule, the reporting officer shall be the jobholder's Head of Unit and the countersigning officer shall be a superior of the Head of Unit.
2. The Head of Unit may, subject to the agreement of his or her superior, delegate the role of reporting officer to AD officials or temporary staff who manage and supervise category AD or AST jobholders, in which case the Head of Unit shall be the countersigning officer.

Heads of Unit may, without relinquishing their role as reporting officer, delegate the work preparatory to the appraisal of jobholders in their Unit, including the dialogue mentioned in Article 5(3) to an official or temporary staff assigned to the Unit whom they consider, in the light of the duties he or she performs within the Unit and his or her abilities, to be capable of assuming that role.

3. The Executive Director shall act as reporting officer for jobholders of whom she or he is the direct superior. If the Executive Director is the reporting officer, he or she shall also act as the countersigning officer.
4. The reporting officer shall be the member of staff who is carrying out the duties referred to in paragraphs 1 to 3 at the end of the appraisal period.

The countersigning officer shall be the member of staff who is carrying out the duties referred to in paragraphs 1 to 3 at the time when she or he first intervenes in the context of the procedure referred to in Articles 5 and 6.

5. In the event of a change in the organisation chart, the latter may derogate from paragraphs 1 to 4 above to take account of the specific context arising from that change.

Article 4: Layout of the career development report and appraisals guide

1. The Agency shall publish an appraisal guide showing how to set objectives, evaluate efficiency, competencies and conduct in the service, and draw up training maps. Jobholders, reporting officers and countersigning officers shall ensure that the guidelines set out in it are complied with.
2. The layout of the career development report and the appraisals guide may be altered, by decision of the Executive Director of the Agency, after consulting the Staff Committee, to take account of staff policy requirements.

Article 5: Appraisal procedure

1. The annual appraisal exercise shall begin on 15 January at the latest.
2. The jobholder shall, within eight working days of receiving a request to that effect from the reporting officer, produce a self-assessment, which shall be included in the career development report.
3. Within ten working days of the jobholder submitting a self-assessment, the reporting officer and the jobholder shall engage in a formal dialogue. The dialogue shall constitute one of the reporting officer's basic management duties.

4. The reporting officer may, if the jobholder refuses to finalise the self-assessment within the time limit applicable, decide that the dialogue should take place. Where the jobholder and the reporting officer share the same grade, the countersigning officer shall take part in the dialogue if the jobholder, reporting officer or countersigning officer so requests.

5. The dialogue shall cover three aspects:

- in the light of the self-assessment referred to in paragraph 2, appraising the jobholder's performance during the reporting period,
- setting objectives for the year following the reporting period and
- drawing up a training map.

(a) Taking the self-assessment into account the reporting officer shall, jointly with the jobholder, consider the latter's efficiency, the competencies he or she has demonstrated and his or her conduct in the service during the reporting period. In this context the reporting officer shall not take account of any justified absences of the jobholder.

(b) The reporting officer shall present the jobholder with proposed objectives to be attained in the context of the post, together with a list of the competencies required, the manner in which the results are to be assessed and the conditions in which they are to be achieved. The objectives shall be in keeping with the working conditions (part-time work, secondment, etc.) and be consistent with the objectives of the work programme of the Agency and the Unit. They shall constitute the basis on which efficiency is to be measured. If the reporting officer and the jobholder cannot agree on the objectives, the countersigning officer shall take a final decision on the matter after hearing the jobholder's views. The objectives shall form an integral part of the career development report for the period concerned.

(c) The reporting officer shall draw up jointly with the jobholder a training map which takes account of the objectives linked to the jobholder's work programme, personal development goals and career development.

The objectives and the training map shall be re-examined and possibly adapted in the event of any significant change in the nature of the jobholder's duties. They may also be reviewed in the course of the year and, where necessary, adapted.

6. Immediately after the formal dialogue has been held, the reporting officer shall draw up a draft career development report, which shall include appraisals of efficiency, competencies and conduct in the service which is consistent with the indications given during the formal dialogue and submit it to the countersigning officer.

7. The reporting officer and the countersigning officer shall finalise and sign each career development report and transmit it to the jobholder.

Where the jobholder and the reporting officer share the same grade, the countersigning officer shall enter his or her comments in the appropriate section of the report, if the jobholder, the reporting officer or the countersigning officer so requests.

8. The jobholder shall have up to five working days to accept the report without adding any comments, accept it after adding some comments in the appropriate section, or refuse to accept the report, stating in the appropriate section the reasons for requesting that it be reconsidered.

If he or she accepts it, the career development report shall be considered final. If the jobholder fails to react within the time limit set, he or she shall be deemed to have accepted the report.

9. If the jobholder refuses to accept the career development report, the countersigning officer shall hold a dialogue with him or her within ten working days starting at the end of the period referred to under 8. If the jobholder, reporting officer or countersigning officer so requests, the reporting officer shall also take part in the dialogue.

The jobholder may arrange for another official to assist him or her during the dialogue.

No later than five working days after this dialogue the countersigning officer shall either confirm or amend the report. He or she shall transmit the report to the jobholder.

The jobholder shall have up to 10 working days to accept the report without adding any comments, accept it after adding some comments in the appropriate section, or refuse to accept it, stating the reasons in the appropriate section. If he or she accepts it the career development report shall be considered final. If the jobholder fails to react within the time limit he or she shall be deemed to have accepted the report.

10. The jobholder's reasoned refusal to accept the report shall automatically mean referral of the matter to the Joint Evaluation Committee referred to in Article 6.
11. The countersigning officer shall keep the reporting officer duly informed of the progress of the various stages in the procedure and the decisions taken.
12. The time limits referred to in this Article shall be calculated only from the time when the relevant decision has been notified to the person concerned or, at the latest, when the latter, acting as a diligent official, may be expected to be aware of the content of this decision and the underlying reasons. The time limits shall be suspended where the person to observe it is prevented by a justified absence.

If at any stage of the procedure the reporting officer fails to comply with the time limits applicable, the jobholder may refer the matter to the countersigning officer.

13. All annual reports shall be closed by the end of April of the year following the appraisal period at the latest.
14. The jobholder shall be notified, in written, that the decision rendering the report final has been adopted and that it may be consulted. Such notification shall constitute a communication within the meaning of Article 25 of the Staff Regulations.

Article 6: Joint Evaluation Committee

1. A Joint Evaluation Committee, hereinafter referred to as "JEC", shall be set up in the Agency. The JEC will deal with appeals from jobholders and will evaluate the conduct of the appraisal exercise. The JEC shall be composed as follows:

- a Chair, with the function of Head of Unit, Head of Sector or Senior officer, appointed by the Executive Director. The Chair may not be the Head of Unit responsible for human resources;
 - four members: two members shall be designated by the Executive Director of the Agency and two members shall be designated by the Staff Committee.
2. The Chair and every full member shall each have at least one alternate appointed in the same way as the Chair and the full members. Alternate members may take part in meetings even when the full members are present, but shall in such cases not be entitled to vote. An alternate member shall automatically be entitled to vote if the full member he or she represents is absent.
 3. The Committee shall meet by invitation of the Chair. Opinions shall be adopted by a simple majority of the members present who are entitled to vote. The Chair shall vote only in the case of a tied vote. For the Committee's decisions to be valid, the Chair must be present, together with four members who are entitled to vote, including two appointed by the Staff Committee. If the number of participants present at a meeting is not sufficient to enable decisions to be taken, the Chair shall immediately convene a new meeting which may be held within two working days. If the third meeting is inquorate the Committee shall record its failure to deliver an opinion.

Rules of procedure shall be adopted by the JEC on proposal of the Head of Unit responsible for human resources in accordance with the provisions of this Article.

4. The Committee may not take the place of the reporting officer or the countersigning officer as regards appraising the jobholder's performance. It shall verify that reviews have been drawn up fairly and objectively, i.e. where possible on a factual basis and in accordance with these general implementing provisions and the appraisals guide. It shall verify in particular that the procedure laid down in Article 5 has been followed. To this end it shall carry out the necessary consultations and shall have at its disposal any working documents which may assist it in carrying out its work.
5. The JEC shall, when appealed to by a jobholder who shares the same grade as the reporting officer, pay particular attention to the appeal, verifying in particular that the appraisal is impartial.
6. The JEC shall, when appealed to under Article 5(10), deliver an opinion within ten working days of the matter being referred to it.
7. If the Chair or a member of the Committee has a personal interest in a matter such as to impair his or her independence in the handling of that matter, he or she shall be replaced by the appropriate alternate member and refrain from participating in the work of the Committee. A conflict of interest is deemed to arise in particular where the Chair or member is also the reporting officer or countersigning officer for the jobholder who has appealed to the Committee or where the jobholder, acting on the authority of the Staff Committee, has been in contact with the Chair or one of the members on matters of personnel management.
8. The opinion of the JEC shall be transmitted to the jobholder, reporting officer, and countersigning officer. The JEC's opinion shall, where it has been adopted following a vote, state the majority and minority opinions

expressed. If the JEC has been unable to deliver an opinion, this fact shall be reported to the jobholder, reporting officer and countersigning officer.

9. The reporting officer and the countersigning officer shall confirm or amend the evaluation report in question within five working days from receiving the opinion of the JEC. Where they depart from the recommendations set out in the opinion of the JEC they shall provide reasons for that decision.
10. The report shall then be finalised and communicated to all parties concerned.

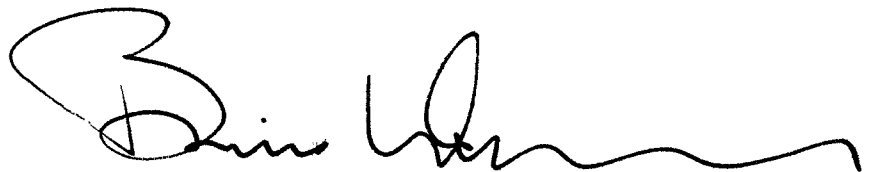
Article 7: Complaints

A complaint may not be submitted under Article 90(2) of the Staff Regulations or a matter be referred to the Court of First Instance until a report has been closed.

Article 12: Final provisions

These provisions shall apply to the reports to be drawn up from 1 January 2007 onwards.

Done at Lisbon on 24 November 2006,

A handwritten signature in black ink, appearing to read 'Brian Wadsworth', with a long, wavy horizontal line extending to the right.

Brian Wadsworth
Chairman of the Administrative Board