

Protocol for Preventing & Acting Against Harassment



HR EXCELLENCE IN RESEARCH



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1 Statement of principles

The Centre for Genomic Regulation (hereinafter CRG) expresses its commitment to promoting workplace relations based on freedom, dignity, and interpersonal respect, in addition to maintaining a safe work environment. Furthermore, the CRG is committed to zero tolerance of harassment, and clear and categorical disapproval of offensive, discriminatory and/or abusive behaviours and attitudes.

Consequently, the CRG pledges to:

- Not allow or tolerate under any circumstances those attitudes that could generate cases of sexual and/or gender-based harassment, psychological harassment in the workplace or any other type of harassment caused by other differences such as ethnic group, religion, disability, age, opinion, etc.*
- Receive and process in a thorough manner in compliance with the guidelines established in this protocol any queries and complaints received.*
- Guarantee that there will be no retaliation of any kind against those persons who file complaints, claims or reports, or against those who participate in their resolution process.*

For the effective fulfilment of this commitment, the CRG will implement the following measures, among others:

- Dissemination and distribution among all staff members and collaborating personnel of the Protocol for Prevention and Approach to Harassment.*
- Awareness-raising campaigns on harassment prevention for the entire existing staff of the Centre, and for any new additions to the staff.*
- Designation and training of “persons of reference” for the Protocol, who will be prepared to manage the action procedure in case of harassment.*
- Establishment of measures to prevent cases of harassment from occurring.*

The Senior Management of the Centre calls upon its entire community to engage in healthy work relationships that respect dignity and the fundamental rights of working people.

Luis Serrano
Director

Joan Vives
Administrative Director



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2 Preamble

2.1 Introduction

This protocol consists of two strategic dimensions that are fundamental to achieve the commitment expressed by the Centre, which are: **prevention** and **action** when facing situations of harassment.

The goal is to prevent, detect, act on and resolve situations that constitute harassment, establishing a procedure to follow in the event that conduct is identified that can be classified as one of the aforementioned situations in the workplace.

The protocol is based on three fundamental rights:

- The right of all persons to be treated with respect and dignity.
- The right to equality and non-discrimination in the workplace.
- The right to health in the workplace.

For this reason, this protocol first identifies the key objectives, as well as its scope of application. Next, the types of harassment are defined,

and the actions for prevention, training and dissemination follow as the main idea. The action procedure for cases of harassment is then described. Once the action procedure is laid out, the disciplinary measures, and performance monitoring and evaluations are specified. Last, the protocol provides a formal complaint form, and a model confidentiality agreement (for persons participating in the processing and resolution of harassment cases).

2.2 Objectives

The overall objective of the protocol is to promote and ensure a safe work environment free from any discrimination and especially, situations of harassment. To achieve this purpose, the following specific goals have been set:

- Inform, train and sensitize the entire staff on the subject of harassment.
- Prevent the risk of harassment through early detection of psychosocial or organizational factors that could contribute to it.
- Guarantee affected individuals' rights to fair treatment and confidentiality.

- Establish mechanisms to respond to cases of harassment.
- Make this protocol available to staff as a means of preventing harassment.
- Facilitate the eradication of possible harassment behaviours and contribute to improving the quality of work and health of workers.

2.3 Scope of application

The protocol is applicable to any staff members employed by the CRG, in addition to any other person who, although employed by third party, carries out any activities or provides services in the centre, as is established in Article 24 of Law 31/1995, of 8 November on Hazard Protection, regarding business activity coordination.

Both groups are responsible for meeting the terms established in this document.



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3 Definitions

Sexual and gender-based harassment are two social phenomena with multiple, diversified dimensions: they are a form of discrimination based on the gender of a person, which is contrary to the principle of equality between women and men; they are an attack on individuals' right to dignity, and privacy; they are an expression of gender violence and a psychosocial risk for the health and safety in the workplace.

Psychological harassment in the workplace (mobbing) also constitutes an attack on the dignity of persons that undermines moral integrity.

This sections discusses certain criteria to understand more about sexual harassment, gender-based harassment and psychological harassment (mobbing) in the workplace; how they are legally defined and what type of behaviour can be counted as this type of harassment.

3.1 What is sexual harassment?

Definition

Organic Law 3/2007 for the Effective equality of women and men stipulates that sexual harassment is “any **verbal (or non-verbal) or physical behaviour, of a sexual nature** that produces or has the purpose of producing an **attack on the dignity of an individual**, particularly, when an intimidating, degrading or offensive environment is created.”

Examples

Verbal

- Spreading rumours, telling or asking about an individual's sex life or sexual preferences.
- Making obscene and/or sexual remarks or jokes.
- Making vulgar remarks about another person's body or physical appearance.
- Making advances or putting pressure on someone to agree to dates or participate in undesired recreational activities.

- Making demands for sexual favours.

Non-verbal

- Lascivious looks at another person's body.
- Obscene gestures.
- Using sexually explicit graphics, cartoons, sketches, photographs or Internet images.
- Letters, notes or e-mail messages with content of an offensive sexual nature.

Physical

- Excessive physical closeness.
- Cornering; deliberately seeking to remain alone with another person unnecessarily.
- Deliberate, unsolicited physical contact (pinching, touching, undesired massages).
- Intentionally or “accidentally” touching the sexual parts of another person's body.

3.2 What is gender-based harassment? (or sexual orientation or gender identity harassment) ?

Definition

In accordance with *Organic Law 3/2007* for the Effective equality of women and men “Gender-based harassment will be understood as any behaviour engaged **in for reasons of another person’s gender, with the purpose or effect of attacking their dignity and creating an intimidating, degrading or offensive environment.**

This is about people being on the receiving end of **unwanted behaviour** for reasons linked to their **gender, sexual orientation or gender identity.**

Examples

- Discriminatory conduct simply on the basis of the individual’s being a woman or man.
- Unequal treatment based on an individual’s gender, sexual orientation or gender identity.
- Unfavourable treatment

of women because of a pregnancy and/or motherhood.

- Exclusion of men or women when accessing job posts and occupational activities, when this requirement is not an essential professional characteristic.
- Ongoing derogatory remarks about one’s physical appearance, ideology or sexual orientation.
- Repeated defamatory remarks made in public based on the individual’s gender.
- Denigrating or offensive manners when addressing persons of a given gender.
- Sexist “humour”.
- Ridicule and/or scorn of women’s capacities, skills and intellectual potential.
- Remarks and behaviour that are generally discriminatory due to an individual being transsexual and/or transgender, or for being lesbian, homosexual or bisexual.

3.3 What is psychological harassment in the workplace (mobbing)?

Definition

Psychological harassment in the workplace or mobbing is defined as the situation in which a person, or group of people, engage in a number of behaviours over a prolonged period of time, toward another person in the workplace. The behaviours are characterized by **intense psychological violence**, enacted in a **reiterated manner over a prolonged period of time**.

Examples

- Attacks against the victim with organizational measures.
- Attacks against the victim's social relationships.
- Attacks against the victim's private life.
- Threats of physical violence.
- Attacks against the victim's attitudes.
- Acts of verbal aggression.
- Rumours.

The following would not constitute psychological harassment in the workplace:

- A single, isolated act of violence (not prolonged over time).
- Irregular organizational actions that affect the group.
- Putting legitimate pressure on the individual to meet the agreed terms or existing rules.
- A conflict.
- Constructive, specific, justified criticism.
- Supervision/monitoring, as well as the exercise of authority, with proper interpersonal respect at all times.
- Arbitrary or excessively authoritarian behaviour enacted toward the general group.

Other types of harassment originating in any other difference (ethnic group, religion, disability, age, opinion, etc.) will be handled through the procedure established in this Protocol.

3.4 Harassment sub-types

Two harassment sub-types can be distinguished:

- **Quid pro quo harassment**
- **Hostile environment harassment**

Definition

Quid pro quo harassment is that which is generated by a hierarchical superior whose decisions could have effects on the employment and working conditions of the harassed individual (salary, promotion, access to benefits, or any other work-related decision).

Individuals who have power to decide on the employment relationship are the active subjects of this type of harassment.

Hostile environment harassment is reiterated behaviour that creates an intimidating, hostile or humiliating work environment for the person being harassed. A hierarchical relationship is not necessary for this type of harassment to exist; it can be perpetrated by male or female co-workers (of equal or lower rank) or third parties (collaborators, suppliers) who are related with the workplace.

Further, harassment can be distinguished according to the **type of relationship** existing between the individuals perpetrating and those receiving the harassment.

- **Horizontal harassment:** pressure applied by a male and/or female worker or group of workers to a male or female co-worker.
- **Downward vertical harassment:** pressure by a person with hierarchical superiority put on one or more workers.
- **Upward vertical harassment:** pressure by a worker or group of workers put on a person with hierarchical superiority.



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4 Mechanisms to respond to cases of harassment

4.1 Preventive measures

4.1.1 Information

The following dissemination actions will be carried out for the Protocol to be effectively known:

- Communication to all personnel (staff and collaborating organizations).
- A specific space will be set aside on the CRG Intranet to disseminate the Protocol and information related with this subject matter.
- Inclusion of specific references to this Protocol in the Welcome Plan for new additions to the staff.
- Training meetings for Heads of Units.
- Ad hoc information sessions for workers.
- Informative and awareness-raising campaign.

4.1.2 Training

- Facilitate and promote participative management and leadership styles that stimulate group cohesion and favour the flow of information among the workforce.
- Specialized training for persons of reference in this protocol, as well as for individuals who intervene in the procedure for processing and resolution of sexual and gender-based harassment cases.
- Include courses with harassment prevention content in the annual training plan.

4.2 Intervention actions

4.2.1 Guiding principles of the intervention and guarantees

The procedures for intervention actions are conducted under the following principles and guarantees:

1. Respect and protection of privacy and dignity:

At the CRG we act with respect and discretion to protect the privacy and dignity of affected individuals.

2. Confidentiality and secrecy:

The information gathered in these actions will be considered confidential. Health data are included in the case file with the express authorization of the affected person.

3. Diligence and swiftness:

The procedure features information on the time frames in which to resolve its various stages, to ensure swiftness and a rapid resolution of the complaint.

4. Fair treatment:

Impartiality and objectivity. An impartial hearing, held in good faith, and fair treatment are guaranteed to all involved persons.

5. Right to information:

All involved persons are entitled to receive information on the process, their rights and obligations, the stage of the process being conducted, and depending on their profile, the outcome of each stage.

6. Protection of affected persons from possible retaliation. Guarantee of non-discrimination:

No one involved should suffer retaliation for the participation in the process of communication or complaints regarding a situation of harassment.

7. Cooperation:

All persons involved in the procedure who are called in the course of it have the obligation to participate in and cooperate with it.

8. Precautionary measures:

If, during the process, and until its closure, evidence of harassment emerges, the persons responsible for the different stages of intervention can propose precautionary measures to the management of the CRG, without the measures impairing the working conditions of those involved. Such measures may include a change of work location, change of working hours, or offering the victim, if they request it, care from a physician affiliated with the occupational health and safety service, among others.

9. Support from properly trained individuals:

The company will have the support of individuals properly trained in this subject matter throughout the entire procedure.

10. Health monitoring:

Persons in a harassment situation can request care, counselling and medical reports through the Occupational Health and Safety Unit.

Respect for these principles and guarantees will be required of all persons participating or who may participate in any of the intervention actions derived from the procedure.

4.3 Resolution channels for harassment situations

4.3.1 Internal channel: Procedure

Stage 1: Notification and counselling

1.1 The process begins with the worker notifying one of the Protocol's persons of reference of the alleged case. This notification can be made by e-mail, telephone or in person.

The **persons of reference** are as follows:

- **Sonia Alcázar** (Health and Safety Manager)
- **David Ordaz** (Senior HR Officer)

1.2 The person of reference will inform, advise and accompany the affected person throughout the process.

Stage 2: Internal complaint and creation of Investigating Commission

2.1 The worker must complete the complaint form¹. This complaint must be received by one of the Protocol's persons of reference either by e-mail or physically.

2.2 Once the complaint has been received, the Investigating Commission will be created, and a case supervisor will be appointed. By default, the Commission will be made up of persons of reference, and its numbers can be expanded or modified depending on the case.

- Investigating Commission members must observe and act in accordance with the guiding principles indicated in *Section 4.2.1* of this protocol. Further, they must sign the specific Confidentiality Agreement².

The duties of this Commission will be as follows:

- Analyse the complaint form and all related documentation.
- Interview the person filing the complaint. If the complainant has decided to go directly to the complaint and investigation stage, they must be informed of the procedure, the possible

¹ See Annex I. Complaint form

² See Annex II. Confidentiality agreement (For persons participating in the processing and resolution of harassment cases)

channels of action, and their right to health monitoring. If the complaint does not feature a sufficient depiction of the events, the Commission can request an additional account of those events.

- Interview the person reported in the complaint being filed.
- Interview any possible witnesses.
- Determine whether cautionary measures are necessary.
- Issue the binding report.

In order to guarantee the impartiality of the procedure, the individuals conducting the investigation should not have any possible conflict of interest with the person making the complaint and/or the person being reported in the complaint. It is recommended to resort to external professionals when possible. Conflicts of interest will be considered to exist when the individuals are in any of the following scenarios:

- Those who are involved in the harassment situation being reported.
- Those who have been involved in a previous harassment procedure.
- Those who have a clear family, friendly or inimical relationship

with any of the parties involved in the harassment situation.

- Those who have a condition of immediate occupational hierarchical superiority or subordination with respect to the victim.
- Those who have a condition of immediate occupational hierarchical superiority or subordination with respect to the party being reported.

With the aim of guaranteeing the principle of confidentiality, the person responsible for the initiation and processing of the case will assign numerical identification codes to the allegedly harassed person and to the person allegedly responsible for the harassment, to seal their identities in the process and report.

Stage 3: Investigation

3.1 All necessary proceedings, evidence-gathering and other actions considered appropriate for the clarification of the events originating the complaint will be conducted. The commission will hear from all parties,

witnesses and other persons who are deemed necessary to provide information.

Any false claims, allegations or statements proven to be dishonest or fraudulent may warrant the taking of disciplinary action.

Stage 4: Decision

4.1 The report of conclusions by the Investigating Commission will be written and presented to CRG Senior Management.

The following elements will be identified in the report:

- Name and surnames of the allegedly harassed person/s and person/s allegedly responsible for the harassment.
- Nominal list of persons who have taken part in the research and preparation of the report.
- Background of the case, complaint and circumstances.
- Other activities: evidence, summary of the main events and activities carried out. When witnesses have been interviewed, in order to guarantee confidentiality, the summary of this action does not have to indicate who has made the statement, but only whether the veracity of the events investigated

has been confirmed.

- Aggravating circumstances observed.
- Conclusions.
- Corrective measures.

4.2 The final decision will be made by the Investigating Commission.

4.3 The complainant and person reported in the claim will be notified of the final decision.

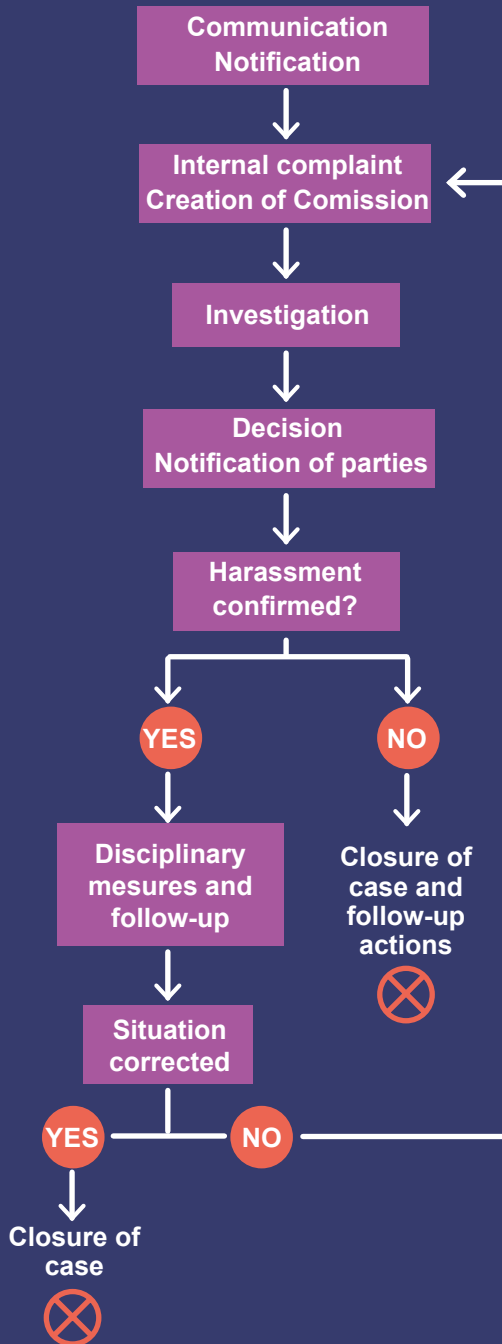
Stage 5: Stage of execution, follow-up and closure of the case

5.1 Management of the CRG will conduct the execution of the relevant actions in accordance with the final decision.

5.2 Follow-up and supervision guidelines to ensure that the situation reported is not repeated, as well as any relevant precautionary measures, will be established.

The **time frame for the procedure** can be set at a period from **twenty to thirty working days**. Nonetheless, the period can be extended in those cases in which it is required due to the number of persons involved, site of the evidence, preparation of reports or similar cases.

Internal channel: procedure



4.3.2 External channel: Administrative and Judicial

The previously-described intervention actions will not impede the possibly harassed person from seeking protection from the courts or other channels, whether they are **administrative**, lodging a complaint with the Labour Inspectorate, or **judiciary**, through the labour or criminal courts.

The action of the Labour Inspectorate (administrative channel) not only has the benefit of immediacy and ex-officio investigation. Further, the events confirmed through this action enjoy the legal certainty presumption, and can be used in later labour court proceedings.



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5 Disciplinary measures

These disciplinary provisions seek the maintenance of workplace discipline, a fundamental aspect for normal co-existence, technical ordering and organization of the CRG, as well as for the guarantee and defence of the legitimate rights and interests of workers.

5.1 Type of offences and penalties

For this protocol, the type of offences and their penalties will be performed according to the following criteria:

Offences

Any action that has been resolved as sexual or gender-based harassment, or psychological harassment in the workplace (Article 24.3.k) following completion of the procedure defined in this protocol, will be considered a Very serious offence (Article 24.3 of the internal Labour Regulations of the CRG).

Penalties

When they constitute a breach of contract, offences may be punished by CRG Management.

Very serious offence:

The maximum penalties that can be applied by the centre in the case of sexual or gender-based harassment are listed in Article 25.1.c) of the internal Labour Regulations of the CRG:

- Suspension from work without pay for fourteen days to a month.
- Disciplinary dismissal.



6 Follow-up and evaluation

Follow-up and evaluation indicators will be established to guarantee the proper operation of the Protocol.

The main follow-up indicators are as follows:

- Number and type of informative, awareness-raising and training actions carried out, as well as groups targeted with these activities.
- Number and type of harassment situations detected.
- Number of harassment situations that have been communicated and/or reported at the centre and types.
- Number of cases resolved.
- Number and type of corrective measures implemented.

The Investigating Commission will meet biannually with the aim of performing the follow-up and evaluation processes through the quantitative and qualitative information collected.



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References

- The Commission Code of Practice on sexual harassment of 27 November 1991 is the European regulation in the area of prevention.
- Directive 2006/54/EC of the European Parliament and of the Council of 5 July 2006 on the implementation of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation defines sexual and gender-based harassment, and states that these situations will be considered discriminatory and therefore, will be prohibited and penalized in an appropriate, proportional and deterrent manner.
- Royal Legislative Decree 1/1995, of 24 March, approving the Consolidated Text of the National Labour Relations Act (Articles 4.2.e, 54.2 and 95.14).
- Article 184 of Organic Law 10/1995, of 23 November, of the Criminal Code.
- Law 31/1995, of 8 November, on occupational health and safety.
- Royal Decree 39/1997, of 17 January, modified by Royal Decree 604/2006, of 19 May, by which the Regulation of preventive services was approved.
- Royal Legislative Decree 5/2000, of 4 August, approving the Consolidated text of the Law on Offences and Penalizations in the Social Order (Article 8).
- Royal Decree 171/2004, of 30 January, developing Article 24 of Law 31/1995 of 8 November, on occupational health and safety, in the subject matter of business activity coordination.
- Organic Law 3/2007, of 22 March, for effective equality between women and men.
- Law 7/2007, of 12 April, on the Basic Statute of Public Employment (Article 93.4 and Art. 95.2. b.).
- In the Technical Criteria of the Labour Inspectorate 69/2009 on the actions of the Labour and Social Security Inspectorate in the subject matter of harassment and violence in the workplace, the absence of evaluation and the non-adoption of gender violence preventive measures in the workplace is considered a prevention violation.



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Annex I

Complaint form

Annex II

Confidentiality agreement



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