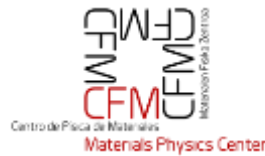


# CFM - Materials Physics Center's Workplace Harassment PROTOCOL

March 2021



elhuyar  
ezagutuz aldatzea



# TABLE OF CONTENTS

1	POLICY STATEMENT .....	2
2	SCOPE .....	3
3	LEGAL REFERENCES AND DEFINITIONS .....	4
4	INVESTIGATION COMMITTEE .....	11
5	GUARANTEE PROCEDURE .....	14
6	TYPES OF MISCONDUCT AND DISCIPLINARY MEASURES.....	20
7	TRAINING POLICY.....	22
8	EVALUATION AND FOLLOW-UP.....	23
9	INFORMING PEOPLE AFFECTED .....	24
10	ANEXES .....	26

---

## 1 POLICY STATEMENT

Workplace harassment, as a manifestation of violence in a working environment, violates fundamental rights such as dignity, equality, physical and moral integrity, sexual freedom, the right to work, and the right to occupational health and safety; in turn, sexual harassment or harassment on the grounds of gender, constitute one of the most violent forms of gender-based discrimination. Furthermore, roles attributed to people based on their gender are direct manifestations of power relations. Such behaviours must therefore be prevented, avoided, and stopped if necessary, to avoid causing unwanted effects on the health of victims or preventing them from carrying out their work normally.

The right to equality and non-discrimination, physical and moral integrity, privacy, sexual freedom, the protection of dignity, and the right to work are included in international, state, and Basque Autonomous Community (BAC) regulations and laws. This type of violence can also cause serious damage to health. For all of the above, by signing this protocol on behalf of the Entity we declare that no form of workplace harassment, sexual harassment, or gender-based harassment will be tolerated at CFM - Materials Physics Center. Behaviour of this nature will be sanctioned as appropriate in each case according to the measures set out in this Protocol. Efforts will be coordinated based on current protocols of the CSIC and/or the UPV/EHU or any other institution implicated in such situations.

Likewise, through this Protocol we commit to regulating and applying a procedure to respond to complaints and accusations relating to harassment of any kind, with all the guarantees corresponding to such a procedure. We also commit to providing the CFM community with the required information and training to raise awareness on the need to respect the rights described in this Protocol.

Members of CFM's Equality Committee have taken part in the process to develop this Protocol as part of this commitment. The Protocol has been enriched by their input and experience, aligning it with the reality of the CFM.



## 2 SCOPE

This protocol shall apply to:

- 1) The CFM Community understood as:
  - a) People hired by MPC.
  - b) People carrying out research at CFM, although not hired by MPC.
- 2) Anyone providing services or visiting CFM facilities on a temporary basis (for professional reasons, school visits, etc.) that may be affected by any of the circumstances set out in this Protocol.

The investigation procedure set out in this Protocol will be applied if harassment occurs between members of the CFM Community and external staff sharing the same working environment. However, affected companies shall adopt coordinated measures set out in Law 31/1995 of 8 November on the prevention of occupational hazards and in accordance with article 24.

If the harassment involves someone from the CFM Community and someone who does not have any professional connection with the organisation, the same investigation procedure described in this Protocol will apply provided the harassment takes place in a work context (for example, at congresses, in social or leisure spaces related to work, work trips, congress dinners, etc.). The harassed person shall be treated in the same way as if the event had occurred at CFM facilities, and all remedial measures deemed necessary and agreed with the victim shall apply.

### 3 LEGAL REFERENCES AND DEFINITIONS

#### 3.1. Reference standards

Sexual harassment and gender-based harassment are another form of gender-based violence. **General Recommendation 19 of the United Nations Commission on the Elimination of Discrimination against Women** defines it as:

*“The definition of discrimination includes gender-based violence, that is, violence that is directed against a woman because she is a woman or that affects women disproportionately. It includes acts that inflict physical, mental or sexual harm or suffering, threats of such acts, coercion and other deprivations of liberty”.*

**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 gender-based harassment and sexual harassment, establishing that such situations constitute discrimination. They should therefore be prohibited and subject to effective, proportionate, and dissuasive penalties.

The **Community Code of Conduct against Sexual Harassment** of 27 November 1991 is the European standard in the area of prevention.

**Article 7 of Organic Law 3/2007 of 22 March for effective equality between women and men** establishes that:

1. Without prejudice to the provisions of the Criminal Code, for the intents and purposes of this Act, sexual harassment is any form of verbal or physical conduct of a sexual nature with the purpose or effect of violating the dignity of a person, in particular when creating an intimidating, degrading, or offensive environment.
2. Harassment on the grounds of gender is any behaviour prompted by a person's gender with the purpose or effect of violating their dignity, creating an intimidating, degrading or offensive environment.
3. Sexual harassment and harassment on the grounds of gender will be considered to constitute discrimination under any and all circumstances.
4. The conditioning of a right or expectation of a right to the acceptance of a situation constituting sexual harassment or harassment on the grounds of gender will likewise be regarded to be gender-based discrimination.

And **article 48** establishes the principles of:

- Conveyance to the entire staff of their duty to respect human dignity and the right to privacy, as well as equal treatment for women and men.
- Confidential treatment of reports of events that may be considered to constitute sexual harassment or gender-based harassment, without prejudice to disciplinary provisions.

- Identification of the people with whom complaints or accusations in this regard are to be lodged.

**Article 14 of Law 31/1995 of 8 November on the prevention of occupational hazards**, regarding the right to be protected against occupational hazards. On the basis that sexual harassment and gender-based harassment are occupational hazards of a psychosocial nature that may harm the health and safety of those affected, companies are obliged to adopt the necessary measures to protect the health and safety of workers in the workplace.

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, considers the non-adoption of gender violence preventive measures in the workplace and the failure to evaluate such measures as a prevention violation.

**Law 4/2005 of 18 February 2005 on the Equality of Women and Men in the Basque Autonomous Community** refers to the same field. Specifically, article 43 defines sexual harassment at work and gender-based harassment, establishing the duty of Basque public authorities to ensure victims of such conduct the right to immediate, free, specialised, decentralised and accessible legal and psychological assistance.

**Resolution 190 of the International Labour Organisation** states that harassment is a violation of fundamental rights. This means that in harassment proceedings, the burden of proof is reversed and the company must prove that it has acted correctly by having a protocol in place. The protocol therefore needs to be updated upon this resolution entering into force.

In turn, harassment can also be a criminal offence. This is specified in **article 173 of the Criminal Code** which states that: *“Whoever inflicts degrading treatment on another person, seriously damaging his or her moral integrity, shall be punished with a sentence of imprisonment of six months to two years. The same punishment shall be imposed on those who, within the setting of any labour relation or the civil service, availing themselves of their superior status, repeatedly perpetrate hostile or humiliating acts against another that, while not reaching the status of degrading treatment, amount to serious harassment of the victim.”*

Along the same line, article 28 of **Law 62/2003 on Fiscal, Administrative and Social Order Measures** defines harassment as *“any unwanted conduct related to the racial or ethnic origin, religion or belief, disability, age, or sexual orientation of a person, which has the purpose or effect of attacking his or her dignity and creating an intimidating, humiliating, or offensive environment”*.

Furthermore, CFM has expressed its commitment to design a specific protocol adapted to its needs as part of the design process for its Gender Equality Plan. The fourth pillar of this plan focuses on sexual harassment in the workplace, which includes the prevention and appropriate management of sexual and gender-based harassment when required. In this context, the need to define a general protocol that covers any form of workplace harassment, without detriment to sexual or gender-based harassment, was detected when developing this Protocol. The following measures have been defined to achieve these objectives:

- **4.1.1. Analyse the UPV/EHU and CSIC existing protocols** and define the CFM's protocol, ensuring it responds to the institution's specific requirements.



- **4.1.2. Identify the people who will be responsible for this issue in the CFM**, the Confidential Advisory Service, and inform the entire CFM community.
- **4.1.3. Monitor the implementation of the Protocol and prepare a twice-yearly report.**
- **4.1.4. Provide specific training** on sexual and gender-based harassment to the Confidential Advisory Service. (Note: the training must be re-done if there are changes in personnel).
- **4.1.5. Organise a public seminar to present the CFM's Protocol** on preventing and dealing with harassment in the workplace; the seminar could also be used to raise awareness on the issue.
- **4.1.6. Provide online training to raise awareness on sexual and gender-based violence** as part of the CFM's Welcome Policy.
- **4.1.7. Ensure that the sexual and gender-based harassment prevention and response protocol is well communicated and easily accessible** to the entire CFM community: for example, by including it in the Welcome Policy; informing where the Protocol can be accessed on a regular basis; having a paper version of the Protocol in the busiest CFM spaces, etc.
- **4.1.8. Adopt a zero-tolerance approach to sexism**, and communicate this approach through institutional resources (such as the website, social media, annual activity reports, etc.).

## 3. 2 Definitions

### PREAMBLE

In the workplace, harassment is fundamentally based on three main axes: violence against women; a sexist and racist work environment that rejects minorities; and the abuse of hierarchical and gender-based power.

Workplace harassment **is framed in the context of violence against women**, since what underlies this type of harassment is the power of men over women, and violence as a tool to maintain this hierarchy. In this sense, the sexual nature of the violence is instrumental, as it is the basis for the abuse of male power.

At the same time, **it occurs in a sexist work environment**, where other discriminatory actions against women also take place. This environment generates other types of workplace harassment, such as psychological or moral harassment.

**Workplace harassment occurs when there is an abuse of power, and it can therefore coexist with other forms of abusive behaviour**, such as racist or homophobic behaviour in addition to sexist attitudes. In this sense, sexual harassment perpetrated by superiors (vertical

harassment) is more serious than sexual harassment between male and female colleagues, as in the first case the harasser gains two advantages: those derived from their superior position (since the victim's continued employment, salary, and potential promotions depend on the harasser), and those derived from their gender.

## SEXUAL HARASSMENT

It is important to first understand the two most common forms of sexual harassment to better define what it is:

- **Sexual blackmail:** The acceptance or exclusion of unsolicited sexual conduct by the person being blackmailed in this type of harassment can have a direct impact on their job or working conditions, salary, promotions, transfers, training, etc. This type of harassment is usually carried out by hierarchical superiors.
- **Sexual harassment in the workplace:** this type of harassment involves creating a harsh, degrading, and fearful working environment. It has no immediate effects on working conditions, as the harasser is not qualified or in a position to change such conditions. The environment generated by a situation of this type endangers the health of the victim, so it indirectly affects their work. It takes the form of jokes, comments, despicable expressions about sexist violence against women, etc. This type of sexual harassment can be carried out by colleagues, superiors, subordinates or third parties related to the Entity.

The purpose of both these forms of harassment is to cause discrimination, abuse, insult, or humiliate women based on their gender.

Sexual harassment at work has another problem: there is a lack of visibility in society, and therefore definitions of sexual harassment are often limited to the most serious or extreme manifestations. This hides or minimises more "normalised" cases of sexual harassment in the workplace.

Therefore, a proper understanding of the problem is required to suitably prevent sexual harassment at the workplace, so that these behaviours are not accepted and can be detected and/or disciplined in time.

**Sexual harassment is "any form of verbal or physical conduct of a sexual nature with the purpose or effect of violating the dignity of a person, in particular when creating an intimidating, degrading, or offensive environment" (article 7 of Law 3/2007).**

The immediate goal of sexual harassment is to achieve sexual gratification, but the ultimate goal is to express the power of one person over another, usually the power of a man over a woman. In this way, sexual harassment perpetuates among the power structures that still exist in our society.

Some examples of conduct constituting sexual harassment are:



- a) Conditioning access to employment, employment status, or maintenance of employment, on the acceptance by the person being harassed of a favour of a sexual nature, whether this threat is explicit or implicit (sexual blackmail).
- b) Unwanted physical contact (touching, rubbing, hugging, pinching, etc.).
- c) Making telephone calls, sending letters, messages, pictures or other media related to sex.
- d) Pressuring or coercing someone into engaging in sexual intercourse.
- e) Making threats to retaliate after any sexual advances or demands are denied.
- f) Sexual assaults as defined in the Criminal Code.
- g) Repeated lewd or obscene gestures, sounds or movements.
- h) Asking questions about someone's sex life.
- i) Repeatedly asking for dates when refused.
- j) Making repeated excessive approaches on someone.
- k) Making sexual advances.
- l) Making constant comments or assessments about a person's appearance, nature or sexual orientation.
- m) Openly soliciting sex, seemingly without pressure.
- n) Spreading rumours with sexual connotations or referring to a person's sexual life.
- o) Sneaking up on people in private places such as restrooms or locker rooms.
- p) Constantly telling sexually suggestive jokes or complimenting someone.
- q) Obsessively or viciously looking at a person's body over and over again.
- r) Disseminating photos, videos or other content of a sexual nature in the workplace, in particular when it is done repeatedly.
- s) Using sexually degrading (suggestive or pornographic) images in the workplace and/or on work equipment.
- t) Repeatedly talking about someone's sexual skills or abilities.
- u) Making questions, descriptions or comments about sexual fantasies, preferences, and skills/abilities.
- v) Repeatedly and offensively pursuing someone, against their sexual integrity.

## GENDER-BASED HARASSMENT

**“Gender-based harassment is any behaviour prompted by a person’s gender with the purpose or effect of violating their dignity, creating an intimidating, degrading or offensive environment” (article 7.2 of Law 3/2007 on Equality).**

Gender-based harassment may be perpetrated by those in a superior hierarchical category, by colleagues of the same level, or inferiors. This kind of persecution is due to gender stereotypes that generally seek to look down on people of one gender merely because of their gender, belittling their abilities, technical competencies, and skills. The aim is to maintain a position of power of one gender over the other, and to expel people of one gender from the workplace.

Examples of gender-based harassment include, but are not limited to, the following:

- a) Repeated public and/or private disparagement of a person and their work, abilities, technical competence, skills, etc. on the grounds of their gender or sexual orientation.
- b) Using offensive sexist expressions that are disparaging of a person's abilities, skills, abilities, etc. (for example: “you’re only good for cleaning”, “you had to be a women”, etc.).
- c) Failing to acknowledge contributions, comments or actions based on the gender or sexual orientation of the person making them.
- d) Failing to comply with orders or instructions from hierarchical superiors because they are female or because of their sexual orientation.
- e) Assigning a job position or functions to someone that is inferior to what may correspond to their abilities because of their gender or sexual orientation.
- f) Sabotaging someone's work or intentionally impeding access to suitable resources for this purpose (information, documentation, equipment, etc.).
- g) Giving degrading orders that refer to a person's gender or sexual orientation.
- h) Using sexist humour.
- i) Ridiculing people who take on tasks traditionally carried out by the opposite sex.
- j) Arbitrarily denying leave to which a person is entitled on the basis of their gender.
- k) Demeriting professional worth as a result of maternity or paternity.
- l) Unfavourable treatment due to pregnancy and/or maternity.
- m) Hostile conduct towards those who exercise their rights to reconcile personal, family, and professional life, regardless of whether they are female or male.
- n) Assigning meaningless or impossible tasks (unreasonable deadlines) to someone based on their gender.

- o) Evaluating someone's work in a disparaging, unfair, or biased way based on their gender or sexual orientation.

## MORAL HARASSMENT

**Moral harassment in the workplace would generally be “behaviour with the purpose or effect of violating someone's dignity, creating an intimidating, degrading, or offensive environment.”**

It is a process of psychological violence that evolves gradually and which includes behaviours and activities directed against the victim(s) and which are related to:

- a) Refusing to communicate adequately, or doing so in a limited way.
- b) Making attacks to reduce the possibility of social interaction, creating social isolation.
- c) Making comments or jokes that belittle the person and their work.
- d) Making attacks against someone's work and professional performance.
- e) Making attacks against someone's professional and individual reputation and intruding into their private life.
- f) Verbal, sexual, or physical aggression.

## 4 INVESTIGATION COMMITTEE

An Investigation Committee has been set up to deal with cases reported within the scope described above. All members of the **Investigation Committee must act with discretion and confidentiality when dealing with the issues raised.** Within the Investigation Committee, the CFM saw it fit to create the figure of a Confidential Advisor. The Confidential Advisor will be the first point of contact for cases raised to the Committee.

The **Confidential Advisor** shall have the following functions:

- a) Collect complaints of sexual and gender-based harassment, or any form of workplace harassment, through the channels established for this purpose.
- b) Lead the process as established in the Protocol. They shall have access to all resources required to do so, including access to people who can provide useful information (provided they are willing), and to any information and documentation relating to the case.

The **specific competencies** required by the Confidential Advisors when dealing with a case of harassment are:

- a) To provide assistance to the person or people that report being subjected to sexual or gender-based harassment in the workplace throughout the entire process, requesting the required activities to be initiated.
- b) To interview the person being harassed. The person being harassed will be able to choose who they wish to be accompanied by at the beginning of the process. It is important to inform the person who has been harassed from the outset that, although they will meet with only one person, the information will be shared among all members of the Committee so they can carry out their work properly.
- c) To accompany the person being harassed throughout the investigation process and, if necessary, handle the corresponding disciplinary proceedings. To provide any assistance that the person who has been harassed may need once the process is over. This assistance will also involve managing remedial measures for the harassed person and the affected work area, if deemed appropriate.
- d) To guarantee the victim's anonymity and privacy throughout the process.

**The CFM's Confidential Advisors will be responsible for receiving complaints related to sexual harassment, workplace harassment, or gender-based harassment.** There will be two Confidential Advisors. The aim is to choose people who are empathetic, of diverse genders, affiliated with the CFM, and easy to approach, so that people have the confidence to report any cases of harassment. The Confidential Advisors are:

NAME AND SURNAME	POSITION	E-mail
<b>Idoia Mugica Mendiola</b>	Outreach Manager and Coordinator of the gender equality plan at CFM	outreach.cfm@ehu.eus
<b>Gabriel Molina Terriza</b>	Ikerbasque Research Professor	gabriel_molina001@ehu.eus

We have also created a direct way cases can be sent to the Confidential Advisory Service, and the anonymity and confidentiality of anything sent to the following email addresses is guaranteed:

[harassment.cfm@ehu.eus](mailto:harassment.cfm@ehu.eus)

[mfz.jazarpena@ehu.eus](mailto:mfz.jazarpena@ehu.eus)

[acoso.cfm@ehu.eus](mailto:acoso.cfm@ehu.eus)

In addition to receiving complaints, the Confidential Advisory Service will also accompany those who have suffered harassment throughout the guarantee procedure.

Once the complaints have been analysed by the Confidential Advisory Service, the rest of the Investigation Committee will be involved if required.

The Investigation Committee shall have the following functions:

- a) To define the measures to be implemented and inform Management.
- b) To produce a report on the possible case of harassment analysed, including all evidence collected and proposing provisional measures if appropriate.
- c) To determine and monitor compliance with the established measures in cases of workplace, sexual, and/or gender-based harassment.
- d) To ensure that the reported harassment does not lead to other types of harassment by monitoring disciplinary and remedial measures.
- e) To monitor and evaluate the applicability of the Protocol in collaboration with the Equality Committee.
- f) To request specialised external assistance when necessary.

The **Investigation Committee** shall consist of four people, and it shall be enabled once the procedure has been set in motion and it has been deemed necessary.

Specifically, the **Investigation Committee shall be formed by the following people:**

NAME AND SURNAME	POSITION	E-mail
<b>Idoia Mugica Mendiola</b>	Outreach Manager and Coordinator of the gender equality plan at CFM	Outreach.cfm@ehu.eus
<b>Gabriel Molina Terriza</b>	Ikerbasque Research Professor	gabriel_molina001@ehu.eus
<b>Txema Ramos Fernandez</b>	Administration department, and occupational health and safety officer	txema_ramos@ehu.eus
<b>Nerea Zabala Unzalu</b>	UPV/EHU Associate Professor	nerea.zabala@ehu.eus

If the composition of the Committee is to be changed, efforts will be made to ensure at least one Advisor and at least one person with experience in the Committee continue, so any changes are expected to be coordinated.



## 5 GUARANTEE PROCEDURE

### 5.1. Preventive measures

The following actions have been designed to prevent, avoid, resolve, and discipline sexual and gender-based harassment<sup>1</sup>:

- Information shall be disseminated and distributed internally among the current CFM community and to all new people who join the entity on a temporary or indefinite basis.
- It shall also be distributed externally, ensuring collaborating entities/people are aware of the commitment acquired.
- Training courses shall be provided to analyse and discuss sexual harassment, workplace harassment, and gender-based harassment: their origins, causes, manifestations, current legislation, actions in this respect, etc.

### 5.2. Considerations

**Scope of application.** The protocol has been prepared to apply in different situations:

- a) The perpetrator and the victim of the harassment belong to CFM.
- b) When the victim of the harassment belongs to CFM and the perpetrator is part of another entity during research stay (or congress) at another research centre or university. In this case, it would be preferable to inform the perpetrator's entity and to act in a coordinated way.
- c) When the perpetrator of the harassment belongs to CFM and the victim is a supplier, client, or collaborator, as long as the situation occurs in the context of work.
- d) When the perpetrator of the harassment is a supplier, client, or collaborator of CFM.

**Anonymity.** The name of the person who has suffered sexual or gender-based harassment shall not be mentioned in any communications made as a result of the corresponding disciplinary measures. **Cases will be named anonymously**, using standard coding.

**Guarantees.** It shall be guaranteed that anyone reporting a situation of harassment, those participating, collaborating, or testifying in investigations into workplace, sexual, and/or gender-based harassment, and those opposing or criticising this type of conduct made against themselves or against third parties will **not face reprisals**. Measures that involve the prejudicial treatment of such people (those making the complaint, witnesses, or those accompanying them) shall be punished according to the disciplinary regime regulated below.

Notwithstanding the above, **fraudulent and intentionally misleading allegations, complaints or statements that cause unjustified harm** to the accused person shall be disciplined, without prejudice to any other actions deemed appropriate by law.

**Remedial action.** If the victim has suffered retaliation or harm during the harassment situation, the victim shall be returned to the same conditions they had before the harassment.

---

<sup>1</sup> Occupational hazard prevention policies shall be developed. Specifically, policies in the area of psychosocial risks that incorporate a gender perspective to ensure the safety and health of the Organisation's employees and to prevent sexual and gender-based harassment.

If the Investigation Committee is not able to gather the evidence required to prove the alleged facts, but they are still considered to be plausible, the victim of the harassment (when they are the person making the complaint) may not be forced to work with the accused person against their will. They should be offered a change in position whenever possible, without this change negatively affecting their professional status.

If the reported action constitutes a crime and the harassed person intends to file a legal complaint, the Investigation Committee shall put the harassed person in contact (if requested) with the corresponding court or police authority; the Investigation Committee shall also provide any assistance when filing the complaint and during the legal process.

### 5.3. Filing a complaint

All those falling within the scope of application of this Protocol (the CFM community) may file a verbal complaint with any of the Confidential Advisors (refer to page 12 of this protocol) and/or send a written complaint to: [harassment.cfm@ehu.eus](mailto:harassment.cfm@ehu.eus), [mfz.jazarpena@ehu.eus](mailto:mfz.jazarpena@ehu.eus), or [acoso.cfm@ehu.eus](mailto:acoso.cfm@ehu.eus) if they believe that they are victims of sexual harassment, workplace harassment, or gender-based harassment, or are aware of a harassment situation. If an informal procedure has previously been carried out, a complaint must be made in writing to initiate a formal procedure.

In the case of verbal complaints, the confidential advisor will evaluate the source, nature, and seriousness of the complaint; if sufficient evidence is found, the confidential advisor's role involves investigating the situation reported.

Anyone who becomes aware of a harassment situation can report it directly or through third parties. The Confidential Advisor shall inform the Investigation Committee of the cases that need to be investigated.

Members of the Investigation Committee must guarantee the utmost confidentiality and secrecy of all complaints and allegations.

The complaint must contain:

- Personal details of the person making the complaint.
- A description of the facts.
- Identification of the people affected by the harassment.
- Other useful information (witnesses, etc.).

### 5.4. Complaint mechanisms to manage cases of harassment

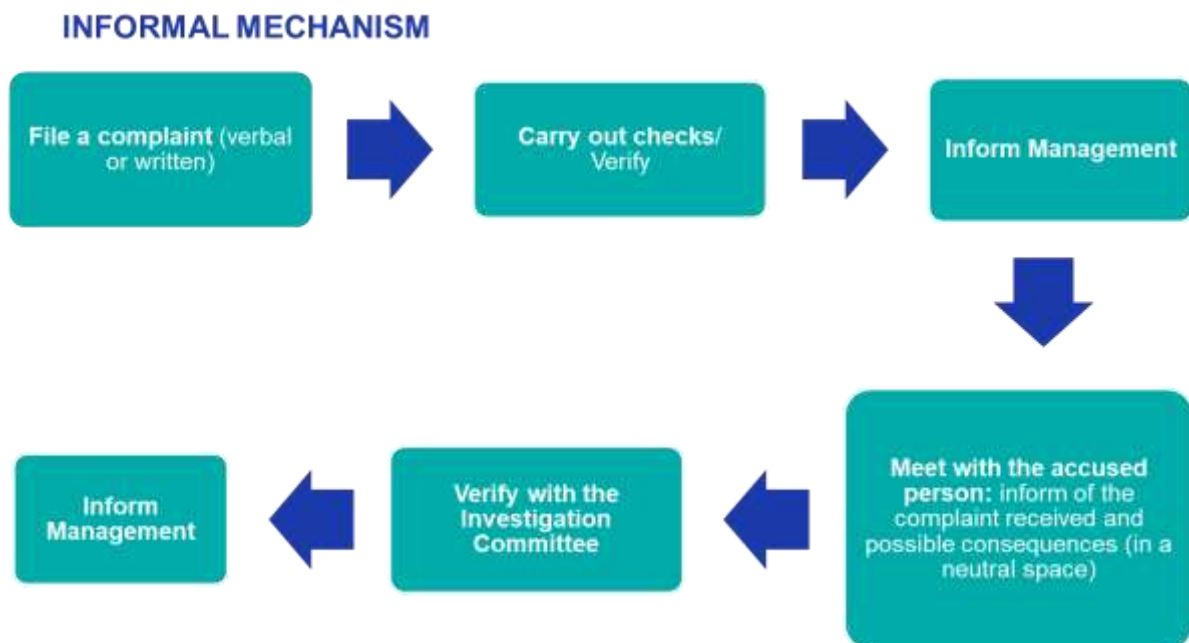
Once the complaint has been analysed by the Investigation Committee, it will be dealt with following two kinds of procedures, depending on the seriousness of the case. If the case is not considered to be of a serious nature, but it involves discriminatory or sexist conduct that could lead to sexual, workplace, or gender-based harassment, a fast, confidential procedure shall be initiated to confirm the veracity of the complaint. This procedure is known as an Informal

---

Procedure. If the complaint is considered to be of a serious nature, the person that has allegedly been harassed will be informed of the need to submit a written complaint in order to initiate a Formal Procedure.

### 5.4.1 Informal mechanism

The objective of the informal procedure is to unofficially solve the problem, preventing the situation from turning into workplace, sexual, or gender-based harassment. This procedure is used as demonstrating the serious consequences of the perpetrator's behaviours is often sufficient to stop them.



- The informal procedure is carried out by the Confidential Advisors.
- Once indications that the complaint is true have been verified, the Confidential Advisors will contact the accused person and arrange to meet in a neutral environment. At this meeting, the accused person will be informed that a complaint has been made against them, and they will have the opportunity to speak. If the complaint is true and is repeated or persists over time, it may be considered to be sexual, workplace, or gender-based harassment.
- The person responsible for the discriminatory behaviour may provide any explanations deemed appropriate.
- In this informal procedure, the Confidential Advisor is limited to transmitting the complaint and informing of the disciplinary measures that may be taken if the behaviour continues.
- The Investigation Committee is limited to being an advisory body in this procedure.
- The Confidential Advisor shall immediately inform the CFM's Management of the outcome of an informal procedure, which shall also be recorded in the register described in the "Evaluation and follow-up" section.

- This procedure shall be carried out within a maximum of seven working days. This procedure must be based on the principle that the person making the complaint is credible. Numerical codes will be assigned to the parties involved at the beginning of the process to document the case.
- The process shall be terminated within seven working days from filing the complaint. The time limit may be extended by three days in exceptional cases and only when strictly necessary.

### 5.4.2. Formal mechanism

If the actions reported may constitute cases of sexual, workplace, or gender-based harassment, if the person making the complaint is not satisfied with the solution reached in the informal procedure (either because the solution offered is considered inadequate or because the conduct reported has been repeated), or if the informal procedure is not advisable, then a formal complaint may be filed to clarify possible disciplinary responsibilities corresponding to the accused person. People also have the right to file a complaint with the Labour Inspectorate, in the civil and labour courts, and to file a criminal complaint.

#### FORMAL MECHANISM



The procedure shall be initiated when a complaint is received:

- When a complaint is received, the Confidential Advisors shall gather as much information as possible. If the complaint has not been filed by the person being harassed, the first step is to talk to that person to find out how they have experienced it. An attempt will be made to clearly identify the person responsible for such behaviour during this interview, and to clarify the facts and gather possible witnesses. The expectations and needs of the person making the complaint in relation to the process and the needs of the person being harassed will be analysed during this interview. A clear commitment to support and help the person who has been harassed will also be conveyed throughout this process.

- ✓ If the person making the complaint has an inadequate or disproportionate perception of the situation they are in, the Confidential Advisors will work with them to bring their perception into line with the seriousness of the situation; this will also include analysing possible consequences and determining the protective measures required.
- ✓ If the Investigation Committee considers that the facts are serious or very serious, but the person making the complaint is aware of the procedure and its possible consequences and does not wish to continue with it, the Investigation Committee will inform them that the Committee will continue with the procedure, providing the necessary protection and security. The Committee will ensure that the person making the complaint is informed and supported throughout the process.
- The Investigation Committee may carry out any actions, obtain evidence, and act as it deems necessary to clarify the alleged facts. During this process all witnesses and people under investigation shall be heard. The Committee will then fill out the investigation file. The accused person shall be interviewed as soon as the process starts, informing them of the situation and hearing their side of the story.
- All necessary precautionary measures shall be adopted before the end of the procedure in all cases of sexual, workplace, or gender-based harassment, whenever there are well-founded indications that it is taking place. For example, the alleged victim and harasser shall be separated, changing working hours or workplace, etc. to avoid a situation that harms the health and integrity of the person being harassed from being repeated. These measures shall not be prejudicial to the person being harassed under any circumstances.
- Both parties (alleged victim and alleged harasser) have the right to be accompanied throughout the process.
- The file will be closed within 10 working days from when the complaint was filed, as immediacy is very important in these procedures. This time limit may be extended if the case is particularly complex, in which case the person making the complaint will be kept informed at all times; the aim will be to close the case as soon as possible to prevent further harassment from occurring.
- To close the procedure, the Investigation Committee will produce a "Conclusions Report" detailing the conclusions reached, the aggravating or mitigating circumstances observed, and proposing precautionary measures if considered necessary. This report shall be submitted to Management. This report shall also be sent to the person making the complaint and the accused person.
  - ✓ If it is proven that sexual or gender-based harassment has taken place, corrective measures shall be taken to end this situation and reduce any risk. These measures may involve moving workers and/or imposing disciplinary measures, depending on the seriousness of the harassment. The area where the disciplined activity took place may be notified of the result of the investigation and the disciplinary file for deterrence purposes, only if deemed necessary.
  - ✓ If no evidence of harassment has been found or it has not been possible to prove that the reported situation has occurred, the file will be closed and the process finalised. However, if the Investigation Committee is unable to gather the evidence required substantiating the complaint, but the harassment is still considered credible, the person making the complaint may not be forced to work with the accused person against their will.
- In the above two cases, members of the Investigation Committee will follow-up on the investigation file to understand the situation of the person being harassed and to apply possible disciplinary measures. Records of this follow-up shall be kept, which shall consist of: Initial contact made 7 days after the procedure is closed. A second contact 15 days later, and the third and final contact one month later. Further contact may be made after three or six months depending on the evolution of the case. If the harassment continues

or escalates into workplace harassment, new disciplinary measures will be imposed, increasing the severity of the misconduct.

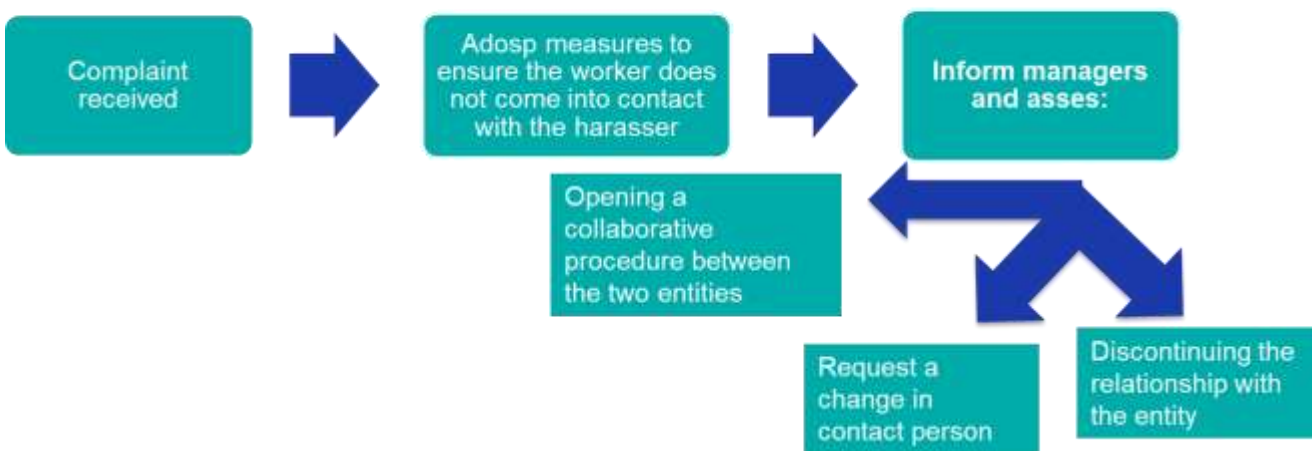
### 5.4.3. Cases in which the alleged harasser does not belong to CFM

In cases where the perpetrator does not have a contractual relationship with MPC but works there, the CFM's Confidential Advisor will inform the corresponding entity's Confidential Advisory Service or Management, if advisable based on the seriousness of the case. In such cases, a decision will be made on whether a collaborative procedure between the two entities should be opened, or whether each entity will follow its own process.

When the perpetrator of the harassment is a supplier, client, or collaborator of CFM, the process shall preferably be carried out in a coordinated way agreed with the other company or entity. The following options will be available:

- Open a collaborative procedure between the two entities.
- Terminate the employment relationship with the supplier, company, or collaborator.
- Change the supplier or company to end the harassment situation.

### PERPETRATOR DOES NOT BELONG TO CFM





## 6 TYPES OF MISCONDUCT AND DISCIPLINARY MEASURES

### 6.1. Types of misconduct

Acts or behaviour constituting sexual harassment, gender-based harassment, and/or moral harassment are classed as serious or very serious misconduct. The types of misconduct will be classed based on the behaviours described in section 3.2. Definitions in this Protocol.

AGRAVATING circumstances are:

- a) Abuse of a hierarchical superior position or abuse of the decision-making power that the harasser has over the victim's working conditions or their employment relationship.
- b) Repeating the offending behaviour after the victim has completed the procedures to resolve the situation.
- c) Malice, that is, the use of means, modes, or forms when carrying out the offences directly aimed at ensuring the harasser is not charged with such offences.
- d) Repeat offenders of sexual and/or gender-based harassment.
- e) There are two or more victims.
- f) The victim suffers from some kind of physical, mental, or sensory disability.
- g) The victim has a history of suffering from a medically proven health problem.
- h) There is evidence of intimidating or retaliatory conduct by the harasser towards the victim, witnesses, or Confidential Advisors.
- i) The harassment occurs during a personnel selection or promotion process.
- j) The victim, witnesses, or people in the work or family environment are pressured or coerced with the aim of preventing or hindering the investigation process.
- k) The victim is a temporary employee, substitute, during a probationary period, or carrying out an internship.

### 6.2. Disciplinary measures

Appropriate disciplinary measures will be imposed in proportion to the seriousness of the facts. The CFM may impose disciplinary measures directly on people hired by MPC. The CFM may also impose disciplinary measures in coordination with the CSIC and the UPV/EHU, depending on the contractual relationship of the person involved.

According to the proportionality principle, the DISCIPLINARY MEASURES are as follows:

**Serious Misconduct:**

- Suspension of employment without pay for 2 to 21 days.
- Temporary or definitive loss of professional level.
- Verbal or written reprimand.

**Very Serious Misconduct:**

- Suspension of employment without pay for 21 to 60 days.
- Definitive loss of professional level.
- Forced temporary or permanent transfer.
- Disciplinary dismissal.

All disciplinary measures that do not involve a disciplinary dismissal will be complemented by the obligation to attend a training course. The content of this course will be specified in the Training Policy section of this Protocol.

Using this procedure shall not prevent the victim of the harassment from exercising any corresponding legal protection procedures deemed appropriate based on their fundamental right to "effective legal protection".

## 7 TRAINING POLICY

The CFM shall ensure specific training on workplace harassment, sexual harassment, and gender-based harassment is provided.

This training shall focus on the following aspects:

- Raising awareness in the entire community of possible situations of discrimination in the workplace.
- Identification of discriminatory behaviours in sexual harassment and gender-based harassment.
- Understanding the procedure set out in the Protocol.

This training will be refreshed every 5 years, ensuring all staff are trained and made aware of these aspects.

Furthermore, the CFM shall guarantee that members of the Investigation Committee, and specifically the Confidential Advisors, have received specific training and they have clear criteria on how to act in these cases, offering additional training if necessary.

## 8 EVALUATION AND FOLLOW-UP

The Investigation Committee and the Equality Committee shall monitor complaints and their resolutions, producing an annual report on the implementation of this Protocol. This report shall be submitted to Management.

A register will also be drawn up of the cases dealt with.

An annual report will also be sent to Emakunde, indicating the number of procedures in which this protocol has been applied and a description of the proceedings.

As noted, cases will be followed-up on within one week, 15 days, and one month, making contact with the victim. Interviews will be carried out with both parties for further follow-up after 3 or 6 months. The need for further follow-up will be assessed. The findings of these interviews will be recorded in the register and in the report.

## 9 INFORMING PEOPLE AFFECTED

Potential victims of harassment will be informed of the services provided by the CFM, including the contact emails [harassment.cfm@ehu.eus](mailto:harassment.cfm@ehu.eus), [mfz.jazarpena@ehu.eus](mailto:mfz.jazarpena@ehu.eus), [acoso.cfm@ehu.eus](mailto:acoso.cfm@ehu.eus), and those of the Confidential Advisors, and members of the Investigation Committee.

Information will also be provided on the public services available to ensure the affected person is suitably protected and can recover from such situations:

- **Emakunde Defence Service:** Defence service for citizens facing situations of gender-based discrimination, which also protects the right of women and men in the Basque Autonomous Community to equal treatment.  
Email: [defentsoria@ej-gv.es](mailto:defentsoria@ej-gv.es)  
[www.euskadi.net/defentsoria](http://www.euskadi.net/defentsoria)  
Telephones: +34 945 016 552  
+34 945 016 553  
+34 945 016 554
- **24 hour hotline for victims of violence against women:** +34 900 840 111. This hotline is staffed by specialised professionals who attend to victims who have suffered any form of violence against women. This service also provides advice and information for professionals, family members, or close friends who may want to resolve any doubts or questions.
- **Victim Services:** Located in the Barakaldo, Bilbao, Donostia-San Sebastian and Vitoria-Gasteiz courthouses, these services provide free, confidential, individual, and personalised guidance and support to victims of violence against women throughout the entire process. These services include psychological assistance, explanations of the legal process and assistance during the process, support in preparing for trial, free treatment of complaints, information on rights, legal procedures and appeals.
- **OSALAN** provides advisory and technical assistance services to companies, workers, their representatives, occupational health and safety professionals, public organisations, and the people who work with them. [Citizen's mailbox](#).

Together with the information on public resources, the following documentation will be given to the people affected:

- Explanatory [leaflet](#) on the DEFENTSORIA service for the defence of the principle of equality and non-discrimination on grounds of sex in the private sector offered by Emakunde.
- [Triptych](#) on zero violence at work by OSALAN.
- What to do in the face of violence against women? [Guide to resources and services](#).
- [Information leaflets](#) on resources and services in other languages.

We will also provide information on local resources and services available in the municipality or area of residence. We will have access to the [list of accessible resources](#) and services in each municipality of the Basque Autonomous Community.

In ....., on ..... 20..

Daniel Sánchez Portal  
**Director of CFM-MPC**



## 10 ANEXES

### 10.1.- REGISTRATION FORM

<b>APPLICANT</b>	
	Person concerned
	Staff representative
	People management
	Others
<b>TYPE OF HARASSMENT</b>	
	Sexual harassment
	Harassment on the basis of sex
	Harassment at work
<b>COMPLAINANT</b>	
Name and surname:	
NIF/VAT ID:	Sex:    Woman    Men    Non-binary
Job position:	
Workplace /departament:	
Employment relationship:	
Contact telephone number:	
<b>VICTIM <sup>*2</sup></b>	
Name and surname:	
NIF/VAT ID:	Sex:    Woman    Men    Non-binary
Job position:	
Workplace /departament:	
Employment relationship:	
Contact telephone number:	
<b>REPORTED PERSON</b>	
Name and surname:	
NIF/VAT ID:	Sex:    Woman    Men    Non-binary
Job position:	
Workplace /departament:	
Employment relationship:	
Contact telephone number:	

<sup>2</sup> If victim and complainant are the same, please fill in name and surname only: COMPLAINANT

**DESCRIPTION OF THE EVENTS OR FACTS.** List the key circumstances of the events that took place.

**10.2.- COMPLAINT FORM**

Nº \_\_\_\_\_ / 20 \_\_\_\_\_

**APPLICANT**

<input type="checkbox"/>	Person concerned
<input type="checkbox"/>	Staff representative
<input type="checkbox"/>	People management
<input type="checkbox"/>	Others

**TYPE OF HARASSMENT**

<input type="checkbox"/>	Sexual harassment
<input type="checkbox"/>	Harassment on the basis of sex
<input type="checkbox"/>	Harassment at work

**COMPLAINANT**

Name and surname:				
NIF/VAT ID:	Sex:	Woman	Men	Non-binary
Job position:				
Workplace /departament:				
Employment relationship:				
Contact telephone number:				

**VICTIM <sup>\*3</sup>**

Name and surname:				
NIF/VAT ID:	Sex:	Woman	Men	Non-binary
Job position:				
Workplace /departament:				
Employment relationship:				
Contact telephone number:				

**REPORTED PERSON**

Name and surname:				
NIF/VAT ID:	Sex:	Woman	Men	Non-binary
Job position:				
Workplace /departament:				
Employment relationship:				
Contact telephone number:				

<sup>3</sup> If victim and complainant are the same, please fill in name and surname only: COMPLAINANT

**DESCRIPTION OF THE EVENTS OR FACTS.** List the key circumstances of the events that took place.

**ATTACHED DOCUMENTS:**

If there are witnesses, please give their names and surnames:

**APPLICATION**

I request the initiation of the protocol for action against sexual harassment and harassment on grounds of sex.

Place and date

Signature of the person concerned

Signature of the person receiving the complaint

### 10.3-CONFIDENTIALITY COMMITMENT FORM

Mr/Ms \_\_\_\_\_ with ID \_\_\_\_\_, having been appointed by the *Centro de Física de Materiales* (hereinafter CFM) to intervene in the procedure for receiving, processing, investigating and resolving complaints of sexual harassment and/or harassment for reasons of sex that may occur in its area, undertakes to respect the confidentiality, privacy, intimacy and impartiality of the parties throughout the different phases of the process.

Therefore, and more specifically, I hereby declare my commitment to fulfil the following obligations:

- To guarantee the dignity of individuals and their right to privacy throughout the entire procedure, as well as the as equal treatment between women and men.
- To guarantee reserved treatment and the utmost discretion in relation to information about situations that could that could constitute sexual harassment and/or harassment based on sex and/or harassment on grounds of sex.
- Guarantee the strictest confidentiality and reserve with regard to the content of the complaints filed, resolved or being investigated of which it is aware, as well as to ensure the compliance with the prohibition on divulging or transmitting any type of information on the part of the other persons involved in the procedure.

I also declare that I have been informed by the CFM of the disciplinary liability I may incur for failure to comply with the above obligations.

In \_\_\_\_\_,

Signature: