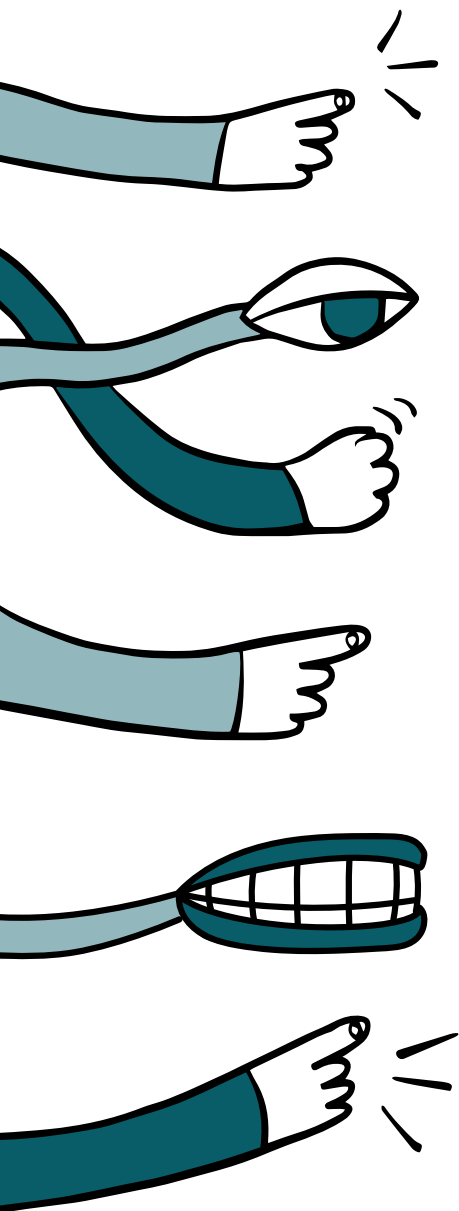




PROTOCOL for the
PREVENTION and
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of **HARASSMENT**
at the University
of Cantabria,
particularly sexual
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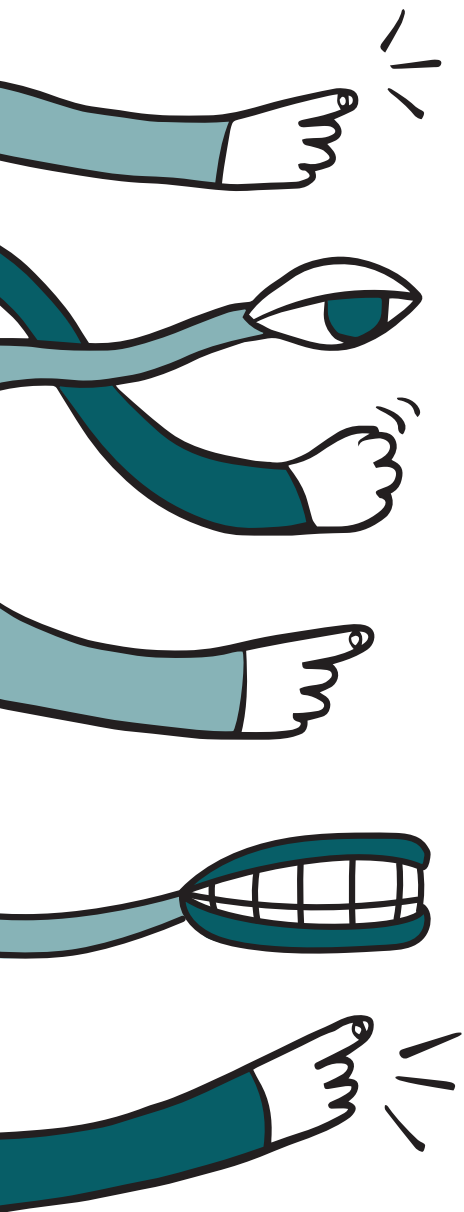
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Approved by the
Governing Council on
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Chapter I. Objectives, action principles and scope of application



Article 1. Objectives

The objectives of the *Protocol for the Prevention and Action against any kind of harassment at the University of Cantabria, particularly sexual harassment, gender harassment and any other forms of discriminatory behaviour* can be reduced to two. On the one hand, to avoid and prevent any kind of harassment that might take place in the university environment at all levels. Secondly, the establishing and/or articulation of two procedures for resolution that allow the university authorities to act with all guarantees in cases in which any kind of harassment might arise, namely: psychological harassment or mobbing, sexual harassment, gender harassment or to sexual orientation or gender identity.

Article 2. Action principles

1. The principles that will govern any action on behalf of the University of Cantabria –in the framework of the provisions in article 62 of the *Ley Orgánica 3/2007, de 22 de marzo, para la igualdad efectiva de mujeres y hombres* (Organic Law 3/2007, 22nd March, for the effective equality of women and men)– against any kind of harassment, particularly in situations of sexual harassment, gender harassment and harassment due to sexual preference and identity, will be as follows:
 - (a) The commitment to prevent and reject any form of harassment that might take place in the university environment, in particular psychological harassment or mobbing, sexual harassment and gender harassment and sexual preference and identity.
 - (b) The instruction of all staff of their duty to respect the dignity of people and the free development of their personality, as well as their right to personal and familial privacy and self-image, in connection to the principle-right of equal treatment of women and men, and in general of all people regardless of any personal or social circumstance.
 - (c) The confidential treatment of complaints relating to facts that might constitute any form of harassment, with special attention to the specificities that arise in situations of sexual harassment, gender harassment and harassment due to sexual preference and identity.

- (d) The identification of the people responsible for responsible for those who present a complaint against any situation of harassment.
 - (e) The obligation of all university structures and sections to collaborate with those bodies responsible for activating and developing the present *Protocol*, especially in the event of the initiation of either of the two procedures in place.
 - (f) Protection of the person who has suffered harassment, with the establishment of precautionary measures from the start of the procedure and guaranteeing indemnity from any kind of retaliation that might occur.
 - (g) A double aspect and/or focus of action and prevention: 1. A group or collective focus, from the perspective of gender and human rights in the development of the preventative measures and/or the effective reaction-action arising from the present *Protocol*; and 2. An individual focus, in the framework of risk prevention in the workplace due to psychological/social risk.
2. External companies contracted by the University of Cantabria, as well as public or private bodies in which the University of Cantabria has a stake, will be informed of the existence of the present *Protocol*, and they will be urged to have their own protocol with which to deal with situations of harassment.
 3. The application of the present *Protocol* will not prevent those implicated or affected from resorting to appropriate legal actions through any route (civil, criminal, contentious-administrative, etc.), maintaining, where appropriate, the precautionary measures that the University of Cantabria may have adopted until there is a judicial resolution.

Article 3. Objective scope

The present *Protocol* will be for application against any type of harassment, paying particular attention to situations of psychological harassment or bullying, sexual harassment, gender harassment and harassment due to sexual orientation or gender identity sexual, as well as any other form of discriminatory behaviour.

For the purposes of this present *Protocol* the following definitions will apply:

- (a) **Psychological harassment or bullying:** being exposed to behaviours of psychological violence, directed, in a repeated and prolonged way, at one or more people by other(s) who act towards them from a position of power (not necessarily hierarchical). The said exposure would take place in the framework of a workplace relationship and represent a significant health risk. However, it might also occur in the university environment between other subjects who do not have a work relationship as such, namely: student with student, or with PTGAS or PDI.
- (b) **Sexual harassment:** any behaviour, verbal or physical, of a sexual nature that has the intention or effect of violating a person's dignity, particularly when an intimidatory, degrading or offensive environment is created (article 7.1 of the *Ley Orgánica 3/2007, de 22 de marzo (Organic Law 3/2007, 22nd March)*).

Amongst the behaviours constituting sexual harassment, sexual harassment *quid pro quo* or sexual blackmail should be distinguished from environmental sexual harassment.

Sexual harassment *quid pro quo* or sexual blackmail consists of forcing the person who is undergoing the situation of harassment to choose between submitting to sexual requirements or losing or seeing in jeopardy certain work benefits or conditions that affect access to professional training, to continued employment, to promotion, to retribution or to any other decision in relation to this issue. To the extent that it signifies an abuse of authority, the active subject, normally, will be the one with the power, directly or indirectly, to provide or withdraw a workplace benefit or condition from the harassed person.

Environmental sexual harassment takes place when an intimidatory, hostile, degrading, humiliating, or offensive environment is created around the harassed person, because of undesirable attitudes and behaviours of a sexual nature. The active subject of the harassing behaviour may be any person of the university environment, independently of their position or status, or third parties located in some way in the work, research or educational environment of the harassed person.

- (c) **Gender harassment:** any behaviour enacted based on the sex of the person, with the purpose or effect of violating their dignity and of creating an intimidatory, degrading or offensive environment (article 7.2 of the *Ley Orgánica 3/2007, de 22 de marzo (Organic Law 3/2007, 22nd March)*).
- (d) **Discriminatory behaviour:** Sexual harassment and gender harassment will, in all cases, be considered to be discrimination (article 7.3 of the *Ley Orgánica 3/2007, de 22 de marzo (Organic Law 3/2007, 22nd March)*). All unfavourable treatment of women related to pregnancy and maternity constitutes discrimination on grounds of sex (article 8 of the *Ley Orgánica 3/2007, de 22 de marzo (Organic Law 3/2007, 22nd March)*). Along the same lines, any adverse treatment or negative effect that is had on a person as the consequence of their filing a complaint, claim, denouncement, request, or petition of any kind will be considered discrimination due to sex, with the aim of preventing their discrimination and demanding the effective compliance of the principle of equality of treatment between women and men (article 9 of the *Ley Orgánica 3/2007, de 22 de marzo (Organic Law 3/2007, 22nd March)*). Within the concept of discriminatory behaviour are included the so-called categories suspicious of discrimination by virtue of the provisions of article 14 of the *Constitución Española (Spanish Constitution)*, as well as those cited in article 3.2.c) of the *Ley 3/2022, de 24 de febrero, de convivencia universitaria (Law 3/2022, of 24th February, of university coexistence)*.
- (e) **Harassment due to sexual orientation or gender identity:** any behaviour occurring due to the sexual preference of the person or due to their sexual identity, with the aim of violating their dignity and of creating an intimidatory, degrading or offensive environment (articles 14 and 9.2 of the *Spanish Constitution*, and article 21 of the *Nice Charter*).

Article 4. Subjective scope

The present *Protocol* will apply to all situations of psychological harassment or bullying, sexual harassment, gender harassment and harassment due to sexual orientation or gender identity, as well as any other form of discriminatory behaviour affecting any person connected to the University of Cantabria.

It will apply to:

- (a) Academic staff (PDI), state-employed and workers.
- (b) Administration and service staff (PTGAS), state-employed and workers.
- (c) Research staff contracted as per one of the modalities set out in the *Ley de la Ciencia (Ley 14/2011)* [Law of Science (Law 14/2011)] and those set out in the regulations of the University of Cantabria that regulate the calls for the selection of research staff contracted on a temporary work contract.
- (d) Research staff attached to the University of Cantabria and those receiving financial grants from bodies not attached to the University of Cantabria.
- (e) The student body.
- (f) Those people who provide their services at the University of Cantabria, whatever the kind or legal nature of their relationship with it. It will also apply to those who, under legal dependence on a third party, provide their services at the University of Cantabria, such as the case of staff assigned to contracts or subcontracts or provided by temping agencies.
- (g) Self-employed workers contracted by the University of Cantabria, or by other bodies, whilst they are providing their services in the University environment.

Article 5. Temporal scope

1. A complaint against any kind of harassment will be filed within a general period of six months, to be counted from the time of the situation of harassment in the terms defined in the objective scope of application that it affects. In cases of sexual harassment and gender harassment – to the extent that the repetition of the harassment measure is not required – it should be presented within a period of six months, to be counted from when the incident took place or, if they were various, from the last known one.
2. The present *Protocol* covers those people part of the university community who have terminated their legal relationship with the University of Cantabria, as long as they had made their complaint whilst the said re-

lationship was in force, or, instead, it is made within a six-month period from the date of termination in relation to occurrences that took place during the time the legal relationship was in force.

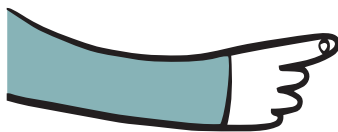
3. A request for acknowledgment of submission may be sent to the University Ombudsperson with a copy to the Department of Equality and Social Responsibility and the Prevention Unit, if the complaint is made outside the deadlines established in sections 1 and 2. In these exceptional cases, the reasons or circumstances that prevented their presentation within the stipulated time period must be explained.

Article 6. Territorial scope

This present *Protocol* will be applicable at any centre, workplace or physical or virtual space that corresponds, permanently or temporarily, to the organizational and functional environment of the University of Cantabria.

Chapter II.

Measures for
awareness-raising,
information,
prevention and
training



Article 7. Measures for awareness-raising and information

Amongst the measures for awareness-raising and information, the following are foreseen:

- (a) **Communication plan:** aimed at making the *Protocol* known throughout the university community. To this end, it will be disseminated through the following communication channels: (1) Institutional website to raise awareness of all forms of harassment at the University of Cantabria; (2) Dissemination via email through the Mail Administrator and signposts on the Virtual Campus; (3) Inclusion of information about the *Protocol* in the guides aimed at both the staff of the University of Cantabria (PDI-PT-GAS) and the student body; (4) Inclusion of the link to the *Protocol* on the webpages of the Units, Areas, Services, Departments and Centres of the University of Cantabria, etc.
- (b) **Information and awareness-raising campaigns:** The University of Cantabria will carry out specific campaigns with the aim of raising awareness and informing the university community of the different forms of harassment, and their identification, making manifest to the academic institution its strongest rejection against these kinds of behaviours. The objective of these campaigns will be to disseminate documents that bring together codes of good practices and behaviours, rights and duties, responsibilities, and the repercussions of non-compliance with the *Protocol*.
- (c) **Awareness-raising and dissemination of the *Protocol* among companies and collaborating partners of the University of Cantabria:** the present *Protocol* will be made known to partnering companies, to those working at the facilities of the University of Cantabria, to its suppliers and to the companies or bodies in which the students carry out their internships, making it known to them that it will be activated when events take place within its scope of application. At the same time, the University of Cantabria includes, in the specific details of the administrative clauses of the contracts it tenders, clauses relating to the obligation to have protocols or measures to prevent, avoid and eradicate sexual harassment and gender harassment in relation to the personnel implicated in the fulfilment of the contract, in accordance to the applicable provisions relating to public procurement, as well as to other social clauses aimed at guaranteeing

equality between men and women, between those involved in fulfilling the contract, and the absence of discrimination of the above, or the recipients of the contract, due to gender identity.

Article 8. Prevention

The present *Protocol* includes the following as measures of prevention:

- (a) **Assessment of the workplace environment:** with the objective of detecting factors that could be favourable to situations or behaviours of psychological harassment or bullying, as well as sexual harassment, gender harassment, or harassment due to sexual orientation or gender identity, or that might lead to them, an assessment will be made, if appropriate, through the work environment questionnaire and/or through the compilation and publication of reports on the amount of interventions and the results-consequences of the same, etc.
- (b) **Monitoring:** The University Ombudsperson, in collaboration with the Area for Equality and Social Responsibility and the Prevention Service, will carry out the control and monitoring of the application of the Protocol with the aim of guaranteeing its effective compliance and functioning, as well as with the aim of detecting and, if appropriate, acting against situations of psychological harassment or bullying, sexual harassment, gender harassment and harassment due to sexual orientation or gender identity in its area of application. The monitoring will take place through a register of incidents and cases of harassment kept by Departments, Services and Units to order to control its application; the referral of the measures to be adopted communicated to those in charge of Departments, Services and Units for their obligatory compliance, statistical reports of cases will be kept, in which, under no circumstances will the data of the people affected be revealed.
- (c) **Adaptation and/or modification of the *Protocol*:** in the case that errors or omissions are detected in the application and/or functioning of the *Protocol*, its modification or updating will be proposed through the applicable procedures and channels.

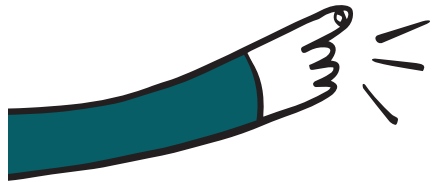
Article 9. Training

The framework of the present *Protocol* – as a precautionary measure –, includes the development of training programmes for the prevention, detection and action against psychological harassment or bullying, sexual harassment, gender harassment and harassment due to sexual orientation or gender identity, aimed at administration and service staff and at teaching and research staff. This measure contemplates specific courses aimed at the PDI and PTGAS of the University of Cantabria; specific courses aimed at those with management responsibilities of both the PDI and PTGAS; specific courses aimed at the members of the Cross-Sectional Equality Commission and the Safety and Health Commission, as well as the University Ombudsman; specific courses on prevention, detection and action against harassment aimed at elected union representatives; and, finally, specific courses aimed at the members of the Technical Committee of the *Protocol*.

Also included as a preventive measure is the development of training programmes aimed at the student body pertaining to equality and non-discrimination, prevention, detection and action against any kind of harassment that comes under the objective scope of this *Protocol*. This measure includes specific courses aimed at the student body with the recognition of credits, as well as specific courses aimed at members of this group who act as representatives on the Cross-Sectional Equality Committee, on the Student Council and as part of student delegations of the University of Cantabria.

Chapter III.

Action procedures



Article 10. Guarantees

The present *Protocol* –within its different action procedures– against the different forms of harassment foreseen in the objective scope of application, will, under all circumstances, be governed by and observe the following guarantees:

- (a) **Confidentiality:** The University of Cantabria will ensure the confidentiality of the identity of all the people who participate in the procedure in any of its phases, as well as the information that may be derived from it. Also, all the people involved have the obligation to protect confidentiality and not to transmit or divulge information about the process, neither in the investigation phase, nor once it has ended.
- (b) **Participation:** Those party to the process and, in general, all the university community, must collaborate in the procedure, once set in motion, when necessary and required, with the aim of clarifying the reported facts that are the object of investigation.
- (c) **Respect, protection of the dignity and integrity of the people affected and prohibition of reprisals:** the actions will be carried out with maximum prudence and with the respect due to all the people involved who will not be at risk of receiving unfavourable treatment for this reason. The University of Cantabria will ensure that the people involved will not be the object of intimidation, persecution, discrimination, or reprisals. If any of these situations were to arise, the University of Cantabria will adopt the corresponding disciplinary measures against those who have caused them. In the framework of action of the present *Protocol* it is foreseen that the people involved, if they so wish, will be able to be supported by any person of their choice. This being so, notwithstanding, for reasons of privacy in certain cases, a part of the meetings or interviews might be carried out solely with the interested parties.
- (d) The **processing of personal data** generated in all actions will be managed with secrecy and with strict respect for the regulation covering data protection and information autonomy that may apply to it.
- (e) **Diligence and speed:** the investigation and resolution in response to the events reported must take place with due professionalism, diligence and without unjustifiable delays, in such a way that the procedure is complet-

ed in the least time possible and respecting all the guarantees that are to be applied to it.

- (f) **Impartiality and contradiction:** The procedure must guarantee an impartial and fair treatment of the affected persons. Those who participate in the procedure will act in good faith in the search for the material truth of the facts reported in order to clarify them.

Article 11. Mechanisms for the activation of the *Protocol*

1. Where to submit the complaint: the activation of any of the resolution procedures foreseen in the present *Protocol* will take place through the report addressed to the Office of the University Ombudsperson, who will send a paper copy to the Area for Equality and Social Responsibility and the Prevention Unit of the University of Cantabria.
2. The complaint can be filed by the affected person or their representative. In this latter case, the complaint should be accompanied by the authorising of representation in procedures of intervention in cases of psychological harassment or bullying, sexual harassment, gender harassment and harassment due to sexual orientation or gender identity [available at “La UC ante el acoso” (“The UC against harassment”), <https://web.unican.es/unidades/igualdad/la-uc-ante-el-acoso>]. Also, the complaint can be filed by the representation of the academic staff, of the administration and service staff, or of the student body of the University of Cantabria, or by any member of the university community who might have knowledge of situations that could constitute any of the forms of harassment foreseen in the objective scope of application of the present *Protocol*.
3. Notwithstanding the above, the University of Cantabria will be able –*ex-officio*– presented with indications that a situation of harassment may occur, to urge the activation of the *Protocol*.
4. If the complaint is presented by third parties or if the University Ombudsperson, together with the Area for Equality and Social Responsibility and the Prevention Unit, were to have knowledge of the facts and to act *ex-officio*, the victim must be informed immediately. In this case, if appropriate, minutes will be drawn up and signed by the participating persons.

5. The complaints of harassment made by third parties or *ex-officio* by the University Ombudsperson will be based on the existence of indications such as: leave taken due to temporary sickness, risk assessment or negative results in other kinds of studies or surveys, a high turnover rate of staff, etc.
6. The complaint can be filed in writing, through the complaints mailbox set up on the institutional web/app against harassment of the University of Cantabria, via email, or verbally to the University Ombudsperson.
As well, the University of Cantabria will make available to the university community a specific mailbox on the institutional web/app against harassment where complaints relating to possible situations of harassment can be communicated and/or presented without the information provided formally constituting a complaint intended to activate the *Protocol*, but rather to indicate possible situations of harassment in the framework of the objective scope of application of the present *Protocol*.
 - (a) **Filing a written complaint:** when the complaint is formalised in writing, it will be done using the application form for registering documentation and it should be presented through the General Registry of the University of Cantabria or through any of the other channels set out in article 16.4 of *Ley 39/2015, de 1 de octubre, del procedimiento administrativo común de las administraciones públicas* (Law 39/2015, 1st October, of the common administrative procedure of the public administrations). Together with the application to register there should be attached, in a sealed envelope and headed "Confidential", the denouncement of the facts [*Registration application form*, available at "La UC ante el acoso" ("The UC against harassment"), <https://web.unican.es/unidades/igualdad/la-uc-ante-el-acoso>], as well as the documentation considered appropriate.
 - (b) **Filing an email complaint:** A complaint via email will be addressed to the email address buzon.acoso@unican.es, indicating "Confidential" in the subject heading. Electronic communication should include the registration of documentation application form [*Registration application form*, available at "La UC ante el acoso" ("The UC against harassment"), <https://web.unican.es/unidades/igualdad/la-uc-ante-el-acoso>] with the report on the facts, as well as the documentation considered appropriate.

- (c) **Filing a complaint via set up on the institutional web/app:** electronic communication should include the registration of documentation application form [*Registration application form*, available at "La UC ante el acoso" ("The UC against harassment"), <https://web.unican.es/unidades/igualdad/la-uc-ante-el-acoso>], and the report of the facts. Complementary documentation that is considered appropriate can be presented via any of the other means foreseen in this article.
- (d) **Filing a verbal complaint:** a verbal complaint will be made to the person holding the title of University Ombudsperson. A report will be drawn up to be signed by the complainant and the person in their capacity of University Ombudsperson.
- (e) Anonymous complaints will not be formally processed under any circumstances.
- (f) Information that reaches the University Ombudsperson anonymously through the specific mailbox included on the institutional web/app against harassment of the University of Cantabria will not be treated as a formal complaint, unless the person who communicates the facts uses any of the four previously described channels to make the complaint formal, through the *registration application form* [available at "La UC ante el acoso" ("The UC against harassment"), <https://web.unican.es/unidades/igualdad/la-uc-ante-el-acoso>]. Notwithstanding, information that arrives anonymously can be used to evaluate, by the academic institution, the *ex-officio* activation of the *Protocol* for the clarification of the facts as long as sufficient indications of a possible situation of harassment exist.

Article 12. Reception and safekeeping

1. When the complaint is made in writing, the Registry will send it to the University Ombudsperson.
2. Once the complaint is received, the University Ombudsperson will inform the Area for Equality and Social Responsibility and the Prevention Unit of the University of Cantabria in writing. The University Ombudsperson will be in charge of informing, assessing and being the first to attend to the person making the complaint, with the possibility of passing them on to

the services, units, either internal or external, that can offer specialized attention and support.

3. From the moment when the complaint is received, to protect the privacy and confidentiality of the process, the University Ombudsperson will assign a numerical identification code both to the person reporting the situation of harassment and to the person allegedly harassing, thus protecting the identity of the people involved. All the information that is generated and contributed to the proceedings will be of a confidential nature and will be treated as protected information, so that only those people participating directly in its processing will be able to access it.
4. The complaint, as well as all the documentation that is generated during the procedure, will be sent, held and filed by the management of the University Ombudsperson.

Article 13. Initial assessment

1. The University Ombudsperson will make an initial assessment of the situation, being able to carry out the interviews required, as well as gathering all the information that is appropriate in this initial phase. The University Ombudsperson will pass on the said initial assessment, as well as previous actions within five working days to both the Area for Equality and Social Responsibility and the Prevention Unit of the University of Cantabria. From the start, as throughout the whole procedure, both the person making the complaint and the person being denounced may be accompanied by a person designated by them.
2. After 15 working days, calculated from the moment of receiving the complaint, if it has not been possible to bring the initial assessment to a conclusion, the University Ombudsperson will notify the affected persons or their representative of the reasons for this and of the new estimated deadline, as well as the person holding the presidency of the Technical Committee for the prevention and action against any form of harassment of the University of Cantabria, copying to the Area for Equality and Social Responsibility and the Prevention Unit. A deadline extension of 15 working days is foreseen for the conclusion of the *Initial Assessment Report*.

3. The University Ombudsperson, after consulting with the Area for Equality and Social Responsibility and the Prevention Unit, will make an *Initial Assessment Report* of the situation, which will be sent to the presidency of the Technical Committee for the prevention and action against any form of harassment of the University of Cantabria, including the proposal of –in a substantiated manner– one of the following measures:
 - (a) The non-initiation of the procedure, if there is no evidence of a situation of harassment as set out in the objective scope of application of the *Protocol*.
 - (b) The initiation of the action procedure, if a situation of harassment of those set out in the objective scope of application is perceived.
4. The University Ombudsperson will be able, at the same time, to propose to the Technical Committee of the *Protocol*, in the person of its President, the adoption of precautionary measures while the procedure is being carried out, if they consider that the situation so merits.

Article 14. Initiating the procedure

1. The President of the Technical Committee for the prevention and action against any form of harassment of the University of Cantabria, will convene within 15 working days from the reception of the *Initial Assessment Report* the Technical Committee whose responsibility it is to decide whether or not to initiate the procedure.
2. The resolution taken by the Technical Committee will be notified to the parties concerned, together with the list of its members.
3. The President of the Technical Committee will adopt, if appropriate, the precautionary measures that are considered necessary during the processing of the procedure.

Article 15. Technical Committee for the prevention and action against any form of harassment

1. The Technical Committee for the prevention and action against any form of harassment of the University of Cantabria will be made up as follows:

- (a) Vice-Rector with competence in the matter, who will be the person that chairs the Technical Committee. The Vice-Rector that chairs the Technical Committee will be able to designate substitutes in this Committee when necessary.
 - (b) Director of the Area for Equality and Social Responsibility, who will act as secretary to the Technical Committee.
 - (c) The person in charge of the Prevention Unit.
 - (d) A person with a PhD in Law, with specific training in the matter and particularly in anti-discrimination protection, preferably internal staff of the University of Cantabria.
 - (e) A psychologist with specific training in the matter and particularly in harassment, preferably internal staff of the University of Cantabria.
 - (f) Depending on the groups involved in the procedure:
 - i. Trade union representative, if it concerns administration and service staff, academic staff and/or people who provide their services to the University.
 - ii. Student Council representative, if it concerns the student body.
2. The members of the Technical Committee will receive training in the issue of prevention and intervention against situations of psychological harassment or bullying, sexual harassment, gender harassment and harassment due to sexual orientation or gender identity, as well as any other kind of discriminatory behaviour.
 3. The members of the Technical Committee will be subject to the application of the provisions in articles 23 and 24 of *Ley 40/2015, de 1 de octubre, de Régimen Jurídico del Sector Público* (Law 40/2015, of 1st October, on the Legal Rules for the Public Sector), in reference to abstention and refusal.
 4. The operating of the Technical Committee will be governed by the provisions of *Ley 40/2015, de 1 de octubre, de Régimen Jurídico del Sector Público* (Law 40/2015, of 1st October, on the Legal Rules for the Public Sector), in relation to the operating of collegiate bodies.
 5. For the purpose of adopting resolutions, the vote of the president will be decisive.

Article 16. Functions, powers and action of the Technical Committee for the prevention and action against any form of harassment of the University of Cantabria

1. Once the Technical Committee is convened, its members will be provided with access to the information in the file, respecting the duty of confidentiality. For this purpose, the minutes, if applicable, will be read out at the meeting for their approval.
2. The Technical Committee, having considered the information documentation in the file and the *Initial Assessment Report* of the University Ombudsperson, will decide within ten working days calculated from the time of their first meeting whether or not to initiate the procedure and, where appropriate, whether it will be resolved through dialogue or through the formal procedure.
3. The Technical Committee will record the agreements made in minutes and will notify the parties involved of them.
4. The Technical Committee, *ex-officio* or at the request of those persons involved in the procedure, after having heard them, will be able to propose the adoption of precautionary measures during the processing of the procedure, if it considers that the situation so requires.

Article 17. Resolution via dialogue procedure

1. If the Technical Committee agrees that the procedure to be followed is that of resolution via dialogue –because there is not yet a situation that can be classified as harassment *per se*, but that this could end up being the case, if action is not taken–, will appoint a mediator within a period of ten working days to find a solution to the conflict which cannot be extended more than 20 working days from the time of their appointment.
2. The procedure of resolution through dialogue will, in any case, be subject to the prior consent of both parts and will not contemplate, save in exceptional circumstances and with the express consent of the parties in conflict, a face-to-face meeting or other meetings with each other.

3. Internal or external staff of the University of Cantabria with specific training in situations of harassment and in matters of mediation will be able to act as a personal mediator.
5. The people who act as mediators will be able to request the adoption of precautionary and preventative measures.
6. In the event that the mediation ends in an agreement, this latter should be documented in a clear and comprehensible manner in minutes signed by both parties, of which each of them shall receive an original copy. The mediating person will inform the parties of the binding nature of the agreements reached. This being the case, the action procedure will be considered to have ended. The mediating person will pass on the *Mediation Report* to the Technical Committee, in which they will record the actions taken, as well as the minutes with the agreements signed by the parties involved.
7. The University Ombudsperson will monitor the cases that conclude with an agreement for at least a year in order to check for its effective compliance. If, once this period has ended, the University Ombudsperson verifies that the agreements have been complied with in a satisfactory manner, they will request of the Technical Committee that the case be filed, and this latter, if appropriate, should ratify it within the period of five working days from the reception of the request. If it is seen that the agreements have not been complied with, the University Ombudsperson will ask the Technical Committee to assess whether to initiate the formal resolution procedure.
8. When the parties involved are not able to reach an agreement, refuse to undergo mediation, or the mediator sees that the positions of the parties are irreconcilable or that other circumstances concur to prevent the mediation agreement from being reached, the procedure of resolution via dialogue will be considered to have ended. In this case, the mediator will request that the Technical Committee begin the formal resolution procedure. The *Mediation Report* must state all these circumstances in a reasoned manner.

Article 18. Resolution via formal procedure

1. The procedure of formal resolution will be initiated when it has not been possible to resolve the conflict through the dialogue procedure or, if appropriate, when the Technical Committee has initially agreed on its resolution through this procedure. The Technical Committee, within the period of ten working days from the request to start the formal resolution, will appoint a person who is an expert in harassment and who has accredited experience in discriminatory behaviour, to establish, ascertain and clarify the facts that have been denounced.
2. The expert can be from the internal staff of the University of Cantabria, or external to it.
3. The expert will be able to compile the documentation that they consider necessary, carry out the interviews they understand to be appropriate and take all the actions they deem to be pertinent, guaranteeing the right to an impartial hearing of each of the parties involved and taking into account the reversal of the burden of proof that applies in cases of sexual harassment and gender harassment and discriminatory behaviour in general, as long as well-founded evidence of its existence is provided, in accordance with the provisions in article 13 of the *Ley Órgánica 3/2007, de 22 de marzo (Organic Law 3/2007, of 22nd March)* and 30 of *Ley 15/2022, de 12 de julio (Law 15/2022, of 12th July)*.
4. The expert, within 30 working days calculated from the time of their appointment, will submit a *Diagnostic Report of the Situation* including the proposal of, in a reasoned manner, the measures they consider appropriate.
5. The Technical Committee, within a period of 15 working days from the presentation of the *Diagnostic Report* referred to above, will issue a *Conclusions Report* that will be sent to the Rector and in which some of the following actions will be proposed:
 - (a) For the case to be filed due to the withdrawal of the complainant (unless the investigation into the complaint has been agreed *ex-officio*), lack of cause or insufficient evidence.
 - (b) Referral to the Office of the Public Prosecutor, in cases in which the behaviour or facts denounced may constitute a crime. The University

of Cantabria will make it known to the Office of the Public Prosecutor, despite, if appropriate, the disciplinary proceeding having started, this being suspended until a judicial decision is reached.

- (c) The initiation of disciplinary proceedings, when the person denounced belongs to the university community and there are considered to be sufficient indications of psychological harassment or bullying, sexual harassment, gender harassment, harassment due to sexual orientation or gender identity, or any other form of discriminatory behaviour. Together with the initiation of the disciplinary proceeding, the adoption of precautionary measures can be urged which will be modulated according to the right to safe-guarding and the degree of the existing risk.
6. If the Technical Committee agrees to close the file, its presidency will notify the parties involved and must provide a copy of the agreement. In order to close the file, the parties involved will submit allegations related to the agreement within a seven working day period seven working days to submit allegations relating to the agreement to close the file.
- Once the allegations have been considered, the presidency of the Technical Committee will submit the definitive report to the Rector.
7. The Technical Committee's *Conclusions Report* must contain the following points:
- (a) A list of the people who are on the Technical Committee for the prevention and action against any form of harassment of the University of Cantabria and the identification of the people involved by means of their corresponding numerical code.
 - (b) The background to the case, the complaint and its circumstances.
 - (c) Previous actions: *Initial Assessment Report* by the University Ombudsperson, *Diagnostic Report of the Situation* by the Expert and/or, where appropriate, a *Mediation Report*.
 - (d) Other actions taken: witness statements of those called to the case, evidence provided, main summary of the facts (external elements), etc., and/or any other diligence made.

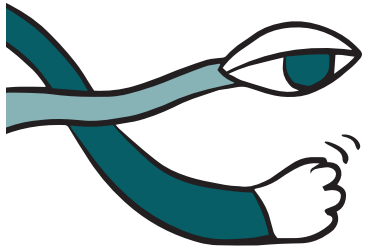
8. In cases whereby bad faith in making the complaint and/or the provision of false data or testimony is discovered, the corresponding disciplinary measures will be proposed to the responsible persons.

Article 19. Resolution of the Rector

9. The Rector, within 15 working days from the reception of the *Conclusions Report* from the Technical Committee, as well as the other documentation in the file, will issue a resolution as to the measures to be adopted in view of its proposal, and will notify all parties, as well as the presidency of the Technical Committee. In the event that they do not consider it appropriate to apply the measures set out in the *Conclusions Report*, they will make it known in a reasoned manner to the Technical Committee and the University Ombudsperson, who will be in charge of the safekeeping of the corresponding documentation.
10. When the situation subject of the complaint involves staff who provide services at the University of Cantabria, but whose hierarchical dependence corresponds to third parties, the Rector will transmit the Technical Committee's *Conclusions Report* to the person in charge of the organization, company, etc. within the period of 15 working days from its reception in order for the appropriate measures to be taken in the context of each organization. At the same time, co-ordination mechanisms will be activated between the involved parties, with the presidency of the Technical Committee holding the information and maintaining responsibility for the communication of the situation.

Chapter IV.

Disciplinary procedure



Article 20. Opening disciplinary proceedings

1. In cases in which the Rector's resolution contemplates the initiation of disciplinary proceedings, the Rector will issue the agreement to set it in motion, notifying the parties.
2. The opening and processing of the disciplinary proceedings must be carried out in agreement with the applicable regulations, depending on the status of the person denounced being a student, PTGAS or PDI.

Article 21. Appointment of an investigator and secretary

1. The Rector will appoint an investigator, according to the regulations in force, preferably someone trained in the issue of harassment, from amongst the state-employed staff within the University of Cantabria belonging to a body or on a scale equal to or higher than the group to which the accused person belongs.
2. When the complexity or significance of the facts to be investigated so requires, a secretary will be appointed who, in all circumstances, must be state-employed.
3. The initiation of the procedure, with the appointment of the investigator and the secretary, will be communicated to the complainant and the accused, as well as to those designated by the academic institution to examine the documentation.
4. Once the procedure has begun, the Rector will be able to decide on the precautionary measures considered appropriate to ensure the efficacy of the Rector's resolution.

Article 22. Development of the disciplinary proceedings

1. Once the appointment of the investigator of the disciplinary proceedings has been notified, the Office of the University Ombudsperson will pass the *Conclusions Report* on to them immediately as well as all the documentation in the file corresponding to the investigation carried out in the framework of the procedure as set out in the present *Protocol*.
2. The transfer of the documentation will take place in person, in a sealed envelope with the heading of "Confidential".

3. The investigator of the disciplinary proceedings will be able to order the taking of all appropriate steps in order to establish and verify the facts and, in particular, all evidence that might lead to their clarification and decisions on the responsibilities subject to sanction. In all cases, they must take into account the provisions of article 13 of the *Ley Orgánica 3/2007, de 22 de marzo (Organic Law 3/2007, of 22nd March)*, with regards to the reversal of the burden of proof in cases of sexual harassment and gender harassment, as well as article 30.1 of *Ley 15/2022, de 12 de julio (Law 15/2022, of 12th July)*, in any case of discrimination.
4. The confidential treatment of information is assured in both the statement of objections and the steps taken in the development of the disciplinary proceedings.
5. The hearing procedure for the accused person set out in the applicable regulations will take place in the presence of the investigator and, if appropriate, the secretary, if the documentation it comprises cannot be sent by mail. At this step, the accused person or their representative will be informed of the obligation not to disseminate any of the said documentation beyond that which proceeds for the exercise of the right of defence.
6. At any point of the processing of the disciplinary file, if the suspicion arises that the facts being denounced may constitute a crime, the investigator will inform the Rector for its appropriate referral to the Public Prosecutor. In this case, the processing of the disciplinary file will be suspended, with the adoption of measures considered appropriate to guarantee the normal functioning of the academic institution until a legal decision is reached.

Article 23. Conclusions of the disciplinary proceedings

1. Once the investigation of the disciplinary procedure is completed, the investigator will make a proposal for a resolution in which are brought together the proven facts, the type of offence considered to have been committed, the liability to be assumed and the sanction that it is appropriate to impose in view of the relevant regulations. The said proposal for resolution will be sent to the Rector who will decide on the concluding resolution of the disciplinary procedure.

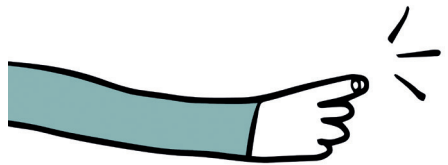
2. The maximum duration of the disciplinary procedure will be that established in the relevant regulations.

Article 24. Competent body for enforcement of disciplinary sanctions

The competent body for imposing sanctions at the University of Cantabria is the Rector.

Chapter V.

Disciplinary regime



Article 25. Disciplinary measures

The actions of staff and students that are constitutive of harassment in any circumstance within the scope of application of this *Protocol* will be classified and sanctioned in accordance with the applicable regulations depending on which group the person carrying out such actions belongs to.

Article 26. Sanctions

1. The application of sanctions for psychological harassment or bullying, sexual harassment, gender harassment or sexual orientation or gender identity will be in accordance with the specific legislation in force that applies to the responsible parties, taking into account the different regulations to apply depending on which collective of the University of Cantabria they belong to.
2. In accordance with the above, in terms of the sanctioning procedures, for very serious offences the provisions in both the *Estatuto Básico del Empleado Público (Basic Statute of the State Employee)* and in the *Ley de Convivencia Universitaria (Law of University Co-Existence)* will apply.

Article 27. Enforcement of sanctions

Disciplinary sanctions must be enforced within a maximum period of one month from the Rector's resolution. In the case of sanctions against students, when they cannot be applied due to the ending of the academic year, they will be invoked the following year from the moment that registration takes place.

REPEALING PROVISION

The *Protocol* against harassment of the University of Cantabria in force until this moment and approved by the Governing Council of the University of Cantabria in its ordinary session of 12th July 2016 is repealed.

FINAL CLAUSE

This *Protocol for the Prevention and Action against any form of harassment at the University of Cantabria* will enter into force on the day after its approval by the Governing Council of the University of Cantabria.

ANNEXES



APPENDIX I. Situations of harassment: list of cases

By way of example, and not intended to be an exhaustive list of all existing possibilities, below is provided a list of behaviours constitutive of sexual harassment, gender harassment and any other forms of harassment.

Sexual harassment¹

- **Verbal behaviour:** offensive sexual jokes, comments on the physical appearance or sexual condition of the harassed person, obscene sexual comments, questions, descriptions or comments on sexual behaviours, denigrating or obscene ways of addressing people in the work and/or academic environment. Spreading rumours about people's sex lives, communications (telephone calls, emails, etc.) with sexual content of an offensive nature. Behaviours that seek the harassment or humiliation of the working person due to their sexual condition. Invitations or pressure to arrange dates or sexual encounters. Invitations, requests or demands for sexual favours when they are related directly or indirectly to professional career, the improvement of work conditions or the conservation of the work post. Persistent invitations to participate in social or recreational activities, even if the person receiving them has made it clear that they are not wanted or appropriate.
- **Non-verbal behaviours:** use of images, graphics, cartoons, photographs or drawings of sexually explicit or suggestive content. Obscene gestures, wolf-whistles, gestures or inappropriate looks. Letters, notes or email messages of sexual content of an offensive nature. Behaviours that seek to upset or humiliate the working person due to their sexual condition.
- **Physical behaviours:** Deliberate and unwanted physical contact (pinching, touching, unwanted massages, etc.) or excessive or unnecessary physical approximation. Cornering or looking to deliberately be alone with the person unnecessarily way. Touching sexual organs intentionally or "accidentally".

1 Source: Ministry for Equality (Government of Spain).

Gender harassment²

- Discriminatory behaviours due to being a woman or a man. Jokes and comments about people who carry out tasks traditionally undertaken by people of the other sex.
- Use of denigrating or offensive ways to address people of a specific sex.
- Use of sexist humour.
- Ridiculing or despising the abilities, skills and intellectual potential of women.
- Evaluating people's work with scorn, unfairly or in a biased way due to their sex.
- Assigning tasks or work below the person's professional capacity or competences.
- Unfavourable treatment due to pregnancy or maternity.
- Explicit or implicit behaviours aimed at taking restrictive or limiting decisions about the access of the person to or their continuation in employment, professional training, remuneration or any other matter related to their working conditions.

Gender harassment preference or identity

- Any kind of behaviour similar to those listed in the above table, when the motivation is due to the sexual orientation or gender identity of the harassed person.

Psychological harassment or bullying

- Leaving a specific person in their usual context (work, teaching, research or study) on a continuous basis without effective occupation or *incomunicado* with no justifiable cause.
- Demanding disproportionate results from a person, that are impossible to comply with in relation to the material and personal means placed at their disposal.

2 Source: Ministry for Equality (Government of Spain).

- Occupying a person with useless or worthless tasks.
- Taking retaliatory actions against someone who has made complaints or denouncements, or who has collaborated with complainants.
- Repeatedly insulting or belittling any person, repeatedly reprimanding them in front of other people or spreading rumours about their habitual context or about their private life.

Cyberbullying

- **Harassment:** sending denigrating images or videos, tracking using spyware, sending computer viruses, humiliation using videogames or social networks, etc.
- **Denigration:** distribution of information about another person in a derogatory and false way through web advertisements, sending emails, instant messaging, etc.
- **Impersonation:** accessing an email account or social network of another person in order to send or publish compromising material on them, manipulating or usurping their identity.
- **Defamation (*outing and trickery*):** violation of privacy, deceiving someone into sharing or transmitting secrets or confidential information about someone else in order to generate defamatory rumours.
- **Cyberstalking:** Repeated harassment and/or bullying with the sending of offensive, rude and insulting messages, cyberstalking.

Discriminatory behaviour:

Psychological harassment linked to behaviours based on distinguishing factors (age, physical appearance, origin, religious beliefs, political opinions, social status, etc.).

- Judging the performance of tasks in an offensive way.
- Isolating the person in their work, academic and/or professional context.
- Obliging a person in the work, academic or professional context to undertake denigrating tasks, below their qualifications, etc.
- Treating the person as if they do not exist, making their communication with others difficult or preventing it.

- Criticizing their private life, mocking, imitating the working person with the aim of ridiculing them, attacking beliefs, political or religious ideas, attacking their nationality or origin, attacking the reputation of the person through spreading rumours, etc.





Área de Igualdad
y Responsabilidad Social

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