

GATE^{LGBTQIA+} process

Model of Protocol for the Prevention and Response to Gender-Based Violence and Harassment Based on Sexual Orientation, Gender Identity, Gender Expression and/or Sex Characteristics



GATE ^{LGBTQIA}
process
THEORY
Model of
Protocol

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Why having a protocol?

The fact that there is a defined protocol can be important for many reasons, some of them, are:

1. **The process of creating a protocol can serve as a space for reflection, exchange of experiences, and raising awareness.**
2. **It is a way of preventing behaviours perceived as discriminatory, violent or harassing on the grounds of sex characteristics, sexual orientation, gender identity or gender expression in the organisation**
3. **It makes it easier to manage a situation when any of these situations occurs.**

The more participative/collaborative the elaboration of a protocol is, the more effective it will be.

What to include in a protocol?

- ☑ **Objectives:** Why is the protocol published? It is important to mention the main objectives the organisation has when elaborating the protocol.
- ☑ **Basic definitions:** Normally, protocols include the definitions of all the behaviours perceived as discriminatory, violent or harassing on grounds of sex characteristics, sexual orientation, gender identity or gender expression. Giving examples of the definitions included makes people in the organisation easier to identify them.
- ☑ **People or Area/Department responsible:** It should be determined which people or area/department are in charge of ensuring the protocol is respected and of applying the measures needed in case there is a case of gender-based violence or harassment on the grounds of sex characteristics, sexual orientation, gender identity or gender expression in the organisation. It is important to ensure gender diversity in this area.
- ☑ **Mechanisms:** Which would be the procedure if any of the behaviours perceived as discriminatory, violent or harassing on grounds of sex characteristics, sexual orientation, gender identity or gender expression occurs? The Protocol should determine the procedure to be followed and the terms in which the situation needs to be addressed. Some organisations have formal and informal mechanisms or procedures, or only one of them. It is important to list a clear course of action for addressing incidents.

☑ **Cautionary measures:** Some protocols include measures to protect the victim until the incident is addressed.

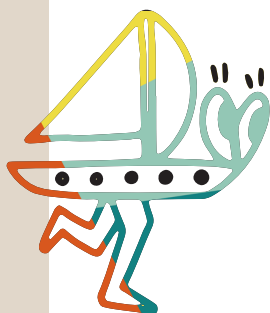
☑ **Reporting form:** It is recommended to include a standard form to be used in the reporting of incidents. This will ensure that all relevant information will be collected in a systematic way. The form could be used by the person/team responsible for handling the reporting process (e.g., in the form of an interview) or it could be available online for the person who wants to report an incident to do so themselves. Each method has its pros and cons: online forms can make it easier to start the reporting process, but might be confusing for the person, leading to important information being left out of the report; interviews on the other hand could facilitate a better collection of information, however, multiple roles and personal relationships may create obstacles for people who wish to report. If possible, offer both options.

Spread it!

Creating a Protocol does not make sense if nobody in the organisation knows about it.

Inform in different and creative ways that the Protocol exists. Create visible dissemination about it, like posters in the corridor. It is important to let new people entering in the organisation know about this document and process, and also other people or organisations working with you.

You could periodically organise an informative workshop, presenting the Protocol to new members, and explaining the process of reporting incidents and handling reports. Training and workshops focusing on gender and sexuality-related issues are of course important complementary actions to the protocol.





EXAMPLE OF
A PROTOCOL

[Name of the organization] considers discrimination, as well as verbal, physical and sexual harassment on the grounds of sex assigned at birth, sexual orientation, gender identity or gender expression, as unacceptable behaviours, and through this protocol, reaffirms its commitment to work on the prevention of and to take clear actions against these behaviours.

This protocol has the following **objectives**:

- | Engage all members of the organisation fully in understanding and promoting gender equality, respect the rights of women and LGBTQIA+ people.
- | Prevent discrimination, violence and harassment based on sexual orientation, gender identity, gender expression and sex characteristics in the organisation
- | Promote the respect of human rights in the organisation.
- | Set clear measures and procedures for reporting and addressing potential incidents of discrimination, harassment and violence.
- | Guarantee the safety, integrity and dignity of the affected persons.

1. Guiding principles

CONFIDENTIALITY: All information related to a person of the organisation being a victim of violence, discrimination or harassment on the basis of gender identity, gender expression, sexual orientation and/or sex characteristics should be kept confidential. This information should not be divulged without the consent of the victim, in order to ensure the protection of the person and avoid revictimization.

DILIGENCE AND CELERITY¹: the process shall be carried out as fast as possible and taking as much sensibility and respect of the rights of each of the people involved as possible. The investigation and resolution of the conflict shall be carried out with diligence and without unnecessary delays, so the procedure can be completed as fast as possible respecting its guarantees.

¹ <https://www.uab.cat/doc/protocol-uab-en>

2. Definitions²

Harassment on the basis of gender identity, gender expression, sexual orientation or sex characteristics

Harassment based on gender identity, gender expression, sexual orientation or sex characteristics is any behaviour carried out on the basis of a person's gender identity, gender expression, sexual orientation or sex characteristics with the purpose or effect of violating their dignity and creating an intimidating, degrading or offensive environment.

Any harassment based on gender identity, gender expression, sexual orientation or sex characteristics shall be considered discriminatory.

In order to appreciate that a situation that can be qualified as harassment for reasons of gender identity, gender expression, sexual orientation or sex characteristics actually occurs in a specific reality, the concurrence of a series of elements that make up a common denominator is required, among which the following stand out:

- a. Harassment, understood as such any intimidating, degrading, humiliating and offensive conduct that originates externally and is perceived as such by the person who suffers it.
- b. Objective attack on the victim's dignity and subjectively perceived as such by the victim.
- c. Multiple-offence result. The attack on the dignity of the person who suffers harassment for reasons of gender does not prevent the concurrence of damage to other fundamental rights of the victim, such as the right not to suffer discrimination, an attack on the psychological and physical health, etc.
- d. That it is not an isolated act.
- e. The motive for these behaviours must be in relation to the victim's real or perceived gender identity, sexual orientation, gender expression, sex characteristics.

The conditioning of a right or expectation of a right on the acceptance of a situation constitutes harassment on the basis of gender identity, gender expression, sexual orientation or sex characteristics shall also be considered an act of discrimination.

² All the definitions were taken from the following web page <https://www.igualdadenlaempresa.es/asesoramiento/acoso-sexual/home.htm>. Check our Gender Glossary infographic for more terms!

Some examples

Attacks with organisational measures:

- 1 Judging the person's performance in an offensive manner, hiding their efforts and abilities.
- 2 Questioning and overruling the person's decisions.
- 3 Not assigning any task, or assigning meaningless or demeaning tasks.
- 4 Denying or concealing the means to perform the work or providing erroneous data.
- 5 Assigning work far beyond or far below the person's competence or qualifications, or requiring much less qualification than the person possesses.
- 6 Orders that are contradictory or impossible to carry out.
- 7 Theft of belongings, documents, work tools, deletion of files from the computer, manipulation of work tools causing harm, etc.
- 8 Threats or pressures to the people who support the harassed person.
- 9 Manipulation, concealment, return of correspondence, calls, messages, etc., of the person.
- 10 Denial or difficulties in accessing permits, courses, activities, etc.
- 11 Retaliation, defined as any adverse treatment towards a person as a result of filing a complaint, claim, or report to prevent discrimination based on sexual orientation and identity, gender expression, or sexual characteristics.

Actions that aim to isolate the addressee:

- 1 Changing the location of the person, separating him/her from his/her peers (isolation).
- 2 Ignoring the presence of the person.
- 3 Not speaking to the person.
- 4 Restricting peers from talking to the person.
- 5 Not allowing the person to express him/herself.
- 6 Avoid all eye contact.
- 7 Eliminate or restrict the means of communication available to the person (telephone, e-mail, etc.).

Activities affecting the physical or psychological health of the victim:

1. Threats and physical aggression.
2. Verbal or written threats.
3. Shouting and/or insults.
4. Frightening phone calls.
5. Provoking the person, forcing him/her to react emotionally.
6. Intentionally incurring expenses to the detriment of the person.
7. Causing damage to the person's workplace or personal belongings.
8. Requiring the person to perform work that is dangerous or detrimental to his/her health.

Attacks on privacy and personal or professional reputation:

1. Manipulating personal or professional reputation through rumor, denigration and ridicule.
2. Implying that the person has psychological problems, trying to get him/her to submit to a psychiatric examination or diagnosis.
3. Making fun of gestures, voice, physical appearance, disabilities, name-calling, etc.
4. The violation of the confidentiality of transgender people who are in the process of sex reassignment
5. Criticism of nationality, political or religious attitudes or beliefs, private life, etc.



Sexual harassment

Any verbal or physical conduct of a sexual nature that has the purpose or has the effect of violating the dignity of a person, in particular when it creates an intimidating, degrading or offensive environment, constitutes sexual harassment.

Any sexual harassment shall be considered discriminatory.

By way of example and without excluding or limiting, the conduct described below could constitute sexual harassment:

Verbal conduct:

- ◇ Alleged sexual advances, propositions or pressure for sexual activity
- ◇ Offensive flirtations
- ◇ Insinuating remarks, innuendoes or obscene comments
- ◇ Unwanted phone calls or social networking contacts
- ◇ Jokes or comments about sexual appearance

Non-verbal behaviours:

- ◇ Display of sexually suggestive or pornographic pictures, objects or writings, gestures.
- ◇ Letters or email or social media messages of an offensive nature and with clear sexual content.

Physical Behaviours:

- ◇ Deliberate and unsolicited physical contact, unwanted hugs or kisses, excessive and unnecessary physical approach.

Sexual harassment or sexual blackmail: consists of forcing the victim to choose between submitting to sexual demands, or losing benefits or being harmed by certain working conditions, affecting access to professional training, continued employment, promotion, remuneration or any other decision in relation to this matter.

Environmental sexual harassment: the harasser creates an intimidating, hostile, degrading, humiliating or offensive environment for the victim, as a consequence of unwanted attitudes and behaviors of a sexual nature. It can be carried out by any member of the company, regardless of position or status, or by third parties located in any way in the work environment.



3. Procedure for action³

3.1 Forming the Investigating Commission

A commission is set up to handle cases of gender-based violence and harassment based on sexual orientation, gender identity, gender expression, and/or sex characteristics. It consists of three people:

[Name, surname, and position]

[Name, surname, and position]

[Name, surname, and position]

In case of absence, substitutes can act:

[Name, surname, and position]

To guarantee the maximum confidentiality of this procedure, the members of this commission will be permanent. The commission will have a duration of four years. They must remain impartial. If there's a conflict of interest, they should abstain, or affected parties can request their recusal.

Ideally, **the commission should be formed by people with training in a gender and sexuality diversity perspective.** The commission can also hire an external expert if needed.

3.2 Starting the Procedure: Complaints

In (ORGANIZATION NAME), [NAME, SURNAME, POSITION] handles complaints. Workers won't be punished for activating the protocol unless it's in bad faith. Complaints are confidential but not anonymous.

Use the email (INDICATE) for complaints, accessible only by the responsible person and commission members. Complaints can also be submitted in a sealed envelope. Each case gets a numerical code for confidentiality.

Upon receiving a complaint, the responsible person informs the management and commission members.

³ This protocol has been elaborated following the model from the "Guía para la prevención y actuación frente al acoso sexual y por razón de sexo en el ámbito laboral" (Instituto de las Mujeres, 2021). Reference: Instituto de las Mujeres. (2021). Guía para la prevención y actuación frente al acoso sexual y por razón de sexo en el ámbito laboral. Retrieved from https://www.igualdadenlaempresa.es/asesoramiento/acoso-sexual/docs/Protocolo_Acoso_Sexual_y_Por_Razon_De_Sexo.pdf

3.3 Preliminary Phase or Informal Procedure

This optional phase aims to quickly and effectively resolve harassment issues. The commission interviews the affected person and possibly the alleged aggressor, and may involve experts.

This phase lasts up to 7 working days. If unresolved, the commission may start a formal investigation. If the victim isn't satisfied with the preliminary solution, the commission proceeds with the formal process.

3.4 The Informative File

If the preliminary phase isn't activated or resolved, a formal investigation begins. The commission investigates by hearing affected persons and witnesses, and gathering necessary documents.

During the investigation, the management may take precautionary measures (as described in art. 4) to stop the harassment, ensuring no permanent harm to work conditions. The commission hears the victim first, then the alleged aggressor, both of whom can have a trusted person accompany them.

An external advisor may be consulted. The investigation concludes with a report on whether harassment occurred, suggesting appropriate actions.

3.5 Resolving the Harassment File

The management of (ORGANIZATION NAME) makes a decision within a maximum of 5 working days based on the commission's findings. The decision is communicated to the victim, the alleged aggressor, and the commission, maintaining confidentiality.

Depending on the findings, the organisation may:

- | Archive the case.
- | Take suggested actions, such as:
 - ◇ Separating the aggressor and the victim.
 - ◇ Sanctioning the aggressor according to company policies, which may include transfer, suspension, or dismissal.

The organisation ensures ongoing vigilance to prevent recurrence and provides support to the victim, including psychological help and possible changes in work conditions with the victim's consent. Training and awareness programs will also be reinforced to prevent and address harassment.

3.6 Mechanism

The mechanisms described here aim to provide solutions such as the correct exercise of authority, protecting the ethical and moral standards of the organisation, and safeguarding the rights of workers, members, and others linked with the organisation. The following aspects must be taken into account in interventions with the assaulted person:

- | **Safety and Care:** Ensure physical and emotional safety and provide patience to help regain trust.
- | **Being Believed:** Validate the victim's experience and acknowledge that what happened is not acceptable in the organisation.
- | **Having a Voice and Empowerment:** Listen to the person, generate options to create a safe and inclusive environment, and support personal empowerment.

Useful questions to ask during sessions with the assaulted person:

- | Who has been harmed? What is the harm? What is causing the harm?
- | What do you need to do to restore the harm? (This may guide the actions to take)
- | What can the responsible person do to restore the damage and re-establish relationships (if desirable by the responsible person)?

3.7 Harassment and violence plan

When it is not possible to establish the facts, the complainant will not be subject to any reprisal, unless the falsehood of the accusations is reliably demonstrated, in which case the appropriate disciplinary proceedings will be initiated.

When the process comes to an end, a series of measures are proposed:

- | **Control and monitoring of the measures proposed** in the binding report will be carried out by the Harassment Commission.
- | **Review of the protocol.** It is advisable to establish beforehand a periodic evaluation of the protocol.

The procedure may result in immediate and precautionary preventive measures to carry out organisational improvements, which reduce or control exposure to the aforementioned risk factors, such as:

- | Measures taken in order to avoid incidents of discrimination, violence and harassment within the association.

- | The Protocol will be made known to all persons joining the organisation including employees, members, volunteers, interns, affiliated persons and beneficiaries.
- | The Protocol will be reviewed regularly when all members meet for capacity building, monitoring and improvement.
- | Training actions will be given to all employees, members, volunteers, interns and affiliated persons of the organisation. The training content will focus on: gender and sexuality diversity, non-violent communication, communication styles, microaggressions in the work environment, etc., in order to prevent situations of discrimination and violence of any degree.

In all cases the mechanisms should protect the victim and have the objective of repairing discrimination/harassment and avoiding revictimization.

3.8 Cautionary measures

Taking into account the circumstances of each case, cautionary measures to prevent contact between the affected person and the reported person (for example: change of schedule, change of workgroup, etc.), as well as to make the accompaniment of the affected person easier, can be adopted.

The adopted cautionary measures do not prefigure in any case the final result of this procedure. Measures that could cause damage of difficult or impossible reparation for the interested people or implying a violation of their rights cannot be adopted.

In any case, these measures expire with the enforcement of the resolution ending the procedure.

Annex: Example of complaint form⁴

Person reporting the facts
First name:
Surname:
ID:
Position:
Type of contract/employment relationship:
Phone:
Email:
Address for notification purposes:
Details of the person who has suffered harassment and/or discrimination (if different from the person filing the complaint)
First name:
Surname:
ID:
Position:
Type of contract/employment relationship:
Phone:
Email:
Address for notification purposes:

⁴ Sources: <https://ofccp-apps.dol.gov/complaint/file-a-complaint>
<https://www.igualdadenlaempresa.es/asesoramiento/acoso-sexual/home.htm>

Details of the aggressor
First name:
Surname:
Professional group/category or position:
Work center (if applicable):
Description of the facts
Date of the incident:
Which was the basis of the discrimination/harassment? (check all that apply)
<input type="checkbox"/> Sexual orientation <input type="checkbox"/> Gender identity <input type="checkbox"/> Gender expression <input type="checkbox"/> Sex characteristics <input type="checkbox"/> Other (open field):
<p>Describe below what you think the person did that you believe caused discrimination or harassment, including:</p> <ul style="list-style-type: none"> • <i>Why you believe those actions were based on your: Sexual orientation; Gender identity; Gender expression; Sex characteristics; or other characteristics related to gender and sexuality.</i> • <i>When (on what dates) the actions happened, where they happened, and who was involved.</i> • <i>What harm, if any, you or others suffered because of the person's actions.</i> • <i>What explanation, if any, the person offered for their actions.</i>

Witnesses and/or evidence

If there are witnesses, indicate their names and surnames:

Attach any means of evidence you consider appropriate
(indicate which ones):

Request

The complaint or denunciation of harassment or discrimination against
(IDENTIFY AGGRESSOR) is considered filed and the procedure foreseen in
the protocol is initiated:

Locality and date:

Signature of the person concerned:

awareness

calm your mind

are you ok?

business

mental health



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