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## **Protocol for the prevention, detection, handling and resolution of cases of sexual harassment and harassment on the grounds of sex, sexual orientation, and gender identity and/or expression**

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Text approved by the Steering Committee of December 21 2020 and modified at 26th July 2021 by the same Committee

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This document is confidential. The document and its content may not be disclosed, disseminated, distributed, copied or used in any way not envisaged in the established scope without the prior express authorization of the UOC.

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## Objectives

The objectives of this Protocol are:

1. To raise the awareness of the entire UOC community and network regarding sexual harassment and harassment on the grounds of sex, sexual orientation and/or gender identity (hereinafter, “harassment”).
2. To lay out the procedures for intervention and support to deal with and resolve any such situations as quickly as possible in accordance with the Protocol.
3. To ensure a professional and academic environment in which people show mutual respect for integrity and dignity.
4. To guarantee the right to fair treatment and confidentiality of the people affected.



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## Scope of application

The temporal and geographical scope and subjects of this Protocol are as established in the [UOC Regulation against sexual harassment and discrimination based on sex, sexual orientation, and gender identity and/or expression](#).

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## Guarantees of conduct

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The intervention procedure established in this Protocol must guarantee:

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### Respect and protection

- All steps shall be carried out with *respect* and *discretion* to protect the privacy and dignity of those affected.
- The people involved may be accompanied during all the phases of the procedure by people they trust from their workplace, by their legal representative or by a workers' legal representative. They may also be accompanied by a representative from the Equality Unit or the Health and Safety Service who was involved in the information and advice phase and is not a member of the Investigation Board.

The number of people that may accompany the parties is based on the specific circumstances of each case.

The immediate manager and those people who may become witnesses and/or be called on as witnesses may not accompany the parties involved.

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### Presumption of innocence

- For the purpose of ensuring that a report or complaint does not necessarily result in penalization of the alleged perpetrator, the latter shall be protected by the fundamental legal right to the presumption of innocence, meaning they shall be considered innocent until proven otherwise.

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### Confidentiality

- The information gathered to investigate complaints shall be classed as confidential.
- The people involved in the process shall be obliged to observe strict confidentiality and privacy, and must not transfer or disclose information on the content of the complaints submitted, resolved or under investigation of which they have knowledge. For this purpose, they sign a confidentiality agreement based on the template included as Appendix 2.
- The person responsible for processing the complaint file assigns alphanumeric codes to both the alleged victim and the alleged perpetrator in order to protect their anonymity.
- Health data are processed in a specific manner and are incorporated into the file only once the express authorization of the affected party has been granted.

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## Guarantees of conduct

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### Right to information

- All the parties involved have the right to: information regarding the process, their rights and responsibilities, the phase of the investigation and, depending on their role within the process, the outcome of the phases.

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### Diligence and speed

- When a process is initiated, information is provided on the deadlines for resolving the various phases in order to ensure speedy resolution of the request for intervention.

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### Fair treatment

- All the parties involved are guaranteed to receive an impartial hearing and fair treatment.
- Everyone who intervenes in the process shall act in good faith for the purpose of ascertaining the truth and clarifying the reported facts.

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### Protection against possible reprisals

- Nobody shall suffer reprisals as a result of their involvement in the process of reporting or intervening in a case of alleged harassment.
- Personal and academic records shall only show the results of complaints that have been investigated and substantiated.

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### Collaboration

- Everyone who is called on to participate in a process is obliged to cooperate, unless the Investigation Board considers that there exist personal or family circumstances that may generate a conflict of interest.

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## Guarantees of conduct

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### Preventive measures

- If, during a process and prior to its resolution, there is evidence of ongoing harassment, the people responsible for the various phases of intervention may suggest to the company management that preventive measures be taken (examples include a change of workstation, reorganization of the work schedule, paid leave, etc.).
- This measure may not have a detrimental effect on the working conditions and/or remuneration of the victim or alleged perpetrator of the harassment, and must be accepted by both these parties.

# Intervention process

## 4.1 Phase 1: Notification and intervention

### 4.1.1 objectives

The objectives of this phase are as follows:

1. Provide information, advice and support to anyone who requests intervention so they may make their own informed decision on whether to proceed to the report and investigation phase (phase 2).
2. If necessary, when the person requesting the intervention decides to activate the report and investigation phase, provide them with advice on how to create the written complaint.
3. In the case of people requesting intervention who complain of other types of conduct not contemplated within the scope of the [UOC Regulation against sexual harassment](#) and discrimination based on sex, sexual orientation, and gender identity and/or expression, refer them to the competent bodies.

### 4.1.2 People requesting intervention

Requests for intervention may be made by anyone who forms part of the UOC community and network<sup>1</sup>, whether they are witnesses to the facts or the person affected.

### 4.1.3 Request for intervention

#### Academic and administrative staff

If the person requesting intervention is a member of the University's academic or administrative staff, the request should preferably be submitted using the tool provided by the University for this purpose (CoResol). This tool can be accessed via the website, via IntraUOC and via the mobile application available on the App Store and Google Apps.

<sup>1</sup> The CoResol tool is currently only available to administrative and academic staff.

## Intervention process

Requests for intervention can also be sent to the mailbox of the Equality Unit ([igualtat@uoc.edu](mailto:igualtat@uoc.edu)) or the Health and Safety Service ([salut@uoc.edu](mailto:salut@uoc.edu)), or submitted to any hierarchical superior, who shall then refer the request to the Equality Unit via the aforementioned email address.

### **Students and alumni**

If the person requesting intervention is a student or alumnus, the request should preferably be submitted to the Equality Unit mailbox ([igualtat@uoc.edu](mailto:igualtat@uoc.edu)). Requests can also be submitted via the Help Service for students, which will forward them to the Equality Unit.

### **Affiliated teaching staff**

If the person requesting intervention is a member of the affiliated teaching staff, the request should preferably be submitted to the Equality Unit mailbox ([igualtat@uoc.edu](mailto:igualtat@uoc.edu)). Requests can also be submitted via the Help Service for teaching staff, which will forward them to the Equality Unit.

### **Contractors and associated organizations**

If the person requesting intervention is the employee of a UOC contractor and/or associated organization, the request should preferably be submitted to the Equality Unit mailbox ([igualtat@uoc.edu](mailto:igualtat@uoc.edu)).

Requests can also be submitted via the mailbox of the Health and Safety Service ([salut@uoc.edu](mailto:salut@uoc.edu)), which will forward them to the Equality Unit.

If the person requesting intervention belongs to two different groups (e.g. if they are both a student and an employee), the request may be submitted via any of the channels contemplated in this section 4.1.2.

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**4.1.4 Information and advice**

The Equality Unit is the department responsible for handling intervention requests and therefore for holding the information and advice sessions with people who submit requests.

**a) Academic and administrative staff**

The information and advice sessions for academic and administrative staff may be held using the tool provided by the University for this purpose (CoResol). In addition to the CoResol sessions, depending on the circumstances of each case, and if considered appropriate, sessions may also be held face-to-face at any UOC premises or online using UOC tools and resources.

**b) Other groups within the University community and network**

The information and advice sessions for other groups of people within the University community and network may be held face-to-face at any UOC premises or online using UOC tools and resources.

The first information and advice session is held within a maximum period of three [3] working days as of the moment the Equality Unit receives the request for intervention, unless the person making the request indicates they would prefer it to be held at a later date.

If the information and advice session is held online using the CoResol tool, it may only take place if the person requesting intervention identifies themselves.

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## 4.2 Phase 2: Report and investigation

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### 4.2.1. Objectives

The objectives of this phase are as follows:

1. Carry out a thorough investigation into the facts expressed in the report.
2. Issue a binding report on whether a case of harassment has occurred.
3. If necessary, propose the adoption of preventive measures.

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### 4.2.2 Reporting

The investigation begins as soon as the affected person submits their complaint. The person who submits the complaint must provide solid evidence to back up their claims of harassment.

The complaint must be made **in writing** using the template attached as Appendix 1. If the complaint is not submitted directly by the affected person, it must include their express informed consent to initiate the measures described in this protocol. The complainant may submit whatever type of proof they have either at the time the complaint is made or subsequently, as long as the Investigation Board has not issued the report referred to in section 4.2.5.

Depending on which group the affected person belongs to, the complaint must be submitted to:

- a) **In the case of academic and administrative staff:** the **Equality Unit** of the **UOC Health and Safety Service**, either in-person or through the relevant email addresses. Complaints can also be submitted using the CoResol tool, available online through IntraUOC and for mobile on the App Store and Google Apps.
- b) **In the case of students and alumni:** the **Equality Unit** via its email address ([igualtat@uoc.edu](mailto:igualtat@uoc.edu)).
- c) **Other groups within the University community and network:** the **Equality Unit** via its email address ([igualtat@uoc.edu](mailto:igualtat@uoc.edu)).

This protocol also applies to complaints submitted to bodies or public authorities external to UOC.

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## Intervention process

Submittal of a complaint implies the agreement of the affected person to cooperate with all the measures needed to investigate the case. If the affected person does not consent to the actions needed to be taken in relation to their case, the competent body in each case shall carry out the necessary procedures and take the appropriate measures.

After receiving a complaint, the **Equality Unit**, or if necessary the **UOC Health and Safety Service**, checks that it contains the minimum required content and, if necessary, that it includes the express informed consent of the affected person if the complaint has not been submitted directly by the same, and forwards it to the Investigation Board.

If the Equality Unit sees that the complaint does not contain the minimum required content, it shall contact the person who has submitted the complaint so they can amend it within the established time period. If this is not done, the complaint shall be filed.

If the Equality Unit sees that the facts described in the complaint do not fall within the scope of this Protocol, it will refer the complainant to the relevant bodies.

If the Equality Unit or the UOC Health and Safety Service receives a complaint directly from the affected person without said person having been given an information and advice session as envisaged in section 4.1.4, the person shall be advised to submit a request for intervention as per section 4.1.3 and to decide whether to proceed with the complaint based on the outcome of this session. Should the person decide not to follow this recommendation, the investigation shall follow its due course.

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### 4.2.3 Investigation Board

The purpose of the Investigation Board is to carefully study all complaints that are submitted, carry out an investigation, issue a binding report on whether or not a situation of harassment has occurred and, if appropriate, make recommendations on the necessary measures, as described in 4.2.5 of this Protocol.

Depending on the group to which the alleged perpetrator or perpetrators belong, the Investigation Board shall have the following members:

1. In the case of **academic and administrative staff**, the Board shall consist of:
  - One member of the Equality Unit.
  - One member of the Health and Safety Service.

## Intervention process

- The psychologist or external specialist in sexual harassment on the basis of sex, sexual orientation and/or gender identity.
- A labour relations specialist.
- A lawyer from the Legal Office.

2. In the case of **students and/or alumni**, the Board shall consist of:

- One member of the Equality Unit.
- A member of the Help Service for students.
- The psychologist or external specialist in sexual harassment on the basis of sex, sexual orientation and/or gender identity.
- A specialist with experience in students' affairs from the Office of the Vice President.
- A lawyer from the Legal Office.

3. If the alleged perpetrator belongs to **other groups within the University community and network**:

- One member of the Equality Unit.
- A member of Procurement
- The psychologist or external specialist in sexual harassment on the basis of sex, sexual orientation and/or gender identity.
- A member of the affiliated team.
- A lawyer from the Legal Office.

The members of the Investigation Board must abstain or shall be prevented from sitting if they are affected by any of the following circumstances:

- a) Having a personal interest in the matter being investigated.
- b) Being related within the fourth degree of consanguinity or affinity to any of the parties to the conflict or any of the advisors, legal representatives or proxies involved in the process.
- c) Having a close friendship with or manifest animosity towards any of the people mentioned in the previous section.
- d) Having intervened as an expert or witness in the process being investigated.

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## Intervention process

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The Board in charge of the investigation shall carry out the following tasks:

1. Analyse the complaint and the attached documents.
2. Interview the person or people who have made the complaint.
3. Interview the alleged perpetrator or perpetrators.
4. Interview any possible witnesses and other staff members who may have relevant information (and inform them of the need for confidentiality throughout the process).
5. If necessary, assess whether any preventive measures should be taken, which can then be adopted by the competent body depending on which group the person belongs to.
6. Issue the final binding report.
7. Follow up complaints that have been resolved and the measures adopted in each case.

For the interviews, the Investigation Board appoints one or more interviewers from among its members. For each complaint, it also appoints a secretary and case manager from among its members.

The agreements of the Investigation Board are by absolute majority and minutes are taken of all its meetings.

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### 4.2.4 Investigation phase

In this phase, the Investigation Board must plan and design the investigatory measures to be carried out. The measures for investigating each case must include the following:

**a) Statement by the parties:**

Firstly, a statement must be received by the complainant, after which the alleged perpetrator must immediately be given a date and time on which they are called to appear.

In this meeting, the chosen member of the Investigation Board must inform them of the acts of which they are accused, of the body responsible for the investigation, and of their rights.

If the alleged perpetrator states that they wish to be accompanied by a third party, the meeting must be postponed until the established day and time. The investigation shall follow its course even if the alleged perpetrator refuses to give a statement.

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**b) Witness statements:**

After the statements by the parties, statements must be given by the witnesses. For this purpose, the appointed member of the Investigation Board must give the witnesses a date and time when they are called to appear.

**c) Expert opinions:**

If the Investigation deems it to be appropriate, the relevant expert opinions shall be requested.

The interviewers appointed by the Investigation Board must formally call the parties and witnesses to give their respective statements.

These statements may be given at any of the premises of the UOC or its group companies in accordance with the needs and circumstances of each case.

Statements may be given in person or online using UOC tools and resources.

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**4.2.5 Creation of the final report**

The investigation process is concluded with a binding report that sets out the conclusions reached and, if necessary, proposes the corrective measures considered to be appropriate.

The Investigation Board must issue this report within a maximum period of thirty working days from the receipt of the complaint, or from the notification in the event that the complaint has been submitted to bodies or public authorities external to the UOC, which must include at least the following elements:

- a) The identity of the person who has submitted the complaint.
- b) The identity of the alleged victim(s) of the harassment and of the alleged perpetrator(s).
- c) The names of everyone who has taken part in the investigation and in creating the report.
- d) The background to the case, the complaint, and the circumstances.
- e) Other information: evidence, summary of the main facts and the measures taken. When witness statements have been given, in order to guarantee the confidentiality of the witnesses, the summary of this point must only include the substantiated facts without mentioning the identity of the person who gave the statement.

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## Intervention process

- f) Any aggravating circumstances:
- i) The alleged perpetrator has been responsible for other previous acts of harassment.
  - ii) The harassment has been directed at two or more victims.
  - iii) The alleged perpetrator is proven to have intimidated or taken reprisals against the victim.
  - iv) The alleged perpetrator has decision-making power over the victim's employment conditions.
  - v) The victim has a disability of any type.
  - vi) The victim has suffered serious physical or psychological consequences that have been accredited by a doctor.
  - vii) The victim, witnesses or people from their work or family environments are pressurized or coerced for the purpose of avoiding or hampering the investigation being carried out.
- g) Conclusions, which may be one of the following:
- 1) The claim of sexual harassment (as defined in this protocol) is substantiated, and measures aimed at prevention and/or redress are proposed, if appropriate.
  - 2) No proof of sexual harassment (as defined in this protocol) is found, and measures aimed at redress are proposed, if appropriate.

The Investigation Board informs the complainant and the alleged perpetrator of the outcome of the final report, and a copy is sent to the competent academic and/or administrative department so that, as applicable, they may either close the case or apply any disciplinary measures or penalty

The Investigation Board is responsible for managing and storing all the documents created in this phase while ensuring their confidentiality.

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### 4.3 Phase 3: Applicable disciplinary measures

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#### Academic and administrative staff

After reading the final report issued by the Investigation Board, the director of the department responsible for labour relations in the UOC shall proceed to:

- Open a disciplinary file against the alleged perpetrator, in accordance with the provisions of the Collective Bargaining Agreement, if there is sufficient substantiated evidence that they are responsible for a situation or conduct representing harassment as defined by the UOC Regulation against sexual harassment and discrimination based on sex, sexual orientation, and gender identity and/or expression. If necessary, it may also adopt corrective organizational measures (such as a change of workstation or centre) or measures focused on the individual (psychological mentoring, training or coaching).
- File the complaint against the alleged perpetrator in the event that there exists no sufficiently substantiated evidence of a situation or conduct representing harassment as defined by the UOC Regulation against sexual harassment and discrimination based on sex, sexual orientation, and gender identity and/or expression. If necessary, it may also adopt corrective organizational measures (such as a change of workstation or centre) or measures focused on the individual (psychological mentoring, training or coaching).

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#### Students and alumni

After reading the final report issued by the Investigation Board, the Vice President in charge of academic regulations:

- Opens a disciplinary file against the alleged perpetrator, in accordance with the provisions of the UOC Regulations on student rights and duties and the disciplinary regime, if there is sufficient substantiated evidence that they are responsible for a situation or conduct representing harassment as defined by the UOC Regulation against sexual harassment and discrimination based on sex, sexual orientation, and gender identity and/or expression. If necessary, they may also adopt provisional organizational measures (such as a change of classroom or exam sitting) or measures focused on the individual (such as psychological mentoring, training or coaching).

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## Intervention process

- Files the complaint against the alleged perpetrator in the event that there exists no sufficiently substantiated evidence of a situation or conduct representing harassment as defined by the UOC Regulation against sexual harassment and discrimination based on sex, sexual orientation, and gender identity and/or expression. If necessary, they may also adopt provisional organizational measures (such as a change of classroom or exam sitting) or measures focused on the individual (such as psychological mentoring, training or coaching).

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### **Affiliated teaching staff**

After reading the final report issued by the Investigation Board, the director of the department responsible for affiliated teaching staff management shall arrange the termination of the service provision contract and the immediate replacement of the alleged perpetrator on the course they teach, if there is sufficient substantiated evidence that they are responsible for a situation or conduct representing harassment as defined by the UOC Regulation against sexual harassment and discrimination based on sex, sexual orientation, and gender identity and/or expression.

If necessary, they may also adopt provisional organizational measures (such as a change of group or classroom) or measures focused on the individual (such as psychological mentoring, training or coaching).

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### **Contractors and associated organizations**

After reading the final report issued by the Investigation Board, the person in charge of the contract, or the department, etc. that arranged the agreement, shall demand that the contractor or partner organization provide an immediate replacement for the alleged perpetrator on the work team assigned to the execution of the contract or project, if there is sufficient substantiated evidence that they are responsible for a situation or conduct representing harassment as defined by the UOC Regulation against sexual harassment and discrimination based on sex, sexual orientation, and gender identity and/or expression.

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## Intervention process

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### **Referral to the Attorney General**

If an investigation involving any of the groups reveals reliable evidence of what may be considered criminal conduct, the Institution shall refer to case to the Office of the Attorney General after informing the affected person.

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### **Suspension of the investigation and/or application of the corresponding disciplinary measures**

In the event that a situation subject to internal investigation also becomes the subject of criminal proceedings, the Investigation Board and/or competent body, depending on the group to which the alleged perpetrator belongs, shall agree to suspend the investigation and/or application of the corresponding disciplinary measures (although without this impeding the application of corrective measures) pending a final court ruling that concludes such proceedings.

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### **4.4 Follow-up and assessment**

Regardless of whether the investigation results in the application of the corresponding disciplinary measures, the Equality Unit must carry out a follow-up and assessment of the situation of the person who submitted the complaint.

For this purpose, the Investigation Board must hold an ordinary meeting at least once every three months.

If, as a result of this follow-up and assessment, new evidence arises, the Equality Unit may call on the Investigation Board to review said evidence and decide how to proceed.

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## Calculation of deadlines

When deadlines are set by days, it is understood that these are skillful. Saturdays, Sundays, public holidays and the month of August are excluded from the calculation.

The deadlines expressed in days must be counted from the day after the day on which the notification or publication of the act in question takes place.

When the last day of the term is not a working day, it must be considered extended to the next working day.

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# Appendix

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## Appendix I. Complaint form

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## Appendix II. Confidentiality agreement

(\*) *Mandatory fields*

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## A. Details of the alleged perpetrator

First name and surname(s) (\*):

ID card (DNI) No.:

Contact telephone:

Email address:

Group to which they belong<sup>1</sup>(\*):

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## B. Details of the reporting person

First name and surname(s) (\*):

ID card (DNI) No.:

Contact telephone:

Email address:

Group to which they belong<sup>2</sup>(\*):

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## C. Description of the facts

*(description of the incident or incidents that have motivated the complaint)*

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<sup>1</sup>Students, administrative staff, teaching and research staff, alumni, affiliated teaching staff, provider or partner organization.

<sup>2</sup> Students, administrative staff, teaching and research staff, alumni, affiliated teaching staff, provider or partner organization.

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**D. Supporting documents** *(if there are any documents to substantiate the facts, these must be listed and attached to this complaint form).*

1. Document 1:

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2. Document 2:

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3. Document 3:

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**E. Witnesses** *(if there are any witnesses to the facts, their name, surname(s) and email address must be given)*

1. First name and surname(s): \_\_\_\_\_ Email address: \_\_\_\_\_

2. First name and surname(s): \_\_\_\_\_ Email address: \_\_\_\_\_

3. First name and surname(s): \_\_\_\_\_ Email address: \_\_\_\_\_

4. First name and surname(s): \_\_\_\_\_ Email address: \_\_\_\_\_

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**I REQUEST** the initiation of the investigation process established in the UOC Protocol for the prevention, detection, handling and resolution of cases of sexual harassment and harassment on the grounds of sex, sexual orientation, and gender identity and/or expression.

Signed,

First name and surname: \_\_\_\_\_ Place and date: \_\_\_\_\_

If the complaint is not submitted directly by the affected person, it must include their express informed consent to initiate the measures described in this protocol.

I authorize,

First name and surname: \_\_\_\_\_ Place and date: \_\_\_\_\_

File no.: \_\_\_\_\_

Mr/Ms \_\_\_\_\_, of legal age, with National ID Document No. \_\_\_\_\_, acting herein as \_\_\_\_\_, in the above-referenced investigation procedure, in accordance with the provisions of the UOC Protocol for the prevention, detection, handling and resolution of cases of sexual harassment and harassment on the grounds of sex, sexual orientation, and gender identity and/or expression, knows and accepts that:

- His/her participation in the process shall confer the right to know the phase of the investigation and, in virtue of his/her participation, the result of each phase.
- His/her participation in the process must be based on good faith and the will to establish the truth and clarify the reported facts.
- As a participant in the process, he/she is obliged to cooperate with the Investigation Board.
- If he/she is a member of the Investigation Board, he/she must inform said Board of the existence of any of conflicts of interest envisaged in section 4.2.3 of the Protocol.
- His/her personal data shall be processed under the responsibility of the UOC for the purpose of managing the UOC Protocol for the prevention, detection, handling and resolution of cases of sexual harassment and harassment on the grounds of sex, sexual orientation, and gender identity and/or expression process in which he/she is participating.
- The grounds for this processing are the legal obligation established in Law 31/1995 of 8 November on occupational risk prevention, and the implementation of a process conducted in the public interest as envisaged in Organic Law 3/2007 of 22 March on the effective equality of women and men.
- The personal data processed during the process may be notified to the Office of the Attorney General, to the courts, and to State law enforcement bodies.

The data shall be stored for the time needed to fulfil the indicated purpose and to determine any possible liability arising from said purpose and from the data processing.

- Any individual may exercise their right to access, rectification, erasure and portability of their data, to limit or object to the processing, and to not be subject to decisions based solely on automated processing of their data, when necessary, by notifying the UOC via the email address [fuoc\\_pd@uoc.edu](mailto:fuoc_pd@uoc.edu), under the subject "Data Protection"

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Furthermore, the undersigned undertakes:

1. To maintain the strictest confidentiality, privacy and impartiality towards the parties during the entire investigation process.
2. Not to convey or disseminate information on the content of the complaints, whether submitted, resolved or under investigation, of which he/she has knowledge, or any other information, regardless of the format in which it is contained, to which he/she may have access as a result of his/her involvement in the process.

Therefore, more specifically, he/she undertakes to fulfil the following obligations:

1. To guarantee personal dignity and the right to privacy throughout the process, as well as equal treatment for women and men.
2. To guarantee the confidential processing of and the most absolute discretion in relation to information regarding situations that may constitute sexual harassment or harassment on the grounds of sex, sexual orientation, and/or gender identity, and also in relation to any other relevant aspect that may be dealt with during the process.
3. To guarantee the strictest secrecy and confidentiality in relation to the content of the complaints submitted, resolved or under investigation of which he/she has knowledge, as well as ensuring compliance with the duty on the part of the other people taking part in the investigation not to convey or disseminate any type of information.

The UOC reserves the right to take legal and, if appropriate, any disciplinary measures it deems appropriate in the event of breach of the commitments and obligations established in this document.

Signed,

First name and surname(s): \_\_\_\_\_ Date: \_\_\_\_\_

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