



PROTOCOL FOR THE PREVENTION OF HARASSMENT IN A WORK ENVIRONMENT



Fundación Biofísica Bizkaia
Biofísica Bizkaia Fundazioa



Fundación Biofísica Bizkaia
Biofísica Bizkaia Fundazioa

CONTENT

- A. IDENTIFICATION, MONITORING AND CONTROL OF THE PROTOCOL FOR THE PREVENTION OF HARASSMENT IN A WORK ENVIRONMENT
- B. DECLARATION OF PRINCIPLES
- C. PURPOSE
- D. SCOPE OF APPLICATION
- E. LEGAL FRAMEWORK
- F. DEFINITIONS
- G. MANAGEMENT COMMITTEE
- H. EXECUTION PROCEDURE OF THE PROTOCOL
- I. ANNEXES TO THE HARASSMENT PREVENTION PROTOCOL
 - ANNEX A: Communication model
 - ANNEX B: Resolution model once communication received



A. IDENTIFICATION, FOLLOW-UP AND CONTROL OF THE PROTOCOL FOR THE PREVENTION OF HARASSMENT IN A WORK ENVIRONMENT

1. Approval of the Harassment protocol in work environment

TITLE	Protocol for the Prevention of sexual harassment		
Version	1	Annuity	2021
Approved by	Directorate Management Committee for Equality	Date of Approval	19/11/2021

2. Bodies where this Protocol is of application

Company Name	Fundación Biofísica Bizkaia/Biofísica Bizkaia Fundazioa
Fiscal ID	G-95453775
Address	Instituto Biofísica, Barrio Sarriena s/n, 48940, Leioa, Bizkaia

3. Follow-up and control

VERSION HISTORY		
Version	Annuity	Summary of amendments made
1	2021	Protocol for the Prevention of sexual harassment

4. The protocol distribution list

Version	Staff/Position/Team	Date
1	Directorate Management Committee for Equality Personnel	



B. DECLARATION OF PRINCIPLES

The Fundación Biofísica Bizkaia/Biofísica Bizkaia Fundazioa (hereon the FBB), in their endeavour to safeguard the dignity of all their workers, commits to create and keep a respectful environment with personal dignity and freedom. One of the clearest manifestations of real inequality still in our society is the presence of any alleged harassment at work. This phenomenon, furthermore, undermines a significant amount of fundamental core personal rights: freedom, intimacy and dignity, non-discrimination on grounds of gender, safety, health and physical and moral integrity.

We are aware that workplace harassment has become a social phenomenon which, to a greater or lesser extent, is present in all the professional activities, affecting a large number of workers.

As we all know, the negative effect of violent behaviour, particularly workplace harassment behaviours, may have as well as a direct impact on the workers' health and safety, also an impact on the companies themselves, generating toxic organisations, increasing economic costs due to absenteeism and deficient performance.

The FBB commits to eliminate all situations of this kind in the work relationships by means of a procedure that enables to solve the claims with due guarantees, based on the legal regulations in force.

The FBB commits to ensure the confidentiality of the cases that may arise, as well as the protection to all workers.

C. PURPOSE

The purpose of this Protocol is to define the guidelines that enable to identify a harassment situation, with the sole purpose to eradicate this kind of behaviours, taking as fundamental objectives:

The objectives of this Protocol are:

1. Reporting, training and raising awareness in all staff members regarding sexual and gender-based harassment.



2. Having available an intervention and accompanying procedure so as to address and solve these situations promptly and within the time period set in the Protocol.
3. Ensuring there is a workplace environment where women and men respect each other's integrity and dignity.
4. Establishing the necessary preventive measures to avoid harassment situations to happen.
5. Ensuring the affected individuals have the rights to fair treatment and confidentiality.

Implementing a protocol may serve to inform and train the workers and the company Heads on which these behaviours are. This enhanced information and training on harassment will contribute towards discovering and preventing these behaviours at an earlier stage.

Therefore, the protocols aim at establishing a procedure of action in the companies, when a worker detects or considers being target of sexual harassment, gender-based harassment, discriminatory or moral, and so they enable to act and clarify the presence of an alleged harassment and to take the appropriate measures and to have available the necessary means to cope with the problem and avoid recurrence.

D. SCOPE OF APPLICATION

The protocol will be disseminated throughout the company and will be of application to all the workers. This protocol will be applied to all FBB workers regardless of the kind of work relationship: workforce, external staff, trainees, part-time workers, or staff that works for a company without any kind of distinction to this avail. The protocol extends not only to headquarters but also to locations assigned to conduct the company's activity.

The company's responsibility covers both the protection of the company personnel in case of harassment behaviours occurred among people from the company or by external individuals and also of external individuals linked to the company, even though there is no working bond with the company.



E. LEGAL FRAMEWORK

- Directive 2006/54/CE of the European Parliament and the Council, dated the 5th of July 2006, on the application of the principle of equal opportunities and equal treatment among men and women in matters of employment and occupation.
- Community Code of Conduct to fight against sexual harassment dated the 27th of November 1991.
- Spanish Constitution.
- Organic Law 10/1995 dated the 23rd of November, of the Criminal Code.
- Organic Law 3/2007 dated 22nd of March, for effective equality of women and men.
- Law 31/1995, dated 8th of November, on Labour Risks prevention.
- Royal Legislative Decree 2/2015 dated the 23rd of October, by which the amended text of the Law on Workers' Statutes is approved.
- Royal Legislative Decree 5/2000, dated the 4th of August, by which the amended text of the Law on Labour Infringements and Sanctions is approved.
- Royal Decree-law 6/2019, dated the 1st of March, on urgent measures to ensure the equal treatment and opportunities among women and men in employment and occupation.
- Royal Decree 901/2020, dated the 13th of October, by which the equality plans are ruled and their record.

F. DEFINITIONS

The concepts and definitions of harassment conducts reflected in the protocols may in no case be more restrictive than those established in the legal standards.

Gender-based harassment in the workplace

It is an unwanted behaviour (continuous and systematic) related to a person's gender in the event of accessing paid work, being promoted in a job post, employment or training, with the aim of harming the person's dignity and of creating an intimidating, hostile, degrading, humiliating or offensive environment.

It may occur among men or women co-workers (horizontal harassment) or between managers and subordinate women or men (vertical harassment).

As example, and without intention of excluding or limiting, the behaviours liable to be considered of gender-based harassment, among others are:

- Having complacent or patronising attitudes.
- Name calling based on gender and/or sexual orientation of the worker.



- Having gender-based discriminatory behaviours.
- Using offensive ways to address a person.
- Ridiculing, scorning the capacities, skills and the intellectual potential of a person based on gender.
- Using sexist humour.
- Ignoring a person's contributions, comments or actions based on gender.
- Sexual blackmailing based on gender.
- Environmental harassment based on gender.

Sexual harassment at work

It is all unwanted, verbal, non-verbal or physical behaviour (even though it has not occurred repetitively or systematically) of sexual nature, which aims against the dignity of a person or creates an intimidating, hostile, degrading, humiliating offensive or disturbing environment.

It may occur among men or women co-workers (horizontal harassment) or between managers and subordinate women or men (vertical harassment).

As example, and without intention of excluding or limiting, the following behaviours are considered to have evidence of being sexual harassment behaviour:

- Disseminating rumours, questioning or explaining details on a person's sexual life and sexual preferences.
- Making obscene comments or jokes.
- Making rude comments on the body or physical appearance.
- Offering or pressuring to go on compromising dates or participating in unwanted playful activities.
- Making demands for sexual favours.
- Making lascivious looks at the body.
- Making obscene gestures.
- Using graphics, cartoons, drawings, photographs or Internet pictures with sexually explicit content.

Moral harassment at work

In broader terms, but only partially referred to the harassment which has a discriminatory motive, as in these cases the standards derive from the European directives on equal treatment.



Fundación Biofísica Bizkaia
Biofísica Bizkaia Fundazioa

Given the similarity of these concepts in relationship with other European regulations on moral harassment, it could be concluded that this behaviour is defined as *“any behaviour with the purpose or effect of violating his/her dignity and creating an intimidating, degrading or offensive environment”*.



G. MANAGEMENT COMMITTEE

Appointment of Management Committee

In Leioa, on of of 202.....

The governing body, of the Fundación Biofísica Bizkaia/Biofisika Bizkaia Fundazioa (hereon, the FBB), aiming at facilitating the development and implementation of this Protocol for the prevention of harassment in a work environment, appoints a MANAGEMENT COMMITTEE which will be assigned the main function of carrying out the correct implementation of this Protocol, being entrusted, by way of example but not limited to, the following functions:

1. Implementing and executing the compliance procedures, following the guidelines set by the FBB Commission for Equality.
2. Starting up a communication channel "Communication Channel".
3. Disseminating the Protocol, the corporate culture and principles.
4. Cooperating with the rest of the company members in drawing up the processes and later the communications analysis.
5. Transmitting relevant information to the governing body.
6. Contributing to the identification of risk situations in the company.

As proof of conformity, I sign this document and to a sole effect, at the place and date indicated on the header.

Management Committee Responsible

Fundación Biofísica Bizkaia/

Biofisika Bizkaia Fundazioa

Name and surnames
Signature:

Stamp



H. EXECUTION PROCEDURE OF THE PROTOCOL

Detecting sexual harassment and abuse consists in recognising or identifying a possible abuse or harassment situation. The detection is the first condition to be able to intervene in these cases and in this way provide the help to the victim that suffers the problem, in order to guarantee their rights to a claim and confidentiality, the following Procedure of Action is established.

Using the Protocol does not impend the parallel or later use of administrative or judicial channels.

THE COMMITTEE'S BASIC WORKING STANDARDS

All the Management Committee's proceedings will be documented in writing, all the minutes of the Committee meetings will be drawn up.

If there are statements or testimonies to be included, they will have to be undersigned by those who have drawn them up.

The documents that make up the investigation will be coded, so that the involved people's intimacy is preserved.

The execution procedure of the protocol will be divided in the following phases:

A. PRELIMINARY PHASE: Communication

The purpose of this phase is to inform, advise and accompany the harassed person and prepare the internal complaint and investigation.

The complainant must address the Foundation's Management Committee considered neutral, by means of the channels made available by the company (see Communication Channel), via a written document (see Annex A) in which what must be stated is the data of who is submitting the claim (the claim cannot be anonymous), the person or people denounced and a description of the harassment situation. As per Organic Law 3/2007, and the Directive 2006/54/CE, who presents the claim should only provide suspicions based on discriminatory proceedings.





What must be included in the harassment written notification document?

What facts and actions are contemplated as part of workplace harassment?

- The facts and actions contemplated as part of workplace harassment.
- The applicant's signature

In all the assumptions in which the application is conducted by a person other than the alleged victim or victims, its content must be evidenced by that person, unless the communication is conducted by the protocol Management Committee.

Once the Management Committee has proof of the written notification, a brief period of time will be opened before starting the mediation phase (phase 2), the Management Committee will encourage the attempt to reach an informal solution. This action could be based on a dialogue between both affected parties attended by the Heads of units and/or of the workers or by other proceedings that entail the best solution.

Who can conduct the organisational communication?

Who can lodge a complaint for harassment in the workplace is:

- The person affected of the FBB.
- All woman/man worker that has knowledge of behaviours of harassment in the workplace to other men or women workers.



COMMUNICATION CHANNEL

The Fundación Biofísica Bizkaia/Biofisika Bizkaia Fundazioa (hereon, the FBB) in its organisation and management model, has set up a Communication Channel to have preventive efficiency and enable to detect actions or behaviours that may go against the organisation's protocols and own labour relationships.

The Communications Channel has been set up to enable all the members forming part of our organisation to make known any harassment situation to the Management Committee.

The FBB ensures the confidentiality, anonymity and absence of retaliations of any kind or negative consequences against the person who made known the events, unless the internal investigation determines the complaint is false or has been made with reckless disregard to the truth, bad faith or abuse of right. The data will be kept in the system solely for the time necessary to make the inquiries on the events being denounced. In any case, once three (3) months have passed since the personal data was entered, the FBB will proceed to delete it from the system. If it were necessary to keep the information to continue the investigation, our organisation may continue processing their data in a different environment which legally corresponds.

The following means will be provided to communicate with the Protocol Management Committee via this **ANNEX A** Model:

- By the channel provided for it via the electronic mail cg_fbb@biofisica.es



B. MEDIATION PHASE: Internal communication and investigation:

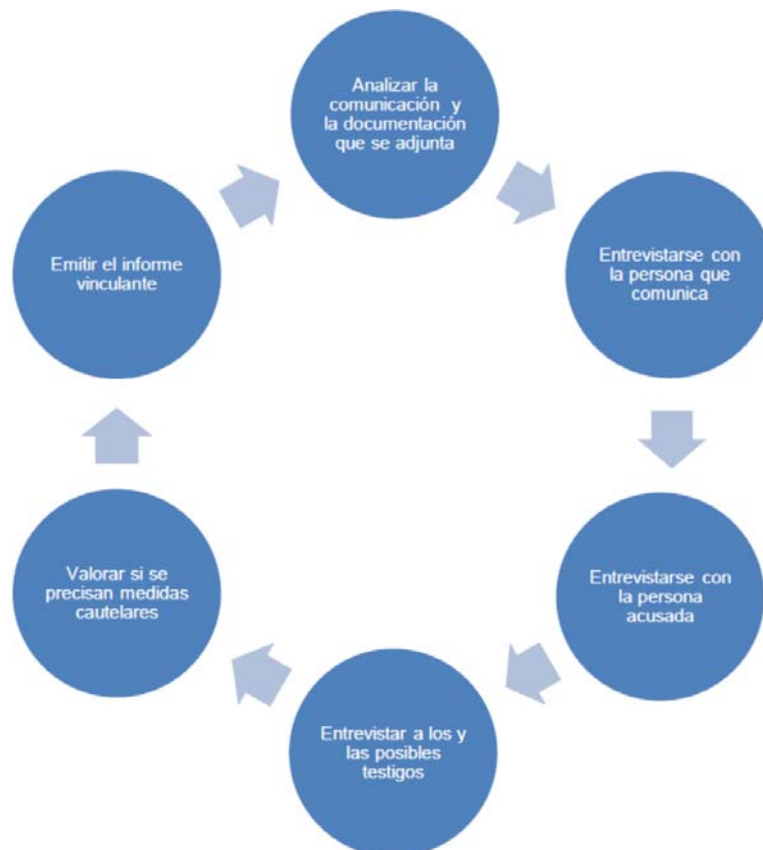
The purpose of this phase is to thoroughly investigate the events so as to issue a binding report on the existence or not of a harassment situation, as well as to propose intervention measures.

The investigation will start from the complaint lodged by the affected person. The person lodging the complaint only must provide indications that support the harassment situations, and it is the person alleged of harassing to give proof of their absence by including the procedural principle of reversal of the burden of proof.

The people intervening in the procedure have the obligation of keeping strict confidentiality and reserve, and they must not transmit any information to outside third parties.

To these effects, an Investigation Committee is created, that, depending on the case, could be integrated by the same Management Committee members, or, if deemed appropriate by other people, namely, an Investigation Committee created ad hoc for each of the complaints/communications if applicable.

The Protocol Investigation Committee will have as main functions:





C. RESOLUTION PHASE: Corrective measures

If necessary, from the start and until the procedure is closed, once the suspicions of the existence of harassment are verified, it may be determined as a precaution to separate the victim from the alleged person harassing them, as well as other precautionary measures deemed appropriate.

These measures, in no case will mean a prejudice to the victim or adverse work conditions, nor substantial changes of them.

As per the binding report drawn up by the Investigation Committee, the FBB board and management will issue a resolution of the case. This resolution will be issued no more than 20 working days from the start of the procedure, extendible to up to 30.

If there is enough proven evidence of the existence of a harassment situation:

Initiation of a sanctioning proceeding due to a proven situation of harassment and adopting the corrective measures (organisational measures, such as change of job position and, if applicable the opening of a sanctioning proceeding, stating the misconduct and the level of the penalty).

If there is not enough proven evidence of the existence of a harassment situation:

- The complaint will be filed.
- In the resolution what must be stated is the identifying data of the complainant and the person denounced, the cause of the complaint and the facts ascertained.
- An authenticated copy of the resolution must be sent to the complainant and the person denounced.
- If there is evidence resulting from the conducted investigation that any other misconduct has been committed other than harassment that may be classified in the regulations in force or in the agreement/s applied (such as false complaint, among others) a disciplinary proceeding will be launched if applicable.

Likewise, whether the proceeding ends in sanction or not, work status of the person who lodge the complaint will be checked to review their current conditions.

Next, the Flow Chart of Actions for the prevention and approach in case of harassment is shown, where the two possible resolution channels are seen, as well as the distinct phases of the internal channel.

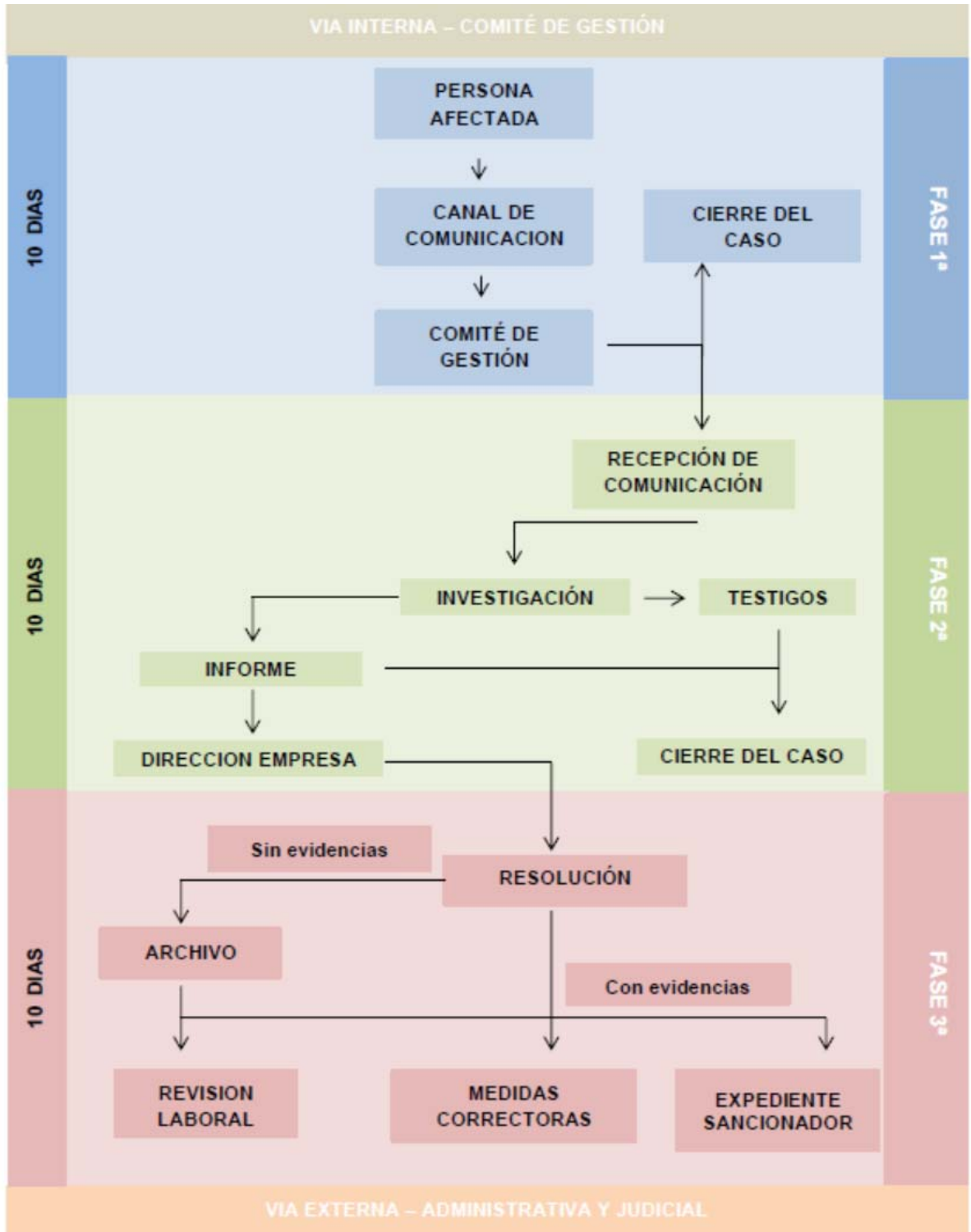


D. FOLLOW-UP AND EVALUATION PHASE

The Management Committee will conduct the follow-up mechanisms of the Protocol. The committee will hold regular meetings (once or twice a year) to which among others, the following will be the participants, the company Management, the reference person, the people who integrate the management Committee, the legal representative of the workers, etc.

The control and follow-up of the proposed measures in the binding report will be conducted by the management committee that will duly inform of it to Management and will establish the end of the process.

In advance, a regular evaluation of the protocol will be established. In any case, it may undergo amendments, based on proposals made by the Management Committee, the company or the social representation. These amendments will be agreed on among the Management Committee, the Equality Commission and Management.





E. PROCEDURE GUARANTEES

The confidentiality of the communication:

The communication content must always be confidential and to maintain to the greatest extent such character it must not form part of the procedure. The initiation of the procedure is decided by the competent body created to this avail leaving the complaint or the prior communications placed out of the procedure and out of the scope of the decisions that will be taken on the hearings of the interested parties on the internal or even the legal channels. In any case, so as not to cause breach of right of defence to the alleged author of the harassment behaviour, he/she must be sufficiently informed on the case against him/her.

The confidentiality of the procedure:

Overall, the process must be confidential and must only be accessible to the people directly involved. The interested parties have the right to know the facts and circumstances that are stated in the procedure and to know the decisions taken concerning them and their grounds, but they can only have access to the prior communications, if there is prior consent from the person who has filed them. All the people who may have participated in any of the protocol phases will be demanded the duty of secrecy. The protection of the right to intimacy will also be guaranteed and that the personal data processing generated in the procedure will be ruled by what is set in the data protection regulations in force.



Fundación Biofísica Bizkaia
Biofisika Bizkaia Fundazioa

I. ANNEXES OF THE HARASSMENT PREVENTION PROTOCOL



ANNEX A: Communication Model

(**) DATA OF WHOM NOTIFIES

(**) Name and Surnames:
(**) ID Card No.:
(**) Telephone:
(**) Email address:

Approximate date of the events:
Date of the communication:

DESCRIPTION OF THE FACTS (Place, people involved...)

The Foundation informs that the personal data you provide in this registration form will be processed by the Foundation as responsible for the treatment.

The purpose of collecting and processing personal data: Only to manage the communication made.

Legitimation: The interested party's consent.

Deadlines for storage: when the reason for it ends the organisation will keep their personal data blocked during the legal or claim limitation periods. Once the legal limitation periods are over, we will destroy their data.

Recipients: Data will not be forwarded to third parties unless legally mandatory.

Rights: You may exercise the rights to access, rectify, limit and erase the data to the following email address fbiofisica@fbiofisica.es, as well as the right to present a claim before a control authority.

Additional information: You may check the additional and detailed information on Data Protection on our web page: www.biofisika.org, or if you wish, you may contact our organisation by email fbiofisica@fbiofisica.es

Signature:

* *Communication channel to send this document: cg_fbb@fbiofisica.es*

** *It is not compulsory to fill in, if you wish to remain anonymous.*



ANNEX B: Resolution Model once communication received

Modelo de resolución ante la comunicación de indicio o sospecha de situación de acoso			
FECHA DE RECEPCIÓN DE LA COMUNICACIÓN		Nº DE EXPEDIENTE	
ANÁLISIS DE FIABILIDAD DE QUIEN COMUNICAY VERACIDAD DE LA INFORMACIÓN			
MEDIDAS DE URGENCIA LLEVADAS A CABO			
VALORACIÓN SI RESULTA NECESARIO APOYO DE ASESORIA EXTERNA			
PROPUESTA DE ACTUACIÓN Y RESOLUCIÓN			
COMPLIANCE OFFICER Y/O COMITE DE GESTION	Nombres y Apellidos: Firma: <input type="text"/>		
FECHA DE RESOLUCIÓN			