

## PROTOCOL FOR ACTING IN HARASSMENT SITUATIONS CODE OF CONDUCT COMMITTEE

### I. DEFINING THE INITIATIVE

#### 1. SEXUAL HARASSMENT

Situation where any verbal, non-verbal or undesired physical, undesired behaviour of a sexual kind with the purpose or effect of attacking the dignity of a person, particularly when this happens in an intimidating, hostile, degrading, humiliating or offensive manner. (See, although it has not yet been fully incorporated in Spanish employment legislation, Directive 2002/73/EC of the European Parliament and of the Council of 23 September 2002 amending Council Directive 76/207/EEC on the implementation of the principle of equal treatment for men and women as regards access to employment, vocational training and promotion, and working conditions). That the perpetrator does not regard his or her behaviour as non-offensive or disturbing will not be a barrier to action.

**2. MORAL HARASSMENT OR *MOBBING*.**- Known as moral harassment the situation in the workplace of a person or group of people behaving abusively, in a hostile way, through words, gestures or in other forms, towards another, in a systematic, recurrent way and over a prolonged period of time, provoking in them psychosomatic, anxious or depressive symptoms with the aim of provoking that the victim leaves his or her job. Moral harassment should not be confused with other states such as *burn out*, (physical, emotional and mental exhaustion caused through working for long periods of time in emotionally-affective situations), stress, or mental tiredness, etc.

The elements that define moral harassment are thus the following:

- Harassment or pressure, defined by any action that can be perceived, from an objective viewpoint, as an attack, by a superior or colleague – whether vertical or horizontal harassment. Not all provocative, stressful or conflictive behaviour in the working environment can be considered moral harassment (or *mobbing*), but could be workplace friction or simple disagreements, or due to the rigorous demands of a certain working environment, which respond to inevitable and natural confrontations based on human nature and, more specifically, as a consequence of the professional or working situation.
- The subjective and intentional element, aimed at achieving moral prejudice over the other, within the company or as a consequence of the activity taking place in the workplace.
- Reiteration of such systematic and prolonged behaviour repeated for a period of time; otherwise, if it consists of an isolated incident, this would not be *mobbing*.

The pressure mechanisms during which this type of moral harassment are experienced, according to analysis of a diverse range of legal case histories, various, some common ones of which, are:

- Measures of social isolation, e.g. impeding personal relations with other colleagues or clients, not speaking, etc.
- Separating a worker from his or her main functions, reducing their responsibility, asking them to do tasks beneath their level or unnecessary, etc.
- Personal attacks, criticising and belittling his or her work in front of colleagues, spreading unfounded rumour about the worker or attributing errors they haven't committed, etc.
- Physical or verbal aggression, such as mocking the worker, making fun of him or her, insulting them, criticising constantly their personal behaviour or making offensive comments aimed at making public ridicule of them

In brief, genuine harassment aimed at destroying the victim or provoking their leaving the company.

## **II. OBJECTIVES**

In the first place, company management, through this protocol, wants to make aware its intention of adopting, in the framework of its responsibilities, the measures needed to create a workplace atmosphere free of harassment, by not permitting or allowing the conduct of this kind of behaviour.

The protocol is as such aimed at establishing in the Companies of the group a procedure for acting in the case where an employee detects or considers she or he are being subject to workplace harassment, so that the necessary actions can be carried out to clarify the existence or not of a case of harassment and that the Company can adopt the appropriate measures, depending on the case.

As a result, we list here a series of measures and actions that, alongside other measures already existing or in progress (such as surveys of working environments and improvement courses for managerial skills) in order to achieve an appropriate working environment and, where necessary, dispose of a quick, efficient and confidential settlement process to conflicts that can occur in Companies.

## **III. AREA OF ACTION**

All the employees who work in the Group, independently of the type of the

employment contract they have, including students, ETT employees, consultants, have the right to launch a process claiming they are victims of sexual or moral harassment.

#### **IV. ANTICIPATORY MEASURES**

Whatever measure we need to take in the Company to avoid possible situations of workplace harassment begin necessarily from the principle that everyone has the right to respect for their privacy, with the necessary consideration for their dignity and non-discrimination in workplace relations (Articles 4 and 17 of the Workers' Statute). Additionally, in compliance with Articles 14 and 15 of the Prevention of Work Risk Act, regulating the right of employees to efficient protection as concerns health and safety at work, the following considerations will be taken into account and actions taken:

- It is a fundamental obligation that every manager in the Company – in the area of their responsibility - seeks to create the appropriate work climate, free of undesirable behaviour which could be seen as consisting of workplace harassment (see above).
- For this reason, as soon as a possible conflict situation is detected, that could result in an action of harassment by employees under the manager's control to other Company employees, that manager will adopt the measures considered necessary to avoid that conduct susceptible to result in workplace harassment. Where it is not possible to do this, or considered necessary to the circumstances of the case, the complaint should be brought to the attention of a superior, who will evaluate the most opportune measures that can be taken to prevent a final case of harassment, if the issue is of this nature.
- Any doubt or consultation that can be a feature during this procedure should be raised, by the head of unit, and the action to be taken communicated to the Human Resources Manager, who will assess the case and can propose if necessary the opening of an internal investigation to clarify the facts and circumstances of the case.
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#### **V. PROCEDURE IN CASE OF THE EXISTENCE OF WORKPLACE HARASSMENT**

The procedure comprises three phases:

- Initiation
- Development
- Conclusion & Decision

**INITIATION PHASE:** If an employee feels to be the object of alleged workplace harassment (sexual or moral), he or she will make a complaint known to the Code of Conduct Committee and the relevant managers to whom he or she is responsible,



unless it is against this same management, in which case it should be referred a higher authority of both, sending a copy if so wished to the Human Resources Department.

During the procedure, claims of harassment will not be taken into consideration if the events which are alleged to have taken place happened more than six months before, whether they were an isolated occurrence, or the final event of a persistent and continued action. Equally, the procedure will not be undertaken if the working relationship of both claimant and accused no longer exists, independently of other investigations or actions which proceed in the case that one of them is no longer working at the Company. The allegation must be made in writing and contain at least the following information:

- . Description of the facts and nature of the harassment.
- . Person or persons in the Company allegedly committing the harassment.
- . Any other information that will help the investigation of the events.

The Code of Conduct Committee will comply with the Regulations drawn up for its role and the unit receiving the complaint shall immediately inform the Committee of the matter.

**DEVELOPMENT PHASE:** Within the workplace and as soon as the Human Resources Department receives the complaint in writing, it will carry out the following actions:

- Inform the Ethics Committee
- Pass the complaint document to the accused person or people so that the allegations can be formulated and clarified and that reports or questions of interest related to the case can be dealt with within four working days as of the date of receipt of the complaint. The complainant shall also be informed of the start of the actions by Human Resources.
- Take statements from colleagues or potential witnesses where they can bring information that is needed to clarify the allegations presented in the complaint.
- Similarly take statements from the immediate superiors of the claimant and accused if necessary.
- Additionally, the plaintiff or accused could be asked to expand upon or clarify the events which happened and be accompanied in this case by a workers' or trade union representative from the Company if so wished.

- Ask for various antecedents or information it considers useful (disciplinary or work records) to obtain a better knowledge of the allegations and investigate their accuracy.
- Call, if it is considered necessary, the worker affected to appear before the Company's Prevention At Work Risk Service or whichever other Unit it deems convenient, in order to compile a report relative to the psychological damage that this person could be suffering and whether or not (in the case that it is possible to determine so) this is a direct result or consequence of the alleged harassment.
- Evaluate the necessity of adopting whatever other temporary measure that is convenient and justifiable and that helps bring the process begun for these types of claims to a conclusion.

**CONCLUSION & DECISION PHASE:** As a function of the result of the previous phases, the following can happen:

1. In the case that there are reasonable indications of the existence of a situation of moral or sexual harassment, the appropriate disciplinary procedure will be initiated in line with the sanctions foreseen for the situation;
2. In the case that there is no reasonable evidence of a situation of harassment, or circumstances that could be regarded as a breach of contract, the disciplinary procedure will not be enacted, as a result of the facts and actions observed, without corresponding sanctions;
3. In the case that no reasonable evidence of sexual or moral harassment is proven, and no disciplinary measures need to be taken against anyone, the Human Resources Department will notify this in writing, informing the plaintiff and the accused of the final conclusion and proposing recommendations where necessary.

The conclusion and relevant proposals resulting from the procedure will be communicated to the Code of Conduct Committee in order to bring to a close the investigation process.

If, as a consequence of the inquiries made, there was no situation of harassment or infraction on the part of the accused, and the clear and unjustified intention of the plaintiff had been to influence the working situation against the accused through the allegations, then a disciplinary procedure will be begun to deal with the situation accordingly.

Additionally, the Company will assess the convenience of whatever complementary measure it deems necessary to improve the working climate in the affected Unit and/or, as the case may be, the health of the employee(s) affected and their appropriateness for the post in question (e.g. change to another role, counselling, etc.).



Finally, and taking into account the social repercussions that such situations can produce, and the psychological damage that can be inflicted upon the employee, the investigation procedure and conclusion will be completed in the briefest delay possible, giving priority to the subject and safeguarding the absolute confidentiality of all the parties concerned and respecting their privacy and honour.