

# **Protocol to prevent and act against violence or harassment based on sex, gender or sexuality at the University of Girona**

## **Preamble**

Violence and harassment based on sex, gender or sexuality violate the dignity and integrity of people. These phenomena call for the active commitment of all persons and institutions. This commitment must be directed at establishing measures to inform, prevent and act that will eradicate these phenomena, denounce them when they occur, and accompany and protect victims.

This approach is prescribed by the Spanish legal framework in Organic Law 3/2007, of 22 March, on effective equality between women and men. It establishes that public administrations should promote working conditions that avoid sexual harassment and harassment based on sex and, at the same time, decide on specific procedures to prevent and pursue complaints or claims filed by people who have been attacked (article 48.1 and the sixth final provision of previously mentioned organic law).

Following these same approaches, Law 17/2015, of 21 July, on the effective equality of women and men, approved by the Parliament of Catalonia, establishes that “the institutions of the *Generalitat*, the Administration of the *Generalitat* and the public bodies associated with or dependent on it must approve, within two years of the implementation of this law, a protocol to prevent sexual harassment and harassment based on sex”.

These same principles and approaches can be found at the University of Girona. The preamble to the University Statutes proclaims its “active commitment to the struggle against discrimination based on gender and to achieving the highest levels of effective equality, respect and dignity for women”. This commitment is also made explicit in article 3 of the Statutes, where it is declared that “the University of Girona is inspired by the basic principles of liberty,

justice, solidarity and a culture of peace, and is committed to the promotion of values education, equal opportunities and the struggle against discrimination based on gender, class, ethnic origins, religion or any other distinctive character of people or groups”.

In addition to fighting against all types of discrimination, the third additional provision of the Statutes of the University of Girona states that it “will promote necessary actions to promote the rights of all members of the University community to be treated with dignity and to tolerate neither sexual harassment nor harassment based on sex, and will adopt the means to avoid and eradicate this type of behaviour”.

## **1. Objective of the protocol**

This protocol has two objectives:

1. To prevent violence and harassment based on sex, gender and sexuality among members of the University community.
2. To establish procedures to detect situations of violence and harassment, investigate them, propose actions (aimed at the victims of harassment, alleged aggressors and the environment of harassment) and, if appropriate, initiate disciplinary actions.

## **2. Principles of action**

The guiding principles of this protocol are:

- a) The University’s commitment to prevent and not tolerate any form of violence or harassment based on sex, gender or sexuality.
- b) The University’s obligation to offer instruction to its entire staff on their duty to respect equal treatment of women and men and their right to privacy and dignity.
- c) The commitment to identify the persons responsible for assisting anyone

who files a complaint.

- d) The requirement of all structures and members of the University community to collaborate in the development of intervention procedures.
- e) The obligation to ensure discretion in the treatment of complaints about violence or harassment based on sex, gender or sexuality.
- f) The responsibility of the University to protect the person assaulted or harassed and the people who might intervene in the procedure, by establishing precautionary measures from the beginning and guaranteeing protection from reprisals.
- g) The respect for the basic principle of presumed innocence, without compromising the principle of reversal of the burden of proof, in terms guaranteed in article 32.2.e) of Law 17/2015, of 21 July, on the effective equality of women and men, when the person alleging harassment of this type provides strong evidence.
- h) The compatibility between this protocol and the right of the people involved to initiate any legal proceedings they consider appropriate.

### **3. Scope of application**

#### **3.1. Behaviour that will lead to application of this protocol**

The focus of this protocol is violence and harassment behaviour based on sex, gender and sexuality. We define this behaviour as:

- **Violence against women:** violence that is used against women as a demonstration of the discrimination and the systemic inequality in the power relations of men over women. Produced by physical, economic or psychological means, including threats, intimidation and coercion, these relations, whether in public or in private, result in physical, sexual or psychological harm or suffering.

- **Harassment:** any undesired verbal or physical behaviour that attacks a person's dignity and creates an intimidating, hostile, degrading, offensive or annoying environment.
- **Sexual harassment:** any physical, verbal or non-verbal behaviour, undesired by the person receiving it, aimed at obtaining sexual favours for oneself or for a third person with the purpose or the effect of attacking the person's dignity, particularly when an environment is created that is intimidating, degrading or offensive to environment to the affected person.
- **Harassment on the basis of sex, gender or sexuality:** any unwanted behaviour based on a person's sexual orientation, gender identity or gender expression (including homophobia, biphobia and transphobia) that attacks either their dignity or their physical or mental integrity or creates an intimidating, hostile, degrading, humiliating, offensive or annoying environment.

These forms of harassment may include the following behaviours: discriminatory behaviour; underestimating people's capacities, skills or potential, or the work they do; ignoring or not taking seriously someone's contributions, comments or actions; underestimating people who take on tasks traditionally done by persons of the opposite sex; sexist jokes or addressing someone in an offensive or aggressive way; misogynist, male chauvinist or LGTBI-phobic statements in class.

The harassment that occurs because of a woman's pregnancy or maternity is especially frequent and serious at all professional levels. Normally, the aim of harassment based on sex in these cases is to force or induce the affected woman to voluntarily give up her position at work or her corresponding rights and benefits (for example, reduced working hours to care for children).

It is important to keep in mind that the behaviours we refer to can "have the intention or produce the effect". In other words, to identify a behaviour as one that generates harassment, it is not necessary to intend to attack a person's dignity or create an intimidating, degrading or offensive environment; it is enough that the behaviour produces one of these effects. When that occurs, the

situation can be identified as one of harassment, even though that was not the intention.

Finally, it is also important to remember that insistence or repetition generates fear, insecurity or intimidation, which in some cases may be decisive to establish that harassment has occurred; in other cases the harassment can be considered to have occurred whether the reported behaviour is repeated or not. In these latter cases, the insistence or repetition may constitute an additional problem.

### **3.2. Persons to whom this protocol applies**

The persons to whom this protocol applies are:

- a) Teaching and research staff
- b) Administrative and service staff
- c) Grant holders, trainees and personnel contracted for research projects associated with the University
- d) Students
- e) Anyone providing services to the University, whatever the type or legal status of their relationship with the University. It therefore applies to persons who, employed by a third party, provide services to the University, as in the case of personnel with contracts or subcontracts or employment positions available through temporary employment agencies.

In the cases of persons without a contractual relationship or those who are invited to participate in a University event, the protocol will also be activated in the interest of protecting victims.

### **3.3. Temporal scope of application of the protocol**

The protocol will be applied as long as the alleged victims or aggressors are

members of the University community or among the persons included in section 3.2.

This protocol will also be applied if the reported incidents occurred while one of these persons was associated with the University of Girona, the alleged aggressor continues to be a member of the University community and the reported crime or infraction has not been prescribed, in accordance with the corresponding regulation.

### **3.4. Territorial scope of application of the protocol**

The behaviour in question must occur within the organization or during the provision of University services; in other words:

- In any space on campus or in University facilities.
- Outside University facilities, as long as the incident occurs as part of an activity or service organized by the University of Girona, given the daily interaction that implicated persons may have as part of normal academic activity.
- Outside University facilities, if the reported incident occurs during the commute to and from the University or during academic or employment activity at the University.

The University of Girona will provide information about this protocol, including how to apply it and who will be in charge of applying it in each case. When a conflict arises outside University installations between members of the University community and personnel of companies contracted to perform work or provide services, reciprocal communication about the case will be established so that each of the parties applies the respective response procedure and carries out any corrective measures they consider appropriate.

## **4. Preventive measures**

As a first step to prevent and intervene in situations of violence and harassment based on sex, gender or sexuality, the University of Girona will promote the dif-

ferent measures listed below. They include providing information, specific gender perspective training and consciousness-raising. These measures are of two types:

#### **4.1. Information and consciousness-raising**

These measures are intended to demonstrate the commitment of the institution and of the University community. The most significant are:

- a) Designing a communication plan: Updating the web page to raise awareness against gender violence, to reach out to possible victims via email, to post notices on the respective virtual campus sites, and to include information about the protocol in the “Student’s Guide” and in the each student’s folder, among other actions.
- b) Establishing training programmes:
  1. Intended for PDI:
    - Specific training about the protocol and about gender perspective work.
    - Provide the preliminary training for new teaching staff.
  2. Intended for PAS:
    - Specific training about the protocol and about gender perspective work.
    - Provide the training in University faculties and/or services.
  3. Intended for students:
    - Specific training about the protocol and about gender perspective work as part of the courses offered together by the Cooperation Office and the Gender Equality Unit of the University of Girona.
    - Preparation of documents that provide guidelines for action (preventative or not) against certain situations (internships or work placements, stays in other countries, etc.)
- c) Disseminating the protocol among offices, services and units of the University of Girona, with instructions to share it with the entire University community.
- d) Disseminating the protocol among the collaborating companies and entities of the University.

## **4.2. Measures to identify incidents of harassment**

These measures are intended to evaluate the workplace environment and to justify the beginning of a procedure at the request of a third party or by the Gender Equality Unit, based on the identification of signs such as leaves for occupational disability, risk assessment or negative survey results or a high turnover rate.

- a) Work with the Occupational Health Office to include indicators that detect situations of harassment in health surveys.
- b) Hold periodic meetings with workers' councils, unions, boards of directors, student councils and other authorities that may be involved to review these indicators.
- c) Consider ways to resolve cases of sexual harassment as well as analyse possible preventive actions and related measures to be adopted.
- d) Train teaching staff to identify incidents of harassment.
- e) Create a specific email address.
- f) Design informative campaigns, with specific material or for social networks.
- g) Other strategies to identify incidents of violence and/or harassment among the different groups of the University community.

## **4.3. Advice and information**

The Gender Equality Unit will offer advice and information prior to initiating any action. The advice and information provided may make people aware of their rights and, in some cases, unleash an intervention, as detailed in point 5.

## **5. Intervention procedures in response to a possible situation of violence or harassment**



## **based on sex, gender or sexuality<sup>1</sup>**

### **5.1. Report of a possible incident of violence or harassment based on sex, gender or sexuality**

Whenever a person of the University community requests advice about or help with a possible case of violence or harassment based on sex, gender or sexuality, the request will be referred to the Gender Equality Unit.

The intervention procedure is followed whenever the Gender Equality Unit is informed of a possible case of violence or harassment. The information may arrive in three different ways:

1. The alleged victim informs the Gender Equality Unit directly.
  - By email message addressed to the director of the Gender Equality Unit (if relevant) indicating “confidential” on the subject line. The Gender Equality Unit will provide a form to officially submit and register the complaint.
  - In person, before the director or an equality officer of the Gender Equality Unit. In these cases, a certificate signed by the person filing the complaint and by the director or another officer of the Gender Equality Unit must be issued.
2. The alleged victim files the complaint in the Registry.
  - A formal request<sup>2</sup> (a model is available on the webpage of the Gender Equality Unit) must be submitted in a sealed envelope addressed to the Gender Equality Unit and containing the complaint and pertinent documents to begin evaluating it (form<sup>3</sup>).
3. A report by an administrative body or any member of the University community that is aware of a possible case of violence or harassment.

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<sup>1</sup> Please see the diagram of the procedure in Annex 1.

<sup>2</sup> Please see a model of the request form in Annex 2.

<sup>3</sup> Please see a model of the form in Annex 3.

The Gender Equality Unit may initiate the procedure on its own whenever it is considered appropriate.

To facilitate the arrival of information to the Gender Equality Unit, a complaint form, an email address and the telephone numbers of the Gender Equality Unit will be provided. Any of the three ways may be used.

Anonymous information will not be processed as a formal complaint, but it will start an internal informational process to clarify if anything indicates the suitability of employing other actions.

## **5.2. Starting the procedure**

Once the information is received by the Gender Equality Unit, the following actions will be carried out:

- 1. Interview with the alleged victim** and, if relevant, with the person who has provided information about the case, within two working days. During this encounter, the equality officer will provide any available information about existing rights and appeals, both within and outside the University, that are appropriate for the case under consideration.
- 2. Gathering basic information** about the case, in order to make an initial evaluation.
- 3. Resolution accepting or rejecting the complaint.** Once the first part of the information has been collected, the Gender Equality Unit will decide whether to:
  - a. Accept the complaint for review.** If, after being interviewed and informed by the equality officer, possible victims wish to implement the procedure set out in this protocol, they must give their express and informed consent to initiate the appropriate actions to investigate the facts and, if suitable, adopt the adequate measures. In this case, the Gender Equality Unit will convene the committee of inquiry within 5 days of the notification and will designate, if

considered appropriate, a member of the committee to investigate.

- b. **Reject the complaint.** In this case, the Gender Equality Unit person will accompany and advise the person and monitor the case. A complete report containing information from the interview will be written in case future action is required.

### **5.3. Investigation of the case**

If the complaint is accepted, the committee of inquiry will be convened.

#### **5.3.1. Composition of the committee of inquiry**

The committee of inquiry will be named by the rector (or the vice-rector with competencies in the area) at the proposal of the director of the Gender Equality Unit.

The following people will make up the committee:

- The vice-rector in charge of the Gender Equality Unit.
- An equality officer of the Gender Equality Unit.
- Three members of the Gender Equality Committee (one from PAS, one from PDI and one from the student body).
- The head of the Legal Advisory Office (or the person so delegated).

A member of the Committee will be designated to lead the investigation.

#### **5.3.2. Functions of the committee of inquiry**

- Decide the preventive measures that must be adopted based on the information provided by the Gender Equality Unit.
- Agree on any necessary actions to investigate the case, with the aim of checking and collecting additional information related to the circumstances under investigation (documental proofs, eye witness accounts and individual proposals considered necessary). These measures should also include interviews with the person(s) affected and with the alleged aggressor(s), in order to hear explanations from all parties.

All members of the University community are required to provide any

and all information that the committee (or the investigating person, if relevant) asks for.

- Issue a report, addressed to the rector, with the following points:
  - A list of the names of the members of the committee that issued the report and identification of the parties involved.
  - Background: complaint, if there is one, and the attendant circumstances.
  - Investigative proceedings: eye witnesses, evidence, reports, etc.
  - Conclusions and proposed measures.
  - Establishment of a short- or mid-term date to supervise and review the after-the-fact implementation of the measures and to verify the cessation of behaviour that led to the investigation.

#### **5.4. Receipt, custody and confidentiality**

The complaint itself and all the documents generated during the procedure will be processed and filed by the Gender Equality Unit (or another competent body).

Only the committee of inquiry, the Legal Advisory Office and the person affected (alleged aggressor or victim) will have access to information about the case and related documents. The obligation to maintain confidentiality prevails over all other concerns.

If the access to information by the alleged aggressor might harm third parties or generate situations of risk, the Legal Advisory Office will be consulted to determine how to regulate this access.

If considered necessary, the Gender Equality Unit will provide the information gathered throughout the investigation to legal authorities and competent police forces.

#### **5.5. Presuppositions about the involvement of the persons required to intervene**

Authorities and staff persons required to act, by virtue of their position, place of work or appointment, in response to a situation of violence or harassment based on sex, gender or sexuality must recuse themselves from intervening when one of the situations provided in article 23.2 of Law 40/2015, of 1 October, on the Legal Framework of the Public Sector is relevant (personal interest, marital relationship or similar partnership, consanguinity to the fourth degree or affinity to the second degree, intimate friendship or open enmity with the alleged aggressor or victim). In these cases the rector will decide whether or not to substitute the authority or staff person concerned and to appoint a replacement. If the reason for refraining concerns the rector, his or her functions will be carried out by the appropriate vice-rector or by the general manager, depending on the group to which the alleged aggressor belongs.

In the same cases provided for in the previous section, the alleged victim or aggressor may request that the intervening authority or staff recuse themselves from the procedural response to a situation of violence or harassment based on sex, gender or sexuality because of their position, place of work or appointment. The rector, after hearing the request for recusal, considering any relevant reports or facts, will decide whether or not to substitute or appoint another person. If the request for recusal concerns the rector, the decision will be made by the appropriate vice-rector or the general manager, depending on the group to which the aggressor belongs. If the recusal of the rector is justified, the vice-rector or general manager would assume the corresponding functions.

## **6. Resolution procedure**

Once the case has been investigated in compliance with the procedures and guarantees covered in preceding paragraphs, the investigative committee will propose adoption of one of the following resolutions to the rector:

### **6.1. If the alleged aggressor is a member of the University community**

- a) The case will be closed when there is insufficient evidence to initiate a disciplinary process.

- b) If the reported behaviour is considered to be neither a criminal act nor a disciplinary offence, but the investigative committee considers that it could evolve into one or the other, the committee will propose dialogue or mediation or issue a warning to reverse the situation.
- c) A proposal will be made to open an information file or a disciplinary file in cases in which the reported behaviour is not considered to be criminal but may still constitute still a disciplinary offence.
- d) If the committee considers the behaviour to be criminal, it will recommend that the University file a complaint with the corresponding police or legal authorities. If the complaint can only be filed by the victim, the committee will recommend that the victim be accompanied by a University delegate when the complaint is filed.
- e) If the complaint is demonstrably false and is filed in bad faith, it will be referred to the Legal Advisory Office, which will inform the rector of the motives for initiating disciplinary action against the complainant.

## **6.2.If the alleged aggressor is an external member (collaborating company or contractor) of the University of Girona**

- a) The case will be closed when there is insufficient evidence justify the opening of disciplinary proceedings.
- b) If the reported behaviour is considered to be neither a criminal act nor a situation of clear noncompliance with the University regulations, but the investigative committee considers that it could evolve into one or the other, the committee will propose dialogue or mediation or issue a warning to reverse the situation.
- c) In cases in which the reported behaviour is not considered to be criminal, but not in compliance with University regulations, the external member will be informed, with the demand that it adopt the measures established in its regulations and that, in any case, it takes action to correct the

situation.

The University will monitor the situation to verify that it has been corrected and that the external member has fulfilled all its commitments. The unit in charge of contracts could propose measures that affect compliance with the contract or its termination.

- d) If the investigating committee considers the behaviour to be criminal, it will recommend that the University request the external member to adopt the measures established in its regulations, and also that the University file a complaint with the corresponding police or legal authorities. If the complaint can only be filed by the victim, the committee will recommend that the victim be accompanied by a University delegate when the complaint is filed.
- e) If the complaint is demonstrably false and is filed in bad faith, it will be referred to the Legal Advisory Office, which will inform the rector of the motives for initiating disciplinary action against the complainant.

In all cases, the need to apply corrective, preventive or victim-protection measures will be taken into account.

## **7. Monitoring cases**

The Gender Equality Unit will monitor all cases that have led to the opening of information or disciplinary files, to be aware of their evolution and propose any new measures, if necessary.

## **8. Performance guarantees**

- a) Gather information quickly, sensitively and with respect for the affected persons.
- b) Guarantee fair treatment for all parties.
- c) Guarantee hearings for and defence of all those implicated, as well as the

right to be accompanied by a person of their choice, including union representatives or legal advisors, if so requested.

- d) Inform the affected persons about any developments in the case as well as any corrective measures that would be applied.
- e) Ensure that there is no retaliation against the persons who file a complaint, that they appear as witnesses and that they collaborate freely with any investigation into behaviours like those described in this protocol.
- f) Respect the rights of the person suspected of violence or harassment based on sex, gender or sexuality to be informed about the complaint, to receive a copy of it and of any documents submitted or created during the procedure, in the terms and conditions established in section 5.4., and to make any allegations.
- g) Guarantee that there are no records of complaints in the files of the alleged aggressors, when these complaints prove to be false.
- h) Disciplinary or information files at the University of Girona are processed totally independently of any legal actions victims wish to undertake through legal proceedings and of their requested collaboration in a judicial investigation.

## **9. Evaluation and monitoring of the protocol**

The Gender Equality Unit will annually inform the appropriate vice-rectorate of the activities resulting from the protocol's application.

The investigative committee for each case will evaluate the protocol and may propose changes or modifications, once its effectiveness has been verified.

The Gender Equality Unit will promote sessions to exchange experiences with other equality units of universities of the Vives Network and others to compare

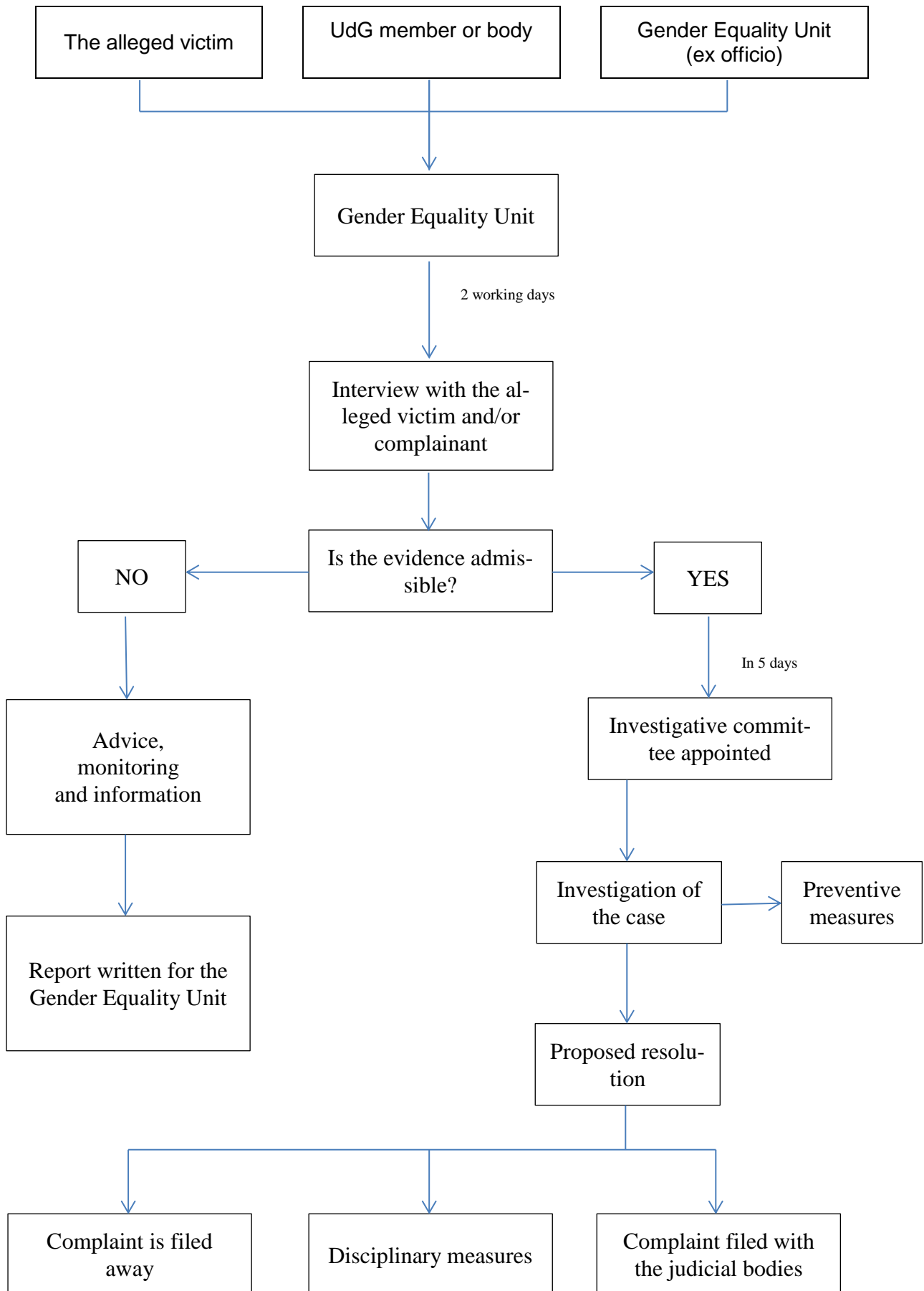


and evaluate the performance of the protocol and improve the training of technicians in this field.

**If there is no Gender Equality Unit as such, the references to that unit made in this document must be substituted by an entity that is competent in this area.**

**Likewise, any incidents not considered in this protocol will be studied individually to decide what actions will be taken in each one.**

**ANNEX 1: Outline of the procedure**



## Annex 2: Request to submit documents to the Registry



### REQUEST

#### PERSONAL DATA:

FIRST NAME:	LAST NAME(S):
NIF:	EMAIL ADDRESS:
TELEPHONE:	

#### I DECLARE:

I am submitting documents for consideration by the Gender Equality Unit.  
I am submitting the information in a sealed envelope.

#### I REQUEST:

That the documents be submitted to the Registry.

**Signed**

Girona, \_\_\_ of \_\_\_\_\_ of 20\_\_

**GENDER EQUALITY UNIT**

### Annex 3: Form

Universitat de Girona  
Unitat d'Igualtat de Gènere

### FORM

#### PERSONAL DATA:

First name:	Last name(s):
NIF:	Email address:
Telephone:	Address:
Department, unit or service (PDI, PAS):	
Degree course (students):	

#### DESCRIPTION OF THE INCIDENT(S):

Name and position of the persons involved:
Date or academic year of the incident(s):
Description of the incident(s):

Signature

Girona, \_\_\_ of \_\_\_ of 20\_\_