

APPENDIX 2:

PROTOCOL FOR THE PREVENTION, HANDLING AND ELIMINATION OF HARASSMENT AND OTHER CONFLICT RESOLUTION MEASURES (MEDIATION) AT CAIXABANK.

FIRST: scope and definitions

This Protocol will be applied to the whole of CaixaBank's workforce with respect to its procedures at the place in which its services are provided.

In the employment area, three types of harassment may occur, caused by conduct or behaviour tending to create an intimidating, degrading or offensive environment for the employee, which can affect their fundamental rights with respect to dignity, honour, intimacy, physical and moral integrity and discrimination. This is sexual harassment, gender harassment and mobbing.

1.1. SEXUAL HARASSMENT

Deemed to be verbal, non-verbal or physical conduct of a sexual nature that aims to compromise the dignity of an employee in the workplace, in particular, when an intimidating, degrading or offensive work environment is created.

Sexual harassment may occur on the part of a superior towards a subordinate or by a subordinate towards a superior, but also between work colleagues and even third parties, such as customers or suppliers. Such conduct must be undesired by the person suffering it. It comprises (but is not limited to), telephone calls, letters or email messages of an offensive nature with sexual content.

Sexual harassment will also be deemed to be sexual blackmail, when the refusal or submission of a person to this conduct is used implicitly or explicitly as the basis of a decision that affects the access of said person to professional training, work, continuity in the workplace, professional promotion, wages, etc.

When its main characteristic is that the agents maintain a sexual conduct of any type, leading to an intimidating, hostile, offensive or humiliating context, intended or otherwise, we can talk about environmental harassment. The condition affected is the work environment. Examples of said conduct include comments, insinuations and jokes of a sexual content and nature, the decoration of the environment with sexual motifs and the display of magazines with sexual content, etc.

By way of an example, but not limited to, sexual harassment is deemed to comprise:

- Suggestive observations, jokes or comments regarding the appearance or sexual condition of the employee.
- Requests for sexual favours, including all manner of insinuations or attitudes that associate the improvement of working conditions or stability regarding the worker's post with the approval or denial of such favours.
- Any conduct whose cause or objective is to discriminate, abuse or humiliate the employee by reason of gender.
- All manner of sexual assault.

1.2. GENDER HARASSMENT

Considered to be any conduct committed due to the gender of a person to compromise their dignity and create an intimidating, degrading or offensive environment.

Examples of conduct deemed to constitute gender harassment are: any bothersome behaviour caused by a person of rights arising from their sexual condition, such as, for example, those arising from the assumption of family duties usually assumed by women, in the presentation by the employee of claims aimed at preventing discrimination and demanding equal treatment between men and women, unfavourable treatment towards women due to pregnancy or maternity or harassment aimed at forcing those wishing to exercise their right to a work-life balance to resign, and the frequent use of discrediting comments, based on offensive generalisations of women, which involve a systematic undervaluation of the ability of women to perform their employment duties.

1.3. EMPLOYMENT HARASSMENT (mobbing or bullying)

Such conduct, practice or behaviour will be deemed, regardless of its cause or origin, to occur (i) on a systematic basis and (ii) repeatedly over time, (iii) at the workplace (iv) thereby undermining or compromising the dignity of the employee, (v) endeavouring to subject the employee emotionally or psychologically, endeavouring to eliminate their capacity, professional promotion or permanence in their work post, creating a hostile environment and negatively affecting the employment environment and the employee.

Harassment may basically occur vertically (by a superior over a subordinate or vice versa) but also horizontally (among work colleagues without hierarchical dependence among each other).

Mobbing includes, but is not limited to, the following conduct: Designation of worse or more degrading posts. Designation of unnecessary tasks. Designation of tasks below or greatly above the employee's qualifications or skills. Not assigning any type of work. Lack of professional consideration in front of third parties (other employees, customers, suppliers, etc.). Restricting communication possibilities by the superior or colleagues. Constant criticisms of private life. Ridiculing personal defects. Attacks on political and religious attitudes and beliefs. Threats of physical violence. Physical abuse. Verbal threats. Insults. Diffusion of false rumours or defamation of the employee.

2. PRINCIPLES

To avoid and prevent any attack against the dignity and fundamental rights of employees, in the area of CaixaBank's employment relations, all conduct that could be considered to be included in the aforementioned definitions is completely forbidden.

Accordingly, the Bank's Management will implement an active policy to prevent and eliminate conduct constituting sexual harassment, due to gender or at the workplace and, in general, any behaviour affecting the fundamental rights of its employees and, in particular, their personal and professional dignity.

Correlatively, CaixaBank employees will have the right to report any situation of harassment, and have the duty to respect the dignity of people and, in particular, of their work colleagues, especially if they are hierarchical subordinates.

As a result of the foregoing, the executives and the whole of the Bank's employees must adapt their conduct to the following principles:

- a) Sexual conduct: Avoid any behaviour of a sexual nature not desired by the recipient, be it through acts, gestures or words.

Such prohibition includes all manner of insinuation, intentional brushing up, occasional touching, obscene language emitted by any means, and expressions of a sexual content likely to create an uncomfortable, offensive or humiliating work environment, and it is necessary to assess the possible special sensibilisation of the victim, together with their position and nature to be able to express their rejection.

- b) Undesired gifts: Avoid providing any invitations or gifts that are not desired and which may make the recipient feel uncomfortable, when they aim to gain intimacy with said recipient or even obtain some sort of remuneration in return, be it personal or professional.
- c) Diversity and non-discrimination: Respect the diversity and plurality of the current society, avoiding pejorative statements, comments or jokes regarding certain groups or minorities (due to race, ethnic background, religion or beliefs, gender or sexual orientation, illness or disability, etc.)
- d) Respect: Right to a climate of respect and correction in the workplace. The values of equal treatment, respect, dignity and free development of personality are taken on board by CaixaBank in full. Hence, it will not tolerate insulting, humiliating or intimidating expressions or manners.
- e) Communication: The inclusion of all people during the Bank's employment life is a fundamental value for CaixaBank. Therefore, any conduct leading to them not being able to communicate normally or to them being ignored or isolated will not be tolerated.
- f) Reputation: Right to an employment or personal reputation. In this regard, any ridiculing or mocking behaviour of employees or the spreading of unfavourable comments with the aim of harming said workers is unacceptable.
- g) Discretion: Right that notifications aimed at rectifying conduct or drawing attention to bad, poor or inadequate employment performance, are served as discreetly as possible.
- h) Business proactivity: When Management detects flagrant irregular conduct, it will apply all the necessary means to eliminate the risk on an urgent basis and it will promote positive behaviour regarding the manner of working and relating to others.

3. COMMUNICATION, PREVENTION AND TRAINING POLICY

To prevent and avoid harassment at the company, this Protocol will be sent to the workforce, publishing its content in the Bank's internal media. Likewise, Management of the Bank, within the Equality and Work-Life Balance Committee, will promote the measures it deems necessary (training, symposiums, talks, preparation of informative material, etc.) to comply with the purposes of this Protocol.

4. PROCEDURE

4.1. COMPLAINT BEFORE THE EQUALITY AND HARASSMENT MANAGER

The Equality and Harassment Manager (hereinafter, the MANAGER) will be a person appointed by CaixaBank's Management and accepted by the Equality and Work-Life Balance Committee, which will be tasked for an extendible two-year period with receiving all sexual and gender harassment and mobbing queries and complaints that may arise. Preferably, this figure will not be a CaixaBank employee, without prejudice to the fact that, with the acceptance of the Equality and Work-Life Balance Committee, an internal Bank employee may be named. Likewise, the Bank's Management, with the acceptance of the Equality and Work-Life Balance Committee, may appoint a second MANAGER to supplement or complement the procedures of the former. The procedure to be followed faced with possible situations of harassment will be agile and rapid, respecting the intimacy, confidentiality and dignity of those affected.

The MANAGER's powers comprise:

- a) Receive all complaints for sexual or gender harassment and mobbing.
- b) Perform the investigation of the complaints in accordance with that established in this Protocol, for which CaixaBank will have the necessary resources.
- c) Instigate and manage with the Human Resources Department the measures deemed appropriate in relation to the queries and complaints received.
- d) Prepare a report with the conclusions on the procedures performed.
- e) Any others that may arise from the nature of their duties and those envisaged in this Protocol.

The MANAGER may deal with the anonymous or informal queries regarding employees with respect to sexual harassment and mobbing. These queries will be confidential and proceedings will not be commenced until a formal complaint is made.

In the event a formal complaint is made:

- i. It may be made by any means (email, telephone call, fax, visit or interview).
- ii. The complainant employee must identify themselves, together with the victim of the aforementioned query if it was another employee.
- iii. They must indicate, as far as possible, the specific events and episodes, and identify the people responsible.

Once the formal complaint has been received, in a period of five working days the MANAGER must issue a written report, which will contain a resolution on the procedures to be performed:

- Commencement of the inquiry
- Complaint dismissal
- Conflict resolution measures

This report will be sent to the Legal Department for enforcement and to the Harassment Prevention and Handling Committee, set forth in section 5 of this Protocol, for their information and monitoring.

In any case, the MANAGER may, as a precaution, propose the separation of the person presumably harassed from their harasser, together with other prevention measures they deem appropriate and proportional regarding the case, through a document that will be sent to the Legal Department.

4.2. INQUIRY INSTRUCTIONS

To perform the related inquiries, CaixaBank's Management will appoint, for a two-year extendible period, with the acceptance of the Equality and Work-Life Balance Committee, a team of internal examiners trained by CaixaBank's Employment Legal Advisory Department and employees of other departments. In each case proposed by the MANAGER, the Bank's Management will appoint two examiners to said team, at least one of which must be an Employment Legal Advisory Department solicitor so that they can act jointly until the case is resolved. The examination of the case will commence five working days after the notification by the MANAGER and will last a maximum of 15 working days.

The examiners will have all the means required and will have access to all the information and documentation that could be related to the case. They will have free access to all Company buildings, and the whole workforce must provide the due cooperation requested of them by the examiners.

The examiners will commence their proceedings taking into account those performed by the MANAGER and, in any case, an interview will be held with the complainant and respondent employees, and interviews may be held with the possible witnesses or documentation of any type examined that may be of use.

If the complainant is not the victim, the examiner must interview them anyway in this first phase with the victim of the presumed harassment. During said interview, the employees, complainant and respondent or, where appropriate, the victim, can request the presence of a legal workers' representative.

The complainant and respondent employees or, where appropriate, the victim, may contribute during the whole process and especially in these interviews, all those means of evidence that they deem appropriate, which they may use to support their version to facilitate the procedure and investigation and clarify the events.

The employees that are called by the examiners during the whole process will be bound to appear and cooperate with them on shedding light on events, and may request the presence of a workers' representative.

4.3. INQUIRY RESOLUTION

Once the inquiry phase has ended, within three working days after the conclusion of said inquiry, the examiners will issue a report including the complaint and the proceedings performed, together with the conclusions reached, proposing on a justified basis:

- a) The opening of disciplinary proceedings with respect to the respondent, on considering that the complainant or, where appropriate, the victim, has suffered sexual or gender harassment or mobbing.
- b) The shelving of proceedings deemed to be events reported that do not constitute sexual or gender harassment or mobbing, without prejudice to the proposal of appropriate organisational measures to solve the possible differences between the complainant and respondent employees.

Those complaints made demonstrated to be intentionally dishonest or fraudulent, may lead to disciplinary proceedings, without prejudice to the remaining actions that may legally apply.

4.4. DISCIPLINARY PROCEEDINGS

The Bank's Management must exercise the disciplinary powers granted to them under the Collective Savings Bank and Financial Institutions Bargaining Agreement, when the inquiry commenced by the examiners concludes that sexual or gender harassment or mobbing has occurred or that there has been a fraudulent complaint.

In any case, mandatory disciplinary proceedings will be filed against the person responsible, drafting the related charges, including the events verified by the examiners.

In the event the worker charged with sexual or gender harassment or mobbing does not provide evidence during the evidence giving phase that reduces or exempts them from liability with regard to the charges, the Bank will impose the appropriate penalty considering in any case that it is a very serious breach of employment obligations, typified as such in CaixaBank's Collective Bargaining Agreement, due to the violation of contractual good faith. All that envisaged in article 54.2 g) of the Workers' Statute, regarding the disciplinary dismissal in cases of harassment due to race or ethnic origin, religion, beliefs, disability, age, sexual orientation or sexual or gender harassment.

The penalty will be harsher when the person responsible is a hierarchical superior of the victim or has responsibility with regard to their professional situation, with said behaviour constituting an abuse of authority.

The following cases will also be considered to be aggravating circumstances:

- The respondent is a repeat offender with respect to harassment.
- The victim suffers some type of physical or mental disability.
- Pressure or coercion is exercised over the victim, witnesses or people in their employment or family environment to avoid or obstaculise the successful completion of the inquiry.

With regard to intentionally dishonest or fraudulent complaints, when it has been concluded in this regard by the examiners, the Bank will also file mandatory disciplinary proceedings against the complainant and having received the list of charges from the employee, it will adopt the appropriate disciplinary measures in line with the content of the charges. In any case, it will be deemed that it is a very serious breach due to the violation of contractual good faith and the abuse of trust that such behaviour may imply, and if it is proven that the complainant acted in bad faith (intention to discredit and/or harm the respondent without any foundation).

4.5. PROCEDURAL GUARANTEES

Confidentiality

It is forbidden to publish the contents of the complaints filed or the inquiry process. This confidentiality must be respected by all the parties involved: complainant, respondent, manager, examiner or mediator, harassment sub-committee and any other person with direct or indirect knowledge of the complaint.

The Harassment Prevention and Handling Committee will expressly notify all people involved of the confidentiality obligation.

To guarantee confidentiality, the meetings that must be held between the mediator and each of the parties will be held at facilities outside of the Bank, unless the parties say otherwise.

Reincorporation of victims

If reprisals have been taken or the victim has suffered employment losses, the Bank will restore the victim's labour conditions that they enjoyed prior to the harassment.

Likewise, the Bank will provide the necessary healthcare support to ensure the victim's full recovery.

Prohibition of reprisals

Reprisals are expressly forbidden against the people that file a complaint, appear as witnesses or help or participate in an inquiry on harassment, provided that they have acted in good faith.

Secondment option

If the resolution of a case with disciplinary measures does not lead to dismissal, the Bank will take the appropriate measures so that the victim does not have to share the same working environment, and may second the victim (should they request so) or the harasser.

Legal guarantees

Once the proceedings set in this Protocol have been completed and the existence of harassment has been accredited, the Bank will provide legal assistance to the victim in the cases in which the harasser takes legal action against the victim or other members of the workforce.

Incompatibilities

In the event that any of the people involved in the procedure (complainant/respondent) are related by blood or kinship up to the second degree with any of the MANAGERS or examiners, the former will be invalidated to intervene in the process and will be substituted by another MANAGER or examiner appointed by the Bank with the acceptance of the Equality and Work-Life Balance Committee.

5. COMMITTEE FOR THE PREVENTION AND HANDLING OF HARASSMENT AND OTHER CONFLICT RESOLUTION MEASURES (MEDIATION)

The Committee for the Prevention and Handling of Harassment and other conflict resolution measures (mediation) will be formed firstly by Management representatives and secondly by the signatory trade unions, with the following composition:

Two people from the three trade unions with the most representation, specialised in equality and/or occupational health and one person from the remaining signatory trade unions.

To preserve the confidentiality of this Committee, the casuistry will be notified to the CUSSL to be analysed and to monitor the prevention side.

The function of this Committee is to promote and implement specific effective measures at the Bank and with its employees, to prevent and eliminate all manner of harassment, ensuring equal opportunities and non-discrimination between men and women.

The Committee will have frequent knowledge of the reports prepared by the MANAGER. Furthermore, it will be informed twice a year by the latter of the report of its activity through a meeting convened for this purpose.

In relation to the inquiries, the Committee will be informed of its commencement, handling and completion, and of the final resolution of the disciplinary proceedings arising from the cases of harassment.

Once a year, the Committee will prepare a report of all its procedures, which it will submit to the HR Department and the Equality and Work-Life Balance Committee and which will be distributed by the usual means to the whole of the company's workforce.

This Committee will meet at the request of CaixaBank's Management or of 50% (expressed in terms of representation) of the Committee's full trade union representatives, at least once a semester.

The Committee will self-regulate its functioning and specifically have the information that it must receive, in accordance with this Protocol.

In relation to the mediation conducted, the Committee will receive the information resulting from the reports issued by the mediator.

UPGRADING OF THE PROTOCOL FOR THE PREVENTION, HANDLING AND ELIMINATION OF SEXUAL AND GENDER HARASSMENT AT CAIXABANK

OTHER CONFLICT SOLUTION MEASURES: MEDIATION.

Background

In Europe, article 3 of Directive 2008/52/EC of the European Parliament and of the Council of 21 May 2008 on certain aspects of mediation in civil and mercantile matters defines mediation as *"a structured procedure, whatever its name or denomination, in which two or more parties in a dispute endeavour to voluntarily reach an agreement by themselves regarding the resolution of their dispute with the help of a mediator. This procedure may be commenced by the parties, suggested or ordered by a jurisdictional body or prescribed by the Law of a State member."*

Hence, also in the State area, in accordance with that envisaged in article 1 of Law 5/2012, of 6 July, on mediation in civil or mercantile matters, mediation is deemed to be that "dispute resolution means, whatever their denomination, in which two or more parties in a dispute endeavour to voluntarily reach an agreement by themselves with the help of a mediator."

From an analysis of both regulations, we deduct that in the absence of a specific jurisdictional order or legal prescription binding the parties to submit themselves to mediation, the will of both parties to resolve the dispute by this means must exist.

In accordance with the foregoing, it is appropriate to highlight that there would be no legal obligation binding CaixaBank to offer mediation to its workforce if it ever had a dispute in the area of its personal relations with its work colleagues. In the same manner, no employment obligation of any type exists with the workforce to undertake mediation with other colleagues.

Any regulations on possible mediation between the workforce is, therefore, based on CaixaBank's discretion to offer it and the possibility that its workforce rejects it from time to time. All of the foregoing, without prejudice to the obligations which, in the area of occupational risk prevention, may correspond to each party.

Conflict resolution measures

To implement the point indicated in CaixaBank's harassment prevention Protocol, which establishes "other conflict resolution measures", the figure of mediator will be offered, proposing that such role be exercised by the Harassment Manager.

If other conflict resolution measures are promoted other than mediation, they may be designated for resolution to another person specialised in equality.

Mediation will only be carried out in the cases in which it is ruled that no harassment has taken place and the MANAGER determines that mediation is required.

Mediation is an alternative conflict resolution process whereby a neutral impartial person provides a confidential secure space so that people involved in conflicts find the most favourable solutions for all the parties.

Basic characteristics and guarantees:

1. **Voluntary nature:** the parties must accept the process and they can discontinue it at any time.
2. **Confidentiality:** everything expressed in the process is confidential, remaining among the parties and the mediator, and the parties must expressly commit to not distribute information.
3. **Neutrality:** the mediator cannot have interest in a matter being mediated.
4. **Impartiality:** the mediator cannot side with any of the parties.

Agreement: The parties can only mediate on matters or questions for which they have full availability. With respect to matters directly or indirectly affecting CaixaBank, the express acceptance and approval of the Bank will be required.

Process: The mediation process will be conducted in a maximum period of 15 days following the notification of the report of the MANAGER, through sessions between the mediator and each of the parties. The sessions may be individual or with both parties (if they agree)

The mediator will issue a report, indicating the result of the mediation, and it will be managed as defined in the harassment prevention protocol.

If any of the parties do not accept mediation or do not want to take part therein, the MANAGER will be informed to propose other alternative measures, notifying such measures to the Harassment Sub-Committee.