

INTERNAL POLICY FOR THE PREVENTION OF SEXUAL HARASSMENT (POSH) IN THE WORKPLACE

Text in green and in triangular brackets '<>' to be replaced by the organisation as appropriate.

<Organisation Name> strives to provide all its employees with a harassment-free workspace and believes that all members have the right to be treated with dignity. Sexual harassment at the workplace or at any other place visited by members in the course of their work is unacceptable and will not be tolerated under any circumstance. In this regard, we outline the following as <Organisation Name>'s Internal Policy for the Prevention of Sexual Harassment (POSH) in the workplace. This policy is formulated following the guidelines in the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, and Rules of 2013 (henceforth POSH Act, 2013).

1. Objective

The purpose of this policy is to:

- a. Create comprehensive guidelines to create awareness about sexual harassment at the workplace.
- b. Create an Internal Committee (IC) to address matters related to sexual harassment at the workplace in a time-bound manner as per the POSH Act, 2013 and provide necessary support to the complainant.
- c. Create a mechanism for complaints to the IC.
- d. Create guidelines for <Organisation Name> to prevent and prohibit any form of sexual harassment at the workplace.

2. Scope and definitions

This policy extends to all cases of sexual harassment at the workplace. In this context, 'sexual harassment' includes all forms of unwelcome behaviour defined in Section 3 of this policy.

In this context, the term 'workplace' includes any place visited and used (including digital spaces such as instant messaging & conference call platforms etc.) by the employee arising out of or in the course of employment including transportation provided by the employer for undertaking such a journey, or any form of transport taken by the employee arising out of the requirements of their employment responsibilities.

In this context, the term 'employee' means a person employed at a workplace for any work on regular, temporary, ad hoc or daily wage basis, either directly or through an agent, including a contractor, with or without the knowledge of the principal employer, whether for remuneration or not, whether working on a voluntary basis or otherwise, whether the terms of employment are express or implied and includes a co-worker, a contract worker, probationer, trainee, student,

apprentice or anyone called by any other such name. At <Organisation Name> this applies to the <programme heads, programme officers, full-time/part-time employees, researchers, volunteers, interns, students, consultants, affiliates, and non-contractual help such as field staff, field guides and housekeeping/support staff> henceforth referred to as **members** at <Organisation Name>.

In this context, the term 'employer' refers to the <Director/Head of Organisation/Head of the Institute/Main employer in-charge of Institutional decision making>.

In this context, 'complainant' refers to the individual who has filed the sexual harassment complaint with the Internal Committee (IC), and does not have to be an employee or member of the organisation.

In this context, 'respondent' refers to the individual who has been accused of sexual harassment in the complaint filed with the IC. The IC is obliged to take up all complaints against members of the organisation, irrespective of whether the complainant is a member or employee.

This means that all <Organisation Name> members have a responsibility in the workplace to:

- i. Treat each other with dignity and respect.
- ii. Refrain from any unwelcome behaviour that has explicit or implicit sexual connotations.
- iii. Refrain from creating a hostile atmosphere at the workplace through sexual harassment.
- iv. Cooperate with the organisation towards creating a conducive working atmosphere which is free from sexual harassment.
- v. Create a supportive environment for colleagues to file complaints with the IC, under the guidelines provided in this policy.

<Organisation Name> members are encouraged to report sexual harassment they have experienced to the appropriate authority, as set up in the form of the IC and abide by the complaint handling procedure of the organisation as provided in this policy.

3. Recognising harassment

Sexual Harassment is a criminal offence under Section 354A of the Indian Penal Code, 1860.

<Organisation Name> condemns any act of sexual harassment and therefore every member at <Organisation Name> has a responsibility to ensure that sexual harassment does not occur.

Sexual harassment may be subtle, manipulative and is not always evident. It can also be subjective. It refers to behaviours of a sexual nature that are not welcome and are personally offensive. Sexual offences in the workplace, against all genders and with special reference to women, can be carried out by managers, supervisors, co-workers, temporary workers, and other members, and/or non-employees.

We follow the definition of sexual harassment as per the Posh Act, 2013 includes any one or more of the following unwelcome acts of behaviour (whether directly or by implication) that could be

reasonably expected to make someone feel offended, humiliated or intimidated. Acts of sexual harassment can be over any medium of communication, including, but not limited to, in-person communication, over the phone, on voicemail, through pen-and-paper, through gifts, via messages or other digital messaging platforms etc. This may include (but is not restricted to):

b. Physical harassment

1. Unwanted physical contact or advances. Physical contact such as touching, pinching, hugging, kissing or fondling or unnecessarily brushing up against someone (these are criminal offences).
2. Demand/request for sexual favours.
3. Rape and molestation
4. Stalking an individual

b. Verbal harassment

5. Unwelcome comments about someone's sex life or physical appearance
6. Sexually offensive comments, stories or jokes
7. Making sexually explicit sounds, such as kissing sounds, suggestive sounds, gestures
8. Using sexually-charged swear words
9. Expression of sexual interest against a persons' wishes and unwelcome social invitations

b. Non-verbal harassment

10. Leering and ogling
11. Showing or sharing pornography, displaying sexually offensive images or objects
12. Giving unwelcome personal gifts

b. Making demands for sexual favours through promising promotions or preferential treatment, or threatening detrimental treatment, implicitly or explicitly

b. Quid Pro Quo harassment in combination with unwelcome behaviours of a sexual nature (see above):

13. Intimidation, threats, blackmail
14. Threats, intimidation, or retaliation against an employee who speaks up about unwelcome behaviour with sexual overtones
15. Unwelcome social invitations, with sexual overtones commonly understood as flirting, propositions or continued requests for dates

16. Falsely accusing and undermining a person behind closed doors for sexual favours
17. Abuse of authority or power to threaten a person's job or undermine his/her /their performance against sexual favours
18. Systematically interfering with normal work conditions, sabotaging places or instruments of work against sexual favours

4. Creation and working of the Internal Committee (IC)

The Internal Committee (IC) has been set up and will be reconstituted every three years by the employer i.e, <Director, or Head of the Organisation, or Decision-making body> of <Organisation Name>. It has been formed according to the requirements laid down by the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, and Rules of 2013. The rules that apply to the committee are as follows:

- a. A minimum of four members are required to be part of the IC - one Presiding Officer, a minimum of two Internal Members and one External Member. A minimum of 50% of IC members will be women.
- b. The Presiding Officer will be a senior woman member. A senior woman member of <Organisation Name> is defined as <an employee with >7 years of work/professional experience / to be filled in as per the hierarchy of the organisation>. In case of unavailability of a senior woman member, the Presiding Officer can be nominated from another organisation.
- c. The two Internal Members who are employees or members of the organisation, and have done social work or have some legal knowledge or training. IC members will be trained frequently such that internal members have such legal training.
- d. The External Member shall be appointed from a non-governmental organisation or association committed to the cause of women, or who is familiar with issues relating to sexual harassment, measured in terms of their know-how and experience in handling similar cases. The member may be paid fees or allowances by the employer for holding the proceedings of the IC, as mutually agreed upon by the external member and the employer.
- e. Every Member of the IC shall hold office for not more than three years from the date of their nomination specified by the employer.
- f. If there is a conflict of interest between any of IC member and either the complainant or respondent, or any possibility of bias in the proceedings of the IC, then the IC will be reconstituted before the initiation of proceedings.
- g. The committee can be contacted at <email id of IC>.
- h. All other rules as prescribed in the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, and Rules of 2013, apply.

5. Responsibilities and Working of the IC

The IC shall have the following responsibilities, powers and mechanisms of working.

- a. The IC is responsible for addressing any complaints of sexual harassment at the workplace against organisation members. The IC is obliged to take up any complaints against organisation members, so long as they are incidents of sexual harassment that have occurred at the workplace or during the course of undertaking work, and irrespective of whether the complainant is an organisation member or not.
- b. The IC is responsible for following the complaints redressal procedure as laid out in this policy and in the POSH Act, in a timely and just manner.
- c. The IC is responsible for pointing to any conflict of interest and need for reconstitution before initiation of the complaint proceedings.
- d. The IC has the power of civil courts for all complaints that fall within the POSH Act, 2013, such that they can summon and require the attendance of any person as a witness, and require the production of any document as corroboration or evidence.
- e. For cases that do not fall strictly within the POSH Act, this policy provides the IC with powers to summon witnesses and documents as evidence.
- f. The IC has the responsibility to submit a final report with recommendations to the employer in a timely manner on completion of the complaint proceedings.
- g. The IC has the responsibility to submit an annual report for every calendar year to the employer and the District Officer.
- h. The quorum for any meeting of committee, shall be 3 members of IC, which shall include the Presiding Officer and External Member, and shall have a minimum 50% of female members.
- i. The IC is required to maintain strict confidentiality of all proceedings.

To effectively address workplace sexual harassment complaints, the IC must:

- a. Be thoroughly prepared to deal with issues and concerns that fall within the mandate of the committee. To do so, they need to participate in annual / regular IC training to stay updated with the details of the policy and to be familiar with the POSH Act, 2013, POSH Act, 2013 Rules, other relevant laws and internal policy on workplace sexual harassment.
- b. Gather and record all relevant information on complaints. For this, the IC will have to conduct necessary interviews, but are advised to steer away from invasive questioning and victim blaming while doing so. They should also ensure that all parties are made aware of the process and their rights/responsibilities within it. Based on information collected, the IC must submit an inquiry report with findings and recommendations to the employer.
- c. Keep a confidential record of all details of the proceedings.

d. Be available to discuss any concerns employees may have and to provide information about <Organisation Name>'s policy on sexual harassment and the complaint process.

6. Removal of a Member of the IC

A member of the IC may be removed by the employer if the member:

- a. breaks confidentiality of the IC proceedings in any manner, or contravenes the provisions of section 16 of the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, that is, breaks confidentiality of the complaint;
- b. has been convicted for an offence or if an inquiry into an offence under any law for the time being in force is pending against him/her/them;
- c. has been found guilty in any disciplinary proceedings or a disciplinary proceeding is pending against him/her/them;
- d. has so abused his/her/their position as to render his/her/their continuance in office prejudicial to the public interest; and/or
- e. was an internal member and leaves <Organisation Name>'s employment; the vacancy so created should be filled by the employer.

In addition, the IC can be reconstituted if there is potential conflict of interest.

7. Complaint mechanism

- a. Any aggrieved person may make, in writing, a complaint of sexual harassment at the workplace to the IC via an email to <IC email address> or via a letter to any of the IC members, including the external member. If the complaint falls under the POSH Act, 2013, an aggrieved person may also choose to make an online complaint on <https://www.shebox.nic.in/> to the the Ministry of Women and Child Development, Govt. of India.
- b. A written complaint needs to be filed directly with the IC. The written complaint should contain a description of each incident. It should include relevant dates, timings and locations; name of the respondent(s); and the working relationship between the parties.
- c. Provided where such a complaint cannot be made in writing, such as due to a disability or language or communication barrier, the Presiding Officer or any member of the IC can render assistance to the person for making the complaint in writing.
- d. Where the person is unable to make a complaint on account of their physical or mental incapacity or death or otherwise, their legal heir or such other person, as may be legally prescribed or with the written consent of the aggrieved person, may make a complaint.

e. As per the POSH Act, 2013, complaints need to be filed within three months of the most recent incident of sexual harassment. The IC can extend the window by another three months i.e. six months, if the IC is satisfied that there were circumstances which prevented the complainant from filing a written complaint within the three month period. The IC has the discretion to extend the period beyond this period under extraneous circumstances.

f. In the event that the conduct about which a complaint is lodged, is committed by a third party, with whom the Complainant came into contact at the Workplace, and where this conduct amounts to a specific offence under Section 354A of the IPC or under any other law in existence, the IC, subject to the wishes of the complainant, shall assist the complainant in filing of an FIR (First Information Report) at the appropriate Police Station or with the Local Committee in that district.

g. The IC will actively assist and do all that is necessary to ensure the safety of a complainant at the workplace or otherwise in respect to any duties/activities performed in connection with their work.

h. The IC may, before initiating an inquiry and at the request of the complainant, settle the matter between the complainant and the respondent through conciliation. However, no monetary settlement shall be made as a basis of conciliation. Conciliation will only be attempted at the request and consent of both parties and any evidence of such pressure on the complainant shall render the conciliation void.

i. When a settlement has been arrived at, the IC shall record the same and forward it to the employer and provide copies to the complainant and the respondent. No further inquiry shall be conducted by the IC. However, if the complainant informs the IC that any term or condition of the settlement has not been complied by the respondent, the IC can make an inquiry into the complaint or forward the complaint to the police if legally possible.

j. For the purpose of the inquiry, the IC shall have the same powers as are vested in a civil court when trying a suit in respect of summoning and enforcing the attendance of any person and examining them on oath, requiring the discovery and production of documents and any other matters prescribed, for all complaints that fall under the POSH Act, 2013.

k. The inquiry shall be completed by the IC within a period of ninety days. On completion of the inquiry, the IC shall provide a report of its findings to the employer within a period of ten days from the date of completion of the inquiry, while also providing the report to the concerned parties. The employer will then have up to sixty days to act upon the decisions of the IC.

l. Anyone found to have sexually harassed another person will be subject to disciplinary action that may include a requirement for an apology, mandatory counselling, transfer of duties or dismissal. A payment through deduction from his/her /their salary or wages or through direct payment may be required by the respondent towards the complainant. These will be decided by the IC and will be based on the nature and severity of the issue.

m. If the IC arrives at a conclusion that the allegation against the respondent is malicious or the complainant has made the complaint knowing it to be false or has produced forged or misleading documents, it will recommend necessary disciplinary action to the employer to take action against the complainant.

n. The employer has 60 days to act upon recommendations made by the IC.

8. Rights of complainants

a. <Organisation Name> recognises that the threat of reprisal is a significant deterrent for many survivors of sexual harassment, and <Organisation Name> undertakes to guarantee to every complainant that an inquiry into a complaint of sexual harassment shall maintain the strictest standards of confidentiality, and all steps will be taken to ensure that the complainant is shielded from any reprisals or adverse repercussions stemming from the complaint.

b. No member will be treated unfairly as a result of making a complaint of sexual harassment. Immediate disciplinary action will be taken against anyone who victimises or retaliates against someone who has made a complaint of sexual harassment.

c. The IC, as far as its jurisdiction holds, will also prevent the victimisation of witnesses, supporters, and representatives of complainants or respondents.

d. The respondent also has the right to have a supporter or representative chosen by them present when they respond to the allegations made.

e. The complainant will be informed about the ensuing process and the options available for the redressal.

f. <Organisation Name> will afford natural justice to any person involved in a dispute. To this end, both parties shall, during the course of the enquiry, be given an opportunity of being heard and a copy of the findings shall be made available to both parties enabling them to make representation against their findings before the committee.

g. Every member has a right to expect a trained, skilled and competent Internal Committee, a time-bound process, information confidentiality, assurance of non-retaliation, counselling or other enabling support where needed and assistance if the complainant opts for criminal proceedings, in accordance with the provisions of the sexual harassment act and rules.

h. The complainant has the right to request a discontinuation of the process at any time.

i. The content of the complaint, the addresses of the complainants, respondents and witnesses, any information relating to the conciliation and enquiry, recommendation of the IC and the action taken by the employer shall not be published, communicated or be made known to the public in any manner, as mandated under the law.

9. Pendency of a complaint

During the pendency of an inquiry on a written request made by the complainant, the IC may recommend the employer to:

- a. transfer the complainant or the respondent to any other workplace or place them on paid leave
- b. grant leave to the complainant up to a period of three months
- c. grant such other relief to the complainant as may be prescribed

The leave granted to the complainant under this section shall be in addition to the leave they would be otherwise entitled to.

Note: Since most cases of sexual harassment occur in private, there may not be any eye-witness to corroborate statements made by both parties. The IC will follow specific processes in its operation which will be guided by legal requirements, this policy and by a gender-just understanding of sexual harassment.

10. Annual trainings

- a. Employees at <Organisation Name> will undergo annual trainings to understand the importance of POSH and the manner in which sexual harassment can occur, and the process of lodging a complaint, as well as on recognising and preventing sexual harassment.
- b. The IC will undergo separate training on the POSH Act and other relevant rules, on the complaint proceedings, and any other relevant subject.