

POLICY
ON
PREVENTION OF
SEXUAL
HARASSMENT
AT WORKPLACE

1. REGULATORY PROVISION:

Sexual harassment at the workplace results in violation of the fundamental rights of a woman

- to equality under Articles 14 and 15 of the Constitution of India
- to life and to live with dignity under article 21 of the Constitution
- to practice any profession or to carry on any occupation, trade or business which includes a right to a safe environment free from sexual harassment.

Protection against sexual harassment and the right to work with dignity are universally recognised human rights by international conventions and instruments such as Convention on the Elimination of all Forms of Discrimination against Women, which has been ratified on 25 June 1993 by the Government of India.

This Policy has been framed in accordance with the provisions of “**The Sexual Harassment of Women at Workplace (Prevention, Prohibition & Redressal) Act, 2013**” hereinafter referred as **POSH ACT,2013** and Rules framed thereunder. The Policy covers all the key aspects of the said Act and the Rules and for any clarification reference shall always be made to the said Act and the Rules and the provisions of the said Act and the Rules shall prevail.

2. APPLICABILITY:

This policy applies to all categories of employees of the Company, including permanent management and workmen, temporaries, apprentice/trainees and employees on contract at their workplace or at clients’ sites. The Company will not tolerate sexual harassment, if engaged by any co- employee/ officer, executive officers of the Company or outsider while on office duty.

The workplace includes:

1. All offices or other premises where the Company’s business is conducted.
2. All company-related activities performed at any other site away from the Company’s premises.
3. Any social, business or other functions where the conduct or comments may have an adverse impact on the workplace or workplace relations.

3. DEFINITION OF SEXUAL HARASSMENT:

Sexual harassment may be one or a series of incidents involving unsolicited and unwelcome sexual advances, requests for sexual favours, or any other verbal or physical conduct of sexual nature.

Sexual Harassment at the workplace includes:

1. Unwelcome sexual advances (verbal, written or physical),
2. Demand or request for sexual favours,
3. Any other type of sexually-oriented conduct,
4. Verbal abuse or 'joking' that is sex-oriented,
5. any conduct that has the purpose or the effect of interfering with an individual's work performance or creating an intimidating, hostile or offensive work environment and/or submission to such conduct is either an explicit or implicit term or condition of employment and /or submission or rejection of the conduct is used as a basis for making employment decisions.

Sexual harassment is emotionally abusive and creates an unhealthy, unproductive atmosphere at the workplace. Sexual harassment cases can be classified into three categories –

- **Quid pro quo** - Under the quid pro quo (meaning this for that) form of harassment, a person or authority, usually the superior of the victim, demands sexual favours for getting or keeping a job benefit and threatens to fire the employee if the conditions are not met creation of a hostile working environment.
- **Creation of a hostile working environment**- A hostile work environment arises when a co- worker or supervisor creates a work environment through verbal or physical conduct that interferes with another co-worker's job performance or creates the workplace atmosphere which is intimidating, hostile, offensive or humiliating and experienced as an attack on personal dignity. For example an employee tells offensive jokes.

No person shall indulge or caused to be indulged under instructions from superior in sexual harassment of co- workers.

- **Virtual Sexual Harassment :**

KK Shah Hospitals Ltd. has moved to a virtual workspace be it staying in touch via smartphones or web callings, etc. With this change in the work environment, it is essential that the employees and managers carry the professional code under POSH during all such virtual interactions as well. Few of the guidelines on the virtual interaction are as below:- .

Do's :

1. Proper Attire - Employees attending video conferences must be dressed appropriately. Clothing such as vests, undergarments, T-Shirts with suggestive phrases, etc. to be avoided.
2. Content of Conversation - Keep the conversation specific to work areas, projects, deliverables.

Don'ts:

1. Background of the video call should be suitable. No poster with provocative content or any other inappropriate element should be visible during the video call.
2. No inappropriate jokes should be made.
3. Managers must not insist that female colleagues log on to one-on-one video calls, but have the option to take calls in “audio-only” mode.
4. Late night video calls to be avoided. If it is a business emergency, then the employee can attend it on “audio only mode”.

4. RESPONSIBILITIES REGARDING SEXUAL HARASSMENT:

It is duty/ responsibility of all the employees in the company to prevent or deter the commission of acts of sexual harassment and to provide the procedures for the resolution, settlement or prosecution of acts of sexual harassment by taking all steps required as stipulated in the policy.

The management and employees have the mutual responsibility to ensure that the working environment remains clean and free from all forms of harassment. Collectively we also have the duty to report all cases of harassment to the Human Resources Department, should this behaviour be witnessed by any employee, direct or indirect at any time in the workplace. Management (including Assistant Managers and Team Leaders) has a particular duty to ensure that harassment does not occur in areas, which are under their charge.

5. COMPLAINT MECHANISM:

In compliance with the Act, any complaint under this policy shall be followed by a formal redressal mechanism as described in this Policy.

INTERNAL COMPLAINTS COMMITTEE, (Henceforth known as ‘ICC’) :-

Under Section 4 of the POSH Act, at all workplaces with 10 or more employees, the employer must form an Internal Complaints Committee (ICC). This is an obligation that must be adhered to by public and private organizations.

The “Internal Complaints Committee” shall consist of minimum 4 members being: -

- **A Presiding Officer:** This must be a **senior female employee** of the organization.
- **Two employee members:** These employees must be aware and sensitive to gender issues and dedicated to the cause of women or possess some legal knowledge on related matters. The prerequisite for the selection of employees as members demands some legal knowledge or experience in the social sector or committed to the women’s cause. **These are desirable but not mandatory** as it may not be always easy to find such employees.

- **One external member:** This should be **from an NGO or Association** committed to the cause of women and issues related to sexual harassment, whose fee shall be fixed by the management and revised from time to time.

Provided that atleast one-half of the total Members so nominated shall be women.

While constitution of Committee the disqualification of the members of the Internal Complaints Committee as prescribed in the POSH Act, in details must be adhered. The Managing Director of the Company shall be the authority for disciplinary actions on issues relating to sexual harassment at the workplace, as per the following norms.

The Board of Directors may re-constitute the ICC as may be required from time to time, within the stipulated requirements under the Act.

6. TENURE OF THE MEMBERS OF THE COMMITTEE:

Section 4(3) of the POSH Act specifies the tenure of the members of the Internal Complaints Committee in the workplace. The Presiding Officer and every Member of the Internal Committee shall hold office for such period, **not exceeding three years**, from the date of their nomination as may be specified by the employer and names of the committee members shall be announced by the HR Manager.

7. DEALING WITH THE COMPLAINT:

Given that this policy highlights a prevention focus, there is a need to distinguish between an informal and formal process.

- **Procedure For Grievance Redressal:**

Grievance Redressal processes normally involve an intermediary means for resolving a problem. In the case of Sexual Harassment, at first instance, the person (i.e. HOD / Team Lead/ Woman representative of the location) may be the point of first contact for anyone seeking support/ intervention to stop unwelcome behaviour.

A sense of restraint and responsibility on the part of all concerned is critical for the effective functioning of these guidelines. The process that can be adopted is as follows:

- A. Convey to the person who is the cause of distress, about what person's actions, words, behaviour is doing and convey in no uncertain terms that such behaviour is not appreciated. What is important is the "Way" a particular behaviour, action or word is perceived; "Intent" is of no consequence.
- B. The second step would be to approach someone within the Company – preferably your Team Lead or HR Representative. The Team Lead or HR Representative would then try and counsel/ talk it over with a view towards understanding and solving the matter amicably.

- C. The POSH Act lays down specific guidelines about the timeline for filing the sexual harassment cases and specifies that it can be filed within 3 months from the date of the incident and in case of a series of incidents, within a period of 3 months from the date of last incident. The concerned employee shall give his **complaint necessarily in writing and Complainant shall sign at the foot of each page of the Compliant.**
- D. Once the complaint is received, it will be kept strictly confidential and **within 2 days** since receipt of Complaint the **Complainant will be heard** and **within 7 Days from receipt of Complaint the Committee will inform the respondent in writing** that a complaint has been received. The **respondent will have an opportunity to respond** to the complaint in writing **within (5) Five days thereafter.**
- E. The **ICC will hold a meeting with the Complainant and Respondent within a period of 15 (fifteen) days of the receipt of the complaint** and advance intimation in writing will be given to the Complainant and Respondent of the same.
- F. **At the first meeting of the ICC, the Complainant shall be heard** and her/ his statement recorded (Statement of Allegation). The Complainant can produce corroborative material with a documentary oral material, etc., to substantiate his / her complaint/ allegations. **Thereafter, the Respondent will be given an opportunity to give an explanation,** whereafter, an “Enquiry” shall be conducted.
- G. However, in the event the complaint does not fall under the purview of Sexual Harassment or the Complaint on the face of it does not disclose an element or offence of Sexual Harassment, the ICC may drop the complaint after recording the reason/s thereof and shall subsequently communicate the same to the Complainant, in writing.

H. PROCEDURE FOR ENQUIRY

- i. The ICC shall immediately **proceed with the Enquiry** and communicate the same to the Complainant and the Respondent in writing. The Complaints Committee shall record all the proceedings of the Enquiry and all parties present at any of the communication meetings, shall endorse the same in token of authenticity thereof.
- ii. The Complaints Committee shall hand over the **Comprehensive Statement of Allegation to the Respondent** and give an opportunity to the **Respondent to submit a written explanation** if she/ he so desires **within 15 days of receipt of the same.**
- iii. The **Complainant will be provided with a copy of the written explanation** submitted by the Respondent.
- iv. If the **Complainant or the Respondent desire any witness/es to be called,** they shall **communicate in writing to the ICC the names of witness/es** whom they propose to be called.

- v. If the Complainant desires to tender any **documents by way of evidence** before the Complaints Committee, she / he shall supply **true copies** of such documents to the Complaints Committee. Similarly, if the Respondent desires to tender any documents in evidence before the Complaints Committee he / she shall supply true copies of such documents to the Complaints Committee and **will affix his / her signature on the same to certify it to be a true copy.**
- vi. The Committee will **call upon all witnesses** mentioned by both the parties and if Witness is found false/malafide the stringent disciplinary action will be taken against him/her immediately by the management of the Company .
- vii. The Complaints Committee will **provide every reasonable opportunity** to the Complainant and to the Respondent, for putting forward and defending their respective cases.
- viii. The Internal Complaints Committee shall **complete the “Enquiry”** as soon as is reasonably possible **not Exceeding 90 Days from the date of receipt of Complaint** and communicate its **findings to the Management** preferably within a period of **10 (ten days) thereafter** and such report be made available to the concerned parties.
- ix. The Management is **obliged** to act on the recommendations **within 60 days.**
- x. Any person aggrieved from the recommendation of the Committee or not satisfied then they may prefer an appeal to the court or tribunal in accordance with service rules applicable to the person.
- xi. Where the Internal Complaints Committee arrives at the conclusion that the **allegation against the respondent has been proved**, it shall recommend to the Management:-
 - ❖ to take action for sexual harassment as a misconduct in accordance with the provisions of the service rules applicable to the respondent.
 - ❖ the management or any one nominated by the management shall take appropriate action in accordance with the applicable provisions of law, while keeping in view the principles of Natural Justice and equity.
 - ❖ they can recommend any action or any combination of following:-
 - Disciplinary action, including a written apology, reprimand, warning, censure
 - Withholding promotion/ pay raise/ increment;
 - Termination
 - Counseling
 - Community service.

- ❖ The Complaints Committee may also recommend financial damages to the complainant, while deciding the amount they shall take into consideration:
 - Mental trauma, pain, suffering and emotional distress caused;
 - Medical expenses incurred;
 - Loss of career opportunity;
 - Income and financial status of the respondent.

The Complaints Committee can also give additional recommendations to address the underlying factors contributing to sexual harassment at the workplace.

The Complaints Committee shall be governed by the provisions of Prevention of Sexual Harassment at work (prevention, prohibition and redressal) Act and the rules made thereunder, besides Service Rules & Regulations, while taking into account the best practices from India and Abroad. Further during the entire procedure of Enquiry if Complainant request for Work from Home or Leave from the Company then the Management and Committee has discretionary power to discuss and consider the same.

8. DISCIPLINARY ACTION:

Where any misconduct is found by the Committee, appropriate disciplinary action shall be taken against Respondent. Disciplinary action may include transfer, withholding promotion, suspension or even dismissal. This action shall be in addition to any legal recourse sought by the complainant.

9. CONFIDENTIALITY:

The Company understands that it is difficult for the victim to come forward with a complaint of sexual harassment and recognizes the victim's interest in keeping the matter confidential. To protect the interests of the victim, the Respondent and others who may report incidents of sexual harassment, confidentiality will be maintained throughout the investigatory process to the extent practicable and appropriate under the circumstances.

10. ACCESS TO REPORTS AND DOCUMENTS:

All records of complaints, including contents of meetings, results of investigations and other relevant material will be kept confidential by the Company except where disclosure is required under disciplinary or other remedial processes.

11. . PROTECTION TO COMPLAINANT / VICTIM:

The Company is committed to ensuring that no employee who brings forward a harassment concern is subject to any form of reprisal. Any reprisal will be subject to disciplinary action.

The Company will ensure that the victim or witnesses are not victimized or discriminated against while dealing with complaints of sexual harassment. However, anyone who abuses the procedure (for example, by maliciously putting an allegation knowing it to be untrue) will be subject to disciplinary action.

12. LODGING A FALSE COMPLAINT:

- a. If, based on investigations, the company arrives at the conclusion that a prima facie case of harassment has not been made out against an employee and that the charges were brought falsely, and with malicious intent then the company will initiate appropriate disciplinary action which may include termination of the employee who falsely accused another in accordance with the Company's Disciplinary procedures.
- b. All records of sexual harassment reports and investigation shall be considered confidential and shall not be disclosed publicly except to the extent required by law.

13. THIRD PARTY HARASSMENT:

When sexual harassment occurs because of an act or omission by any third party or outsider, the Company will take steps necessary to assist the affected employee in terms of support and prevention action within the legal norms.

14. ANNUAL REPORT:

The Internal Complaint Committee shall prepare in such form and at such time as may be prescribed an Annual report at the end of each Calendar/financial year of the Company (as may be applicable), giving a full account of its activities during the previous year and forward a copy thereof, to the Management or the person/committee nominated and forward the consolidated report as mandated under the Act to the concerned Authorities.

15. CONSENT:

In order to ensure safety of Women's staying late night after Office Hours, Company has specially formulated a Formal Consent Form, which forms an Integral part of this Policy, which will ensure that all Women's are staying by their free will and the same shall be maintained In-house. This practice will ensure Women safety is excelled by true spirit of Law.

CONCLUSION:

In conclusion, the Company reiterates its commitment to providing its employees, a workplace free from harassment/discrimination and where every employee is treated with dignity and respect.

Composition of Internal Complaints Committee:

Name of the Members	Designation
Mrs. Hansa Shah	Presiding Officer – Administrative Officer
Mrs. Shweta Patni	Member - External Expert
Mrs. Saloni Badjatya	Member - (Company Secretary & Compliance Officer)
Ms. Vaishale Bohra	Member - Chief Executive Officer (CEO)

* w.e.f. 28th February, 2023