

POLICY ON SEXUAL HARASSMENT IN THE WORKPLACE

2015



HUMSAFAR
Support Centre for Women
27, New Berry Road (near Times of India)
Phone no: 0522-2205215, 4062119
Email: humsafar25nov@gmail.com
Website: www.humsafarindia.org
Lucknow, 226001

FOREWORD

This policy one of the several tools developed by the HUMSAFAR, Lucknow towards the promotion of a congenial work environment. It defines the policies and the modalities pertaining to allegations of sexual harassment, in case they occur.

A copy of this policy is provided to all HUMSAFAR staff to better understand what HUMSAFAR expects from them as much as what they may expect from HUMSAFAR. This will give us another common keystone of shared understanding, create a happier workplace and help develop a more cohesive team for social change and justice.

Sexual harassment is gross misconduct. It undermines the workplace environment and individual relationships between workers. No HUMSAFAR worker, either male or female, should be subjected verbally or physically to unsolicited and unwelcome sexual overtures or conduct. Harassment, be it sexual, racial or ethnic or of any other kind, is personally demeaning and professionally counter-productive. It is also forbidden by Indian law and is strictly prohibited by HUMSAFAR. Violation of this policy will be subject to disciplinary action, including termination.

We welcome constructive suggestions from our co-workers that would promote a harmonious and ethical relationship in the work place. Hopefully, this policy will play a part in making our workplace happier and safer for all of us.

COORDINATOR
HUMSAFAR

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Chapter I - PREAMBLE AND DEFINITIONS

PREAMBLE

WHEREAS sexual harassment results in violation of the fundamental rights of a woman to equality under articles 14 and 15 of the Constitution of India and her right to life and to live with dignity under article 21 of the Constitution and right 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;

AND WHEREAS the protection against sexual harassment and the right to work with dignity are universally recognized 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 the 25th June, 1993 by the Government of India;

AND WHEREAS it is expedient to make provisions for giving effect to the said Convention for protection of women against sexual harassment at workplace.

AND WHEREAS India has passed the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act (hereinafter referred to as SH Act), 2013;

NOW THEREFORE HUMSAFAR has prepared and adopted this Policy on Sexual Harassment in its Workplace

1. DEFINITIONS

In this Policy, unless otherwise stated—

- (a) **“Aggrieved person”** means a person who works with HUMSAFAR, of any age, gender whether employed or not, who alleges to have been subjected to any act of sexual harassment by the respondent;
- (b) **“Board Members”** refers to the Board members of HUMSAFAR
- (c) **“Complaint”** means a complaint within the provisions of this Policy;
- (d) **“Complainant”** means any the aggrieved person, or any other person who makes a complaint on behalf of the aggrieved person within the purview of this Policy;
- (e) **“Employee/Worker”** means a person employed at HUMSAFAR for any work, on regular, temporary, ad hoc or daily wage basis, either directly or through an agent, including a contractor, either voluntary or paid, whether the terms of employment are express or implied, and includes a co – worker, a contract worker, probationer, trainee or apprentice.
- (f) **“Employer”** means the board of Trustees HUMSAFAR.
- (g) **“Internal Complaints Committee”** means the Internal Complaints Committee (ICC) constituted by HUMSAFAR under SH Act;
- (h) **“Member”** means a Member of the Internal Complaints Committee;
- (i) **“Presiding Officer”** means the Presiding Officer of the Internal Complaints Committee;
- (j) **“Respondent”** means a person against whom a complaint has been made under this policy
- (k) **“sexual harassment”** includes any one or more of the following unwelcome acts or behavior (whether directly or by implication) namely:-
 - a. Physical contact and advances; or
 - b. A demand or request for sexual favors; or
 - c. Making sexually colored remarks; or
 - d. Showing pornography; or
 - e. Any other unwelcome physical, verbal or non-verbal conduct of sexual nature
- (l) **Third party or outsider** refers to any person who is not an employee or worker in HUMSAFAR and against whom a complaint has been filed under this policy
- (m) **“Workplace”** includes premises of HUMSAFAR office, Field Offices, any place visited by the employee arising out of or during the course of employment including the transportation provided by HUMSAFAR for undertaking such journey.

- 2. Every employee/worker has the right to work in an environment free from any form of sexual harassment.

3. No person who is a part of HUMSAFAR in any capacity shall sexually harass a colleague whether male or female; at the workplace or at any place whatsoever.
3. None of HUMSAFAR's employees/workers, shall sexually harass an outsider who visits the Head Office or any of its field offices or operational areas.
4. Sexual harassment is gross misconduct and the HUMSAFAR Office Policy governing employment shall govern such misconduct.
5. In the event of any complaint of sexual harassment, all necessary steps to assist the aggrieved party to redress the incident/s will be taken by the Internal Complaints Committee. The Management of HUMSAFAR will ensure preventive measures and protection/support to the aggrieved.
6. Where sexual harassment occurs as a result of an act or omission by any third party or outsider, Internal Complaint Committee will take all necessary and reasonable steps to assist the affected person with support and preventive action.

Chapter II: CONSTITUTION OF INTERNAL COMPLAINTS COMMITTEE

7. HUMSAFAR (as represented by its Coordinator/employer) shall, by an order in writing duly approved by the Board of Trustees, constitute a Committee to be known as the "Internal Complaints Committee":

Provided that where the offices or administrative units of HUMSAFAR are located at different places or divisional or sub-divisional level, the Internal Committee shall be constituted at all administrative units or offices, unless the same would cause undue hardship to HUMSAFAR, in which case a single ICC will look into all such matters.

8. (1)The Internal Committee shall consist of the following members to be nominated by the employer, namely:-

- (a) A Presiding Officer who shall be a woman employed at a senior level at workplace from amongst the employees:

Provided that in case a senior level woman employee is not available, the Presiding Officer shall be nominated from other offices or administrative units of the workplace.

Provided further that in the event of non availability of any or adequate number of senior level women employee(s), as the case may be, the Presiding Officer shall be nominated from any other organization;

- (b) Not less than two members from amongst employees, preferably committed to the cause of women or who have had experience in social work or have legal knowledge
- (c) One member from amongst non-governmental organizations or associations committed to the cause of women or a person familiar with the issues relating to sexual harassment

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

- (2) 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.
- (3) Member appointed from amongst the non-governmental organization or associations shall be paid such fees or allowances for holding the proceedings of the Internal Committee, as prescribed by the Board of HUMSAFAR.

9. Removal of the Presiding Officer

Where the Presiding Officer or any Member of the Internal Committee:

- (a) Discloses to the public, press or media, in any manner whatsoever, the contents of a complaint under this policy, or the identity and/or address of the aggrieved person, respondent or witness, or information on any proceeding (whether conciliation, inquiry, recommendations, action taken, or otherwise);
- (b) Has been convicted of an offence or an inquiry into an offence under any law for the time being in force is pending against him/her, or
- (c) S/he has been found guilty in any disciplinary proceedings or a disciplinary proceeding is pending against him; or
- (d) Has so abused his/her position as to render his/her continuance in office prejudicial to the purposes of this policy:

Such Presiding Officer or Member, as the case may be, shall be removed from the Committee and the vacancy so created, or any casual vacancy, shall be filled by fresh nomination in accordance with the provisions Sections 8 and 9 of this policy.

Chapter III - REPORTING A COMPLAINT

10. It is the duty of the Internal Complaints Committee (ICC) to receive all sexual harassment complaints, verbal or written, for the organization. In case of verbal complaints, the Presiding Officer or any Member of the Internal Committee shall assist the complainant to make the complaint in writing. The written complaint will be read out to the complainant in the language requested by the complainant and his/her signature obtained.
11. Where the complaint is against the employer, the case shall be referred by the Internal Committee to the Local Committee as set up under the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013
12. Where the complaint is in the nature of a criminal offence, or is reasonably understood to be in the nature of such offence, or the aggrieved person makes a request in this behalf, the matter will also be reported to the police or criminal complaint filed in court.
Provided that the reporting of a matter to the police or filing of a criminal case in court shall not prevent the Internal Complaints Committee from proceeding with the complaint of sexual harassment.
13. Where the aggrieved person is unable to make a complaint on account of his/her physical or mental incapacity or death or otherwise, his/her legal heir or guardian or authorized representative may make a complaint under this section.
14. A sexual harassment complaint may be lodged with ICC at the earliest and in any case within 3 months of occurrence of the alleged incident, or in the case of a series of incidents, the last incident. The complaint shall contain all the material and relevant details concerning the incident/s.

Provided that the Internal Complaints Committee may, for reasons to be recorded in writing, extend the time limit not exceeding three months, if it is satisfied that the circumstances were such which prevented the aggrieved person from filing complaint within the said period.
15. The Presiding Officer shall communicate the same to all the members of ICC within 3 working days of receipt of the complaint.
16. The Internal Complaints Committee may, at the request of the aggrieved party, take steps to settle the matter between the complainant and the respondent. However, no monetary settlement shall be made as a basis of conciliation.

17. Where settlement has been arrived under Section 16, the Internal Complaints Committee shall record the settlement so arrived at and forward the same to the employer to take action as specified in the recommendation.
18. The Internal Committee shall provide the copies of the settlement to the aggrieved woman and the respondent.
19. Where settlement is arrived as under sub-section 16, no further enquiry shall be conducted by the Internal Committee

Chapter IV: ENQUIRY INTO THE COMPLAINT

20. Subject to the provision of section 16 of the SH Act, the Internal Committee shall, proceed to make inquiry into the complaint. Where the aggrieved person informs the Internal Complaints Committee that any term or condition of the settlement arrived at under Section 16 has not been complied with by the respondent, the Internal Committee shall proceed to make an enquiry into the complaint.
21. For the purpose of making an enquiry under Section 20 of the SH Act, the Internal Committee shall have the same powers as are vested in a civil court under the Code of Civil Procedure, 1908, when trying to suit, in respect of the following matters, namely:--
 - (a) Summoning and enforcing the attendance of any person and examining him/her on oath;
 - (b) Requiring the documents and production of documents; and
 - (c) Any other document which may be prescribed
22. During the pendency of the enquiry, on a written request made by the aggrieved woman, the internal Committee may recommend to the employer to
 - (a) Transfer the aggrieved person or the respondent to any other workplace; or
 - (b) Grant leave to the aggrieved person up to a period of three months. The leave granted to the aggrieved person under this section shall be in addition to the leave s/he would be otherwise entitled.

Enquiry report

23. On the completion of the enquiry the Internal Complaint Committee shall provide a report of its findings to the employer within a period of 10 days from the date of completion of the inquiry, and such report shall be made available to the concerned parties.
24. When the Internal Committee arrives at the conclusion that the allegation against the respondent has not been proved, it shall recommend to the employer that no action is required to be taken in the matter.

Penalties, punishments

25. Where the Internal Committee arrives at the conclusion that the allegation(s) against the respondent has been proved, it shall recommend to the employer:

- (i) To take action for sexual harassment as misconduct in accordance with the provisions of the service rules applicable to the respondent or where no such service rules have been made, in such manner as may be prescribed under any law in India for the time being in force
- (ii) To deduct, notwithstanding in the service rules applicable to the respondent, from the salary or wages of the respondent such sum as it may consider appropriate to be paid to the aggrieved person or to his/her legal heirs, as it may determine, in accordance with the provision of section 15 of the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 being:
 - (a) mental trauma, pain, suffering and emotional distress caused to the aggrieved person
 - (b) loss in career opportunity due to the incident/s sexual harassment
 - (c) medical expenses for physical or psychiatric treatment
 - (d) income and financial status of respondent

Provided that in case of the employer is unable to make such deduction from the salary or the respondent due his/her being absent from duty or cessation of employment it may direct to the respondent to pay such sum to the aggrieved person.

Provided further that in case the respondent fails to pay the sum referred to in clause (ii), the Internal Committee may forward the order of the sum as an arrear of land revenue to the concerned District Officer.

26. (a) Where the Internal Committee arrives at a conclusion that the allegation against the respondent is malicious or the aggrieved woman or any other person making the complaint has made the complaint knowing it to be false or the aggrieved person or any other person making the complaint has produced any forged or misleading document, it may recommend to the employer to take action against the aggrieved person or the person who has made the complaint in accordance with the provisions of the service rules applicable to her or him, or where no such service rules exist, in such manner as may be prescribed in any law in India for the time being in force

Provided that failure to substantiate a complaint or provide adequate proof of sexual harassment does not amount to a false or malicious complaint.

Provided further that malicious intent on part of the complainant shall be established and any action is recommended only after an enquiry in accordance with the procedure prescribed is completed.

- (b) Where the Internal Committee arrives at a conclusion that during the enquiry any witness has given false evidence or produced any forged or misleading document, it may recommend to the employer of the witness to take action in accordance with the provision of the service rules applicable to the said witness or where no such service rules exist, in such manner as it may be prescribed.

27. The employer shall act upon the recommendation within sixty days of its receipt by her/him and send the report of such implementation to the Internal Committee.

Confidentiality of complaints

28. It shall be the duty of all the Internal Committee, employer, and all persons connecting with a proceeding before the Internal Committee to ensure that all complaints and proceedings thereof are kept confidential. The name of the aggrieved person shall not be referred to in any records of proceedings.

Prohibition of victimization

29. (a) No person shall be further victimized for anything said or done in relation to any complaints or proceedings under this Policy. Any instance of re-victimization shall be reported to the Internal Committee which will forthwith make recommendations to the employer for immediate action, including police assistance, where appropriate.

Chapter V: DUTIES OF THE EMPLOYER, PREVENTIVE MEASURES AND MANAGEMENT OBLIGATIONS

Duties of Employer

30. (a) HUMSAFAR shall provide a safe working environment at the workplace which shall include safety from the persons coming into contact at the workplace;
- (a) Display at any conspicuous in the workplace the penal consequences of sexual harassment and the order constituting the Internal Complaint Committee (ICC).
 - (b) Organize workshops and awareness programs at regular intervals for sensitizing the workers/employees and orientation programs for the ICC
 - (c) Provide necessary facilities to the ICC or Local Committee as the case may be for dealing with the complaint and conducting enquiry
 - (d) Assist in securing the attendance of respondent and witnesses before the ICC or the Local Committee as the case may be.

- (e) Make available such information to the ICC or the Local Committee, as the case may be, as it may required by them in the course of the enquiry
- (f) Provide assistance to the aggrieved person if she so chooses to file a complaint in relation to the offence under penal law in India or any other law for the time being in force.
- (g) Cause to initiate action, under the penal law in India or any other law for the time being in force, against the perpetrator is not an employee, in the workplace at which incident of sexual harassment took place
- (h) Treat sexual harassment as misconduct under the service rules and initiate action for such misconduct.
- (i) Monitor the timely submission of reports by the ICC.
- (j) Include the reports submitted by ICC in the annual report of HUMSAFAR

Management Obligations

31. (a) Management of HUMSAFAR shall provide all necessary assistance for the full, effective and prompt implementation of this policy. It shall further be bound by the decisions of the ICC and shall implement the same expeditiously.

(b)The support to be provided to ICC includes:

- ✓ Secretarial and administrative support for training and other preventive actions;
- ✓ Helping to set up ICC;
- ✓ Secretarial support during sexual harassment enquiries;
- ✓ Adequate financial resources for all activities related to preventing/dealing with sexual harassment in the workplace.

(c) HUMSAFAR is expected to provide adequate protection to ICC members in case of threats and any retaliation. Support & protection must also be provided if matters go to Court.

(d) Communicate the policy to all employees.

(e) Prevent, stop and correct harassment.

Preventive Steps

33. Under existing Indian law, HUMASFAR shall take reasonable steps to ensure prevention of sexual harassment at work. Such steps shall include:

- a) Copies of HUMSAFAR's policy on Sexual Harassment at workplace will be freely available to all workers/employees. Copies of HUMSAFAR's policy on Sexual

- Harassment at workplace will also be circulated in HUMSAFAR's office and to HUMSAFAR's NGO partners in the field and adherence is mandatory for all persons employed by or in any way acting in connection with the work and/or functioning of HUMSAFAR;
- b) In-house orientation and training on sexual harassment for HUMSAFAR's staff and NGO partners will be periodically carried out; prominently display guidelines to create awareness on the topic;
 - c) Inform all workers and partners that Sexual Harassment is an official misconduct and will not be tolerated;
 - d) HUMSAFAR will assist its own workers affected by sexual harassment by outsiders;
 - e) Establishing an Internal Complaints Committee to enforce HUMSAFAR's commitment to Anti Sexual Harassment;
 - f) Names and contact numbers of members of the Internal Complaints Committee will be prominently displayed in all offices/projects of HUMSAFAR.
 - g) HUMSAFAR will take action to deter any future harassment. Moreover, disciplinary action will be taken against any employee who attempts to discourage or prevent another employee from bringing harassment to the attention of management.
 - h) HUMSAFAR assures all its workers/volunteers that measures will be undertaken to protect all complainants from harassment from any further acts of harassment or victimization due to their reporting an incident or participating in an investigation or proceeding concerning the alleged harassment.

RECEIPT AND ACKNOWLEDGEMENT FOR COPY OF POLICY SEXUAL HARASSMENT IN THE WORKPLACE

This is to acknowledge that I have received a copy of the HUMSAFAR's Anti Sexual Harassment Policy.

This policy sets forth the policies and the modalities for administering those pertaining to sexual harassment. I understand and agree that it is my responsibility to read and familiarize myself with all of the provisions of the handbook.

I understand that the provisions of this policy, HUMSAFAR reserves the right to amend, modify, rescind, delete, supplement or add to the provisions of this policy as it deems appropriate from time to time in its sole and absolute discretion. HUMSAFAR will attempt to provide notification of any other changes as they occur.

I am committed to abide by the policy and to act in a professional manner that will respect the dignity of our colleagues, seniors, subordinates & visitors.

Date:

Signed:<_____>

(Employee/ Third Party)

Signed:<_____>

(Employer)

Internal Complain Committee

S.no.	Name	Designation	e-mail	Contact no
1.	MAMTA SINGH	Chairperson	mamta5may@gmail.com	9450642546
2.	RISHA SYED	Legal Advisor	rishasyed@gmail.com	9450112954
3.	NEETU SHARMA	Member/ convener	neetu0440@gmail.com	9918000440
4.	SUDHA	Member	sudhasomu27@gmail.com	9696943758
5.	PAULASRI ROY DAS	Member	paula@sahayogindia.org	9792005162