

ABH HEALTHCARE LIMITED

POLICY ON PREVENTION OF SEXUAL HARRASSMENT OF WOMEN AT WORKPLACE

PREAMBLE

The policy aims to ensure safe working spaces for women and to build enabling work environments that respect women's right to equality of status and opportunity. An effective implementation of the policy will contribute to the realization of their right to gender equality, life and liberty, equality in working conditions everywhere.

We at **ABH HEALTHCARE LIMITED** believe that the sense of security at the workplace will improve women's participation in work, resulting in their economic empowerment and inclusive growth.

DEFINITIONS

A. "aggrieved woman" – means –

- (i) in relation to a workplace, a woman, of any age whether employed or not, who alleges to have been subjected to any act of sexual harassment by the respondent;
- (ii) in relation to dwelling place or house, a woman of any age who is employed in such a dwelling place or house;

B. "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, or 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, apprentice or called by any other such name;

C. "employer" means –

- (i) in relation to any department, organisation, undertaking, establishment, enterprise, institution, office, branch or unit of the appropriate Government or a local authority, the head of that department, organisation, undertaking, establishment, enterprise, institution, office, branch or unit or such other officer as the appropriate Government or the local authority, as the case may be, may by an order specify in this behalf;
- (ii) in any workplace not covered under sub-clause (i), any person responsible for the management, supervision and control of the workplace.
Explanation. —For the purposes of this sub-clause "management" includes the person or board or committee responsible for formulation and administration of policies for such organisation;
- (iii) in relation to workplace covered under sub-clauses (i) and (ii), the person discharging contractual obligations with respect to his or her employees;
- (iv) in relation to a dwelling place or house, a person or a household who employs or benefits from the employment of domestic worker, irrespective of the number, time period or type of such worker employed, or the nature of the employment or activities performed by the domestic worker;

D. "sexual harassment" includes any one or more of the following unwelcome acts or behavior (whether directly or by implication) namely: —

- (i) physical contact and advances; or
- (ii) a demand or request for sexual favours; or
- (iii) making sexually coloured remarks; or
- (iv) showing pornography; or
- (v) any other unwelcome physical, verbal or non-verbal conduct of sexual nature;

The following circumstances, among other circumstances, if it occurs, or is present in relation to or connected with any act or behaviour of sexual harassment may amount to sexual harassment: —

- (i) implied or explicit promise of preferential treatment in her employment; or
- (ii) implied or explicit threat of detrimental treatment in her employment; or

- (iii) implied or explicit threat about her present or future employment status; or
- (iv) interference with her work or creating an intimidating or offensive or hostile work environment for her; or
- (v) humiliating treatment likely to affect her health or safety.

E. “workplace” ” includes—

- (i) any department, organisation, undertaking, establishment, enterprise, institution, office, branch or unit which is established, owned, controlled or wholly or substantially financed by funds provided directly or indirectly by the appropriate Government or the local authority or a Government company or a corporation or a co-operative society;
- ii) any private sector organisation or a private venture, undertaking, enterprise, institution, establishment, society, trust, non-governmental organisation, unit or service provider carrying on commercial, professional, vocational, educational, entertain mental, industrial, health services or financial activities including production, supply, sale, distribution or service;
- (iii) hospitals or nursing homes;
- (iv) any sports institute, stadium, sports complex or competition or games venue, whether residential or not used for training, sports or other activities relating thereto;
- (v) any place visited by the employee arising out of or during the course of employment including transportation by the employer for undertaking such journey;
- (vi) a dwelling place or a house;

ROLES & RESPONSIBILITIES

- a. Responsibilities of Individual:** It is the responsibility of all to respect the rights of others and to never encourage harassment. It can be done by:
- a. Refusing to participate in any activity which constitutes harassment
 - b. Supporting the person to reject unwelcome behaviour
 - c. Acting as a witness if the person being harassed decides to lodge a complaint.

All are encouraged to advise others of behaviour that is unwelcome. Often, some behaviours are not intentional. While this does not make it acceptable, it does give the person behaving inappropriately, the opportunity to modify or stop their offensive behaviour.

- b. Responsibilities of Managers:** All managers must ensure that nobody is subject to harassment and there is equal treatment. They must also ensure that all employees understand that harassment will not be tolerated; that complaints will be taken seriously; and that the complainant, respondent/s, or witnesses are not victimized in any way.

- c. Duties of employer-** Every employer shall—

- (a) Provide a safe working environment at the workplace which shall include safety from the persons coming into contact at the workplace;
- (b) display at any conspicuous place in the workplace, the penal consequences of sexual harassments; and the order constituting, the Internal Committee;
- (c) organise workshops and awareness programmes at regular intervals for sensitising the employees with the provisions of the Act and orientation programmes for the members of the Internal Committee in the manner as may be prescribed;
- (d) provide necessary facilities to the Internal Committee, as the case may be, for dealing with the complaint and conducting an inquiry;
- (e) assist in securing the attendance of respondent and witnesses before the Internal Committee;
- (f) make available such information to the Internal Committee as it may require having regard to the complaint made;
- (g) provide assistance to the woman if she so chooses to file a complaint in relation to the offence under the Indian Penal Code (45 of 1860) or any other law for the time being in force;

- (h) cause to initiate action, under the Indian Penal Code (45 of 1860) or any other law for the time being in force, against the perpetrator, or if the aggrieved woman so desires, where the perpetrator is not an employee, in the workplace at which the incident of sexual harassment took place;
- (i) treat sexual harassment as a misconduct under the service rules and initiate action for such misconduct;
- (j) monitor the timely submission of reports by the Internal Committee.

REDRESSED MECHANISM

a. Internal Complaints Committee (Henceforth known as ‘the Committee’) –

To prevent instances of sexual harassment and to receive and effectively deal with complaints pertaining to the same, an "Internal Complaints Committee" is constituted. The detail of the committee is notified to all covered persons at the workplace.

The committee shall comprises of:

- Presiding Officer: A woman employed at a senior level in the organization or workplace
- At least 2 members from amongst employees, committed to the cause of women and or having legal knowledge
- One external member, familiar with the issues relating to sexual harassment
- At least one half of the total members are women.

The committee is responsible for:

- Receiving complaints of sexual harassment at the workplace
- Initiating and conducting inquiry as per the established procedure
- Submitting findings and recommendations of inquiries
- Coordinating with the employer in implementing appropriate action
- Maintaining strict confidentiality throughout the process as per established guidelines
- Submitting annual reports in the prescribed format

b. Complaint of sexual harassment

- Any aggrieved women may make, in writing, a complaint of sexual harassment at workplace to the Committee within a period of **3 (three) months** from the date of incident and in case of series of incidents, within a period of **3 (three) months** from the last date of last incident;
- Where such complaint cannot be made in writing, the Presiding Officer or any Member of the Internal Committee shall render all reasonable assistance to the woman for making the complaint in writing.
- The Committee may, for the 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 woman from filing a complaint within the said period.
- where the aggrieved woman is unable to make a complaint on account of her physical incapacity, a complaint may be filed by –
 - (a) her relative or friend; or
 - (b) her co-worker; or
 - (c) an officer of the National Commission for Women or State Women’s Commission; or
 - (d) any person who has knowledge of the incident, with the written consent of the aggrieved woman;
- where the aggrieved woman is unable to make a complaint on account of her mental incapacity, a complaint may be filed by-
 - (a) her relative of friend; or
 - (b) a special educator; or
 - (c) a qualified psychiatrist or psychologist; or
 - (d) the guardian or authority under whose care she is receiving treatment or care; or
 - (e) any person who has knowledge of the incident jointly with her relative or friend or a special educator or qualified psychiatrist or psychologist, or guardian or authority under whose care she is receiving treatment or care;

- where the aggrieved woman for any other reason is unable to make a complaint, a complaint may be filed by any person who has knowledge of the incident, with her written consent;
- where the aggrieved woman is dead, a complaint may be filed by any person who has knowledge of the incident, with the written consent of her legal heir.

c. Conciliation

- The Committee may, before initiating an inquiry and at the request of the aggrieved woman take steps to settle the matter between her and the respondent through conciliation. Provided that no monetary settlement shall be made as a basis of conciliation.
- Where settlement has been arrived, the Committee shall record the settlement so arrived and forward the same to the employer to take action as specified in the recommendation.
- The Committee shall provide the copies of the settlement as recorded to the aggrieved woman and the respondent.
- Where a settlement is arrived no further inquiry shall be conducted by the Committee.

d. Inquiry into complaint –

- Inquiry into the complaint made by the complainant shall be made in accordance with the manner laid down under section 11 of Sexual Harassment of Women at Workplace (Prevention, Prohibition and redressed) Act, 2013.
- at the time of filing the complaint, the complainant shall submit to the Committee, six copies of the complaint along with supporting documents and the names and addresses of the witnesses.
- On receipt of the complaint, the Committee shall send one of the copies received from the aggrieved woman to the respondent within a period of **7 (seven) working days**.
- The respondent shall file his reply to the complaint along with his list of documents, and names and addresses of witnesses, within a period not exceeding **10 (ten) working days** from the date of receipt of the documents specified.
- The Committee shall make inquiry into the complaint in accordance with the principles of natural justice.
- The Committee shall have the right to terminate the inquiry proceedings or to give an ex-parte decision on the complaint, if the complainant or respondent fails, without sufficient cause, to present herself or himself for three consecutive hearings convened by the Presiding Officer. Provided that such termination or ex-parte order may not be passed without giving a notice in writing, fifteen days in advance, to the party concerned.
- The parties shall not be allowed to bring in any legal practitioner to represent them in their case at any stage of the proceedings before the Committee.
- In conducting the inquiry, a minimum of **3 (three)** Members of the Committee including the Presiding Officer shall be present.

e. Actions during the pendency of complaint-

- During the pendency of an inquiry on a written request made by the aggrieved woman, the Committee may recommend to the employer to—
 - (a) Transfer the aggrieved woman or the respondent to any other workplace; or
 - (b) Grant leave to the aggrieved woman up to a period of three months; or
 - (c) Grant such other relief to the aggrieved woman as may be prescribed including but not limited to –
 - (i) restrain the respondent from reporting on the work performance of the aggrieved woman or writing her confidential report, and assign the same to another officer;

(ii) restrain the respondent in case of an educational institution from supervising any academic activity of the aggrieved woman.

- The leave granted to the aggrieved woman shall be in addition to the leave she would be otherwise entitled.
- On the recommendation of the Committee, the employer shall implement the recommendations and send the report of such implementation to the Committee.

f. Inquiry Report-

- On completion of an inquiry, the Committee shall provide a report of its findings to the employer within a period of 10 (ten) days from the date of completion of the inquiry and such report to made available to the concerned parties.
- The Committee on reaching at the conclusion that the allegations against the respondent has not been proved, it shall recommend to the employer that no action is required to be taken in the matter.
- But where the Committee arrives at the conclusion that the allegation against the respondent has been proved, it shall recommend to the employer –
 - (a) to take action for sexual harassment as a 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;
 - (b) to deduct, notwithstanding anything 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 woman or to her legal heirs, as it may determine,
- The employer shall act upon the recommendation within 60 (sixty) days of its receipt by him.

g. Determination of compensation - For the purpose of determining the sums to be paid to the aggrieved woman, the Committee shall have regard to—

- (a) The mental trauma, pain, suffering and emotional distress caused to the aggrieved woman;
- (b) The loss in the career opportunity due to the incident of sexual harassment;
- (c) Medical expenses incurred by the victim for physical or psychiatric treatment;
- (d) The income and financial status of the respondent;
- (e) Feasibility of such payment in lump sum or in instalments.

PUNISHMENT FOR FALSE OR MALICIOUS COMPLAINT AND FALSE EVIDENCE

Where the 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 woman or any other person making the complaint has produced any forged or misleading document, the Committee shall act in accordance with The Sexual Harassment of Women At Workplace (Prevention, Prohibition And Redressal) Act, 2013 and rules made thereunder.

ANNUAL REPORT

The Committee shall in each calendar year prepare, in such form and at such time as may be prescribed, an annual report and submit the same to the employer and the District Officer.

The District Officer shall forward a brief report on the annual reports received to the State Government.

The annual report which the Committee shall prepare shall have the following details:-

- (a) number of complaints of sexual harassment received in the year;
- (b) number of complaints disposed off during the year;
- (c) number of cases pending for more than ninety days;
- (d) number of workshops or awareness programme against sexual harassment carried out;
- (e) nature of action taken by the employer.
