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|  Policy Name: | **Prevention of Sexual Harassment Policy POSH** |
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# **DEFINITION**

1. **Aggrieved Person** means a person in relation to work place whether employed or not, who alleges to have been subject to any act of sexual harassment by the Respondent.
2. “**Company**” means all the businesses which are under the umbrella of “***Company Name***”.
3. **“Employees”** as per Section 2(f) of The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 means a person employed at a workplace for any work on regular, temporary, adhoc or daily wages 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;
4. **“Member”** as section 2(j) member of the Internal Complaint Committee constituted under section 6 of the Act.
5. **“Presiding Officer”** means the Presiding officer of the internal complaints Committee nominated under section 4 of the Act.
6. **“Internal Complaints Committee”** (ICC) means a committee constituted by Company as per section 4 of the Act.
7. **“Respondent”** means a person against whom the aggrieved person has made a complaint.
8. **“Sexual Harassment”** is an unwelcome sexual advance, unwelcome
request for sexual favors or other unwelcome conduct of a sexual nature
which makes a person feel offended, humiliated and/or intimidated, where
a reasonable person would anticipate that reaction in the circumstances.
9. **“Workplace”** refers to any private sector organization or a private venture, undertaking, enterprise, institution, establishment, society, trust, non-governmental organization, unit or service provider carrying on commercial, professional, vocational, educational, entertainmental, industrial, health services or financial activities including production, supply, sale, distribution or service;

# **PURPOSE**

Creating and maintaining a secure work environment where its members, agents, vendors and partners can work and conduct business together in an atmosphere free of harassment, exploitation and intimidation caused by acts of Sexual Harassment within but not limited to the office premises and other locations directly related to the Company’s business.

To provide protection against sexual harassment of women at workplace and for the prevention and redressal of complaints of sexual harassment, and for matters connected therewith.

# **APPLICABILITY**

The policy is applicable to all members of the ***“Company Name”*** across all the locations and branches who are involved in recruitment and selection process.

# **RESPOSIBILITY & ACCOUNTABILITY**

Department Head, Human Resource Department, Internal Complaints Committee, Legal Department, Management

# **POLICY**

At **“Company Name”**, we have zero-tolerance for sexual harassment. We value each and employee working with us and wish to protect their dignity and self-respect. In doing so, we are determined to promote a working environment in which persons of both genders complement each other as equals in an environment that encourages maximum productivity and upkeep personal dignity.

We at **“Company Name”** are committed towards giving every member a just and fair hearing on issues encountered by them at the workplace with special attention to sexual harassment. **“Company Name”** will take very serious disciplinary action against any victimization of the member who is falsely complaining or the alleged harasser that may result from a complaint.

All concerned should take cognizance of the fact that **“Company Name”** strongly opposes sexual harassment, and that such behavior against women is prohibited by the law as set down in The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 and Rules framed there under the Sexual Harassment of Women at Workplace (hereinafter referred to as “Act”) as well as the terms of employment. Commission of any act of sexual harassment as defined in the Act and in this Policy shall result in strict disciplinary action.

**“Sexual Harassment”** as per Section 2(n) and Section 3 of The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013, includes any one or more of the following unwelcome acts or behavior (whether directly or by implication) such as:

* Physical contact and advances; or
* A demand or request for sexual favors; or
* Making sexually colored remarks; or
* Showing pornography or other offensive or derogatory pictures, cartoons, representations, graphics, pamphlets or sayings; or
* Any other unwelcome physical, verbal or non - verbal conduct of sexual nature; or
* implied or explicit promise of preferential treatment in his / her employment; or
* implied or explicit threat of detrimental treatment in his / her employment ; or
* implied or explicit threat about his / her present or future employment status; or
* interference with his / her work or creating an intimidating or offensive or hostile work environment for his / her; or
* Humiliating treatment likely to affect his / her health or safety.
* Apart from above mentioned definition following circumstances shall constitute acts or behaviors of sexual harassment:
* Stares, whistles, leers, or make gestures/sounds that are offensive or make someone else uncomfortable
* Sends a message in writing, verbally or in any electronic formats which has explicit sexual content.
* Makes lewd/vulgar remarks or compliments for extended period on an individual’s personal appearance. However, a genuine/causal compliment to a colleague on their appearance is not harassment.
* Stalks another individual. This includes calling, chasing or using any other way to follow or communicate with an individual without her/his permission, and in a matter not related to work.
* Acts in any other way that is physically or verbally infringing on the private space of an individual.
* Hostile work environment constitutes sexual harassment directed towards an individual because of gender and has a purpose or effect of: (i) creating an intimidating, hostile or offensive work environment, or (ii) unreasonably interfering with other person’s work performance. Generally, this includes sexually coloured or derogatory remarks, showing pornography, any conduct which is not welcome and could be deemed as being humiliating in the circumstances.
* Sexual harassment by one in a position of power or influence constitutes quid pro quo sexual harassment when: (i) submission by an individual is made either an explicit or implicit term or condition of employment, or (ii) submission to or rejection of such conduct is used as the basis for employment decisions affecting that member such as promotions, salary raises, etc.

In addition to the instances mentioned hereinabove, any other acts or behavior, which outrages the modesty of a female member, will be considered as sexual harassment.

## **INTERNAL COMPLAINTS COMMITTEE**

Every complaint received shall be forwarded to Internal Complaint Committee formed under the policy for redressal. The investigation shall be carried out by Internal Complaints Committee constituted for this purpose.

Internal Complaints Committee has been constituted of the following members as nominated by the Company:

* A woman member employed at a senior level amongst the members shall act as Presiding Officer of the committee.
* Not less than 2 members from amongst members preferably committed to the cause of women OR who have had experience in social work OR have legal knowledge.
* One member shall be from amongst Non-governmental organizations or associations committed to the cause of women or a person familiar with the issues relating to sexual harassment.
* At least half the total members of the Committee have to be women.
* The Presiding Officer and every member shall hold office for such period, not exceeding three years, from the date of their nomination as may be specified by the employer.
* The Composition of the Members of the Internal Complaints Committee is attached as **Annexure 1** hereof and any change in such composition shall be effected in the policy

## **COMPLAINT REDRESSAL MECHANISM**

Any aggrieved person may make, in writing, a complaint of sexual harassment at workplace to the Internal Complaints Committee giving details of the sexual harassment undergone by him/her within a period of 3 months from the date of incident and in case of a series of incidents, within a period of 3 months from the date of last incident, which may be extended for a further period of 3 months, if circumstances warrant such extension in the opinion of the Internal Complaints Committee.

1. The Presiding Officer or any Member of the Internal Complaints Committee can render reasonable assistance to the person for making complaint in writing, in case they are unable to do so.
2. On receipt of complaint, the Internal Complaint Committee shall decide the place and time for hearing the complaint and shall intimate the date, time and place of hearing to the Complainant and Respondent. The Internal Complaints Committee shall follow principle of Natural Justice while handling such complaints.
3. Where the aggrieved person is unable to make a complaint on account of their physical incapacity, a complaint may be filed by-
* a relative or friend; or
* a co-worker; or
* an officer of the National Commission for Women or State Women’s Commission; or
* Any person who has knowledge of the incident, with the written consent of the aggrieved person.
1. Where the aggrieved person is unable to make a complaint on account of their mental incapacity, a complaint may be filed by-
* a relative or friend; or
* a special educator’ or
* a qualified psychiatrist or psychologist; or
* the guardian or authority under whose care they are receiving treatment or care; or
* Any person who has knowledge of the incident jointly with any of the above.
1. Where the aggrieved person 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 their written consent. Where the aggrieved person is dead, a complaint may be filed by any person who has knowledge of the incident, with the written consent of their legal heir.
2. Internal Complaints Committee on receipt of such written complaint, may, if require ask the aggrieved person to furnish additional information about the alleged harassment.
3. The Complainant or person authorized on their behalf as per above provision, shall make a complaint to the Internal Complaints Committee through following mode:
4. Copy of complaint along with supporting documents and names and address of witness shall be sent to Internal Complaints Committee at ***“email id”***
5. On receipt of such complaint, Internal Complaints Committee shall provide a copy along with supporting documents of such complaints to the Respondent within 7 working days
6. Respondent shall file reply within 10 working days of receipt of the complaint along with list of documents, names and addresses of witnesses
7. Internal Complaint Committee shall investigate in detail into the matter of the complaint. The Internal Complaint committee shall have the right to call the person against whom the complaint is made or any other witnesses as when necessary.
8. Internal Complaint Committee shall have the right to terminate the enquiry or give ex-parte decision on the complaint, if the Respondent or complainant remains absent for 3 consecutive hearings, without sufficient cause.
9. The Internal Committee must complete its investigation within a period 90 days.
10. The parties shall not be allowed to bring any legal practitioner to represent them in their case at any stage of the proceedings before the Internal Complaints Committee.
11. For conducting the inquiry the quorum of the Internal Complaints Committee shall be of 3 members including the presiding officer.
12. The Internal Committee may before initiating an inquiry, and at the aggrieved person’s request, attempt to settle the matter through Conciliation. However, Internal Complaints Committee shall ensure that:
13. Monetary settlement will not be made as a basis of conciliation.
14. Where a settlement has been arrived, the settlement terms shall be signed by both the parties and shall be provided with a copy of it.
15. Where, a settlement is arrived as mentioned hereinabove, no further enquiry shall be conducted by the Internal Complaints Committee.
16. The Internal Complaints Committee may during such investigation may exercise the power of a civil court, vested in it, in respect of:
* summoning and enforcing the attendance of any person and examining him under oath;
* requiring discovery and production of documents;
* Any other prescribed matter.
1. During such enquiry, upon written request by the aggrieved person, the committee may at its discretion recommend:
* to transfer the aggrieved person or the respondent to any other workplace;
* Grant leave to the aggrieved person of up to three months which is in addition to leave to which she is otherwise entitled.
1. Provided, the aggrieved person has to tender justified reason for such transfer or leave, such us threat to work in the workplace.

## **ACTION**

The Committee shall on completion of the enquiry provide a report of its findings within 10 days from the date of completion of the enquiry and such report shall be made available to the concerned parties.

If the allegation against the respondent has not been proved, the Committee may recommend that no action needs to be taken in the matter.

If the Internal Complaints Committee arrives at the conclusion that the allegation against the respondent has been proved, it shall recommend to:

a. Take action for sexual harassment as a misconduct.

b. To tender written apology to the complainant, issue warning, withholding of promotions / increments of the Respondent, terminating the Respondent.

c. To deduct from salary / wages of the respondent or issue direction for payment; such sum as it may consider appropriate to be paid to the aggrieved person or to their legal heirs, as it may determine.

d. Such action will be taken within 60 days of the receipt of report,

## **AWARENESS**

All the Members, Agents, Customers, Vendors, Partners and Visitors shall have access to this Policy at any given point of time and clarification related to this Policy shall be addressed by the HR team.

A brief shall be given to all existing members regarding the features of this Policy immediately on formulation of the Policy and to new members in ***“Company Name”*** during their initial Induction.

The Company shall comply with all other details as set out under Section 19 of the Act to ensure that all members are provided with the safe working environment at the workplace.

Company shall display the notice showing the name of the Internal Complaints Committee members at its every establishment at a conspicuous place.

## **FALSE ACCUSATIONS**

The complaint of sexual harassment made by any member shall be taken up with utmost seriousness by Company. However, there shall be zero tolerance for any false accusation.

If the Internal Complaint Committee comes to a conclusion that the allegation was made with malicious intent or the aggrieved person or any other person making the complaint on behalf of the aggrieved person produced false or forged or misleading documents to prove his/her case, the Internal Complaint Committee may recommend action to be taken against the person who has made the complaint, including termination of service. In such a case, malicious intent has to be established after an inquiry, before any action is recommended. A mere inability to substantiate a complaint or provide adequate proof would not attract action as provided herein. A similar recommendation for taking action would be recommended against any witness whom the Internal Complaint Committee concludes, that he/she has given false evidence or produced forged or misleading documents.

It is to be noted that this statement is not intended to discourage members from coming forward with any complaints. ***“Company Name”*** recognizes and expects that some claims may be difficult to prove or support, or may not in fact be found to raise to the level of seriousness deemed necessary to constitute Sexual Harassment. These types of complaints will not be considered to be false accusations.

## **MISCELLANEOUS**

Company may make any alteration or amendment or rescind any of the clauses of this Policy as and when it finds it necessary to do so as long as it complies with the Act. Any such alterations or amendment or rescinding will be intimated to the member.

Nothing contained in these rules shall operate in derogation of any law for the time being in force or to the prejudice of any right of any member under any other Rules or Law.

The Internal Complaint Committee shall prepare an annual report with the following details and shall submit the same to the Company to include in its Annual report:

* Number of complaints of sexual harassment received during the year;
* Number of complaints disposed off during the year;
* Number of cases pending for more than 90 days;
* Number of workshops or awareness program against sexual harassment carried out;
* Nature of action taken by the employer.

## **CONCLUSION**

Complaints relating to Sexual Harassment shall be handled and investigations will be conducted under the principles of natural justice, basis of fundamental fairness, in an impartial and confidential manner so as to protect the identity of all viz., the person bringing the charge, potential witnesses, and the person accused of improper behavior. Also, all efforts shall be taken to ensure objectivity and thoroughness throughout the process of investigation.

The identity and address of the aggrieved person, respondent and witnesses must not be published or disclosed to the public or media.

The decision of the Company shall be final and binding on all. However, the same is without prejudice to any recourse that the Company or the individual concerned may have against the respondent and it shall not limit or restrict the rights of the Complainant and/or Company to pursue, nor shall they be precluded from pursuing, such further and other legal actions as may be available.

## **RESPONSIBILITIES OF ASSOCIATES**

**Do’s**

* Know Company’s Sexual Harassment Policy
* Be aware of inappropriate behaviors and avoid the same
* Say “NO” if asked to go places, do things or participate in situations that make you uncomfortable
* Trust your instincts. Walk away from uncomfortable situations
* Refrain from taking discriminatory actions or decisions which are contrary to the spirit of this policy
* Maintain confidentiality regarding any aspect of an inquiry to which they may be party to

**Don’ts**

* **Verbal Harassment:**
1. Sexually suggestive comments or comments on physical attributes
2. Offensive language that insults or demeans a colleague, using terms of endearment
3. Singing or humming vulgar songs
4. Requests for sexual favors, sexual advances, coerced acts of sexual nature
5. Requests for dates or repeated pressure for social contact
6. Discussing sexual activities, sexual prowess or intruding on the privacy of an associates
7. Sexually colored propositions, insults or threats
8. Graffiti in the office premises
* **Nonverbal Harassment:**
1. Offensive gestures, staring, leering or whistling with the intention to discomfort another
2. Indirect actions such as uttering a word, making a gesture or exhibiting any object with intention that such word, gesture or object be heard or seen by associates
3. Sounds, gestures display of offensive books, pictures, cartoons, magazines, calendars or derogatory written materials at one’s workplace
4. Showing or mailing pornographic posters, internet sites, cartoons, drawings
5. Suggestive letters, phone calls, SMS, electronic instant messaging or e-mail messages.
* **Physical Harassment:**
1. Physical contact or advances
2. Intentional touching of the body, e.g. Hugs, fondling, pinching, etc. that makes other uncomfortable
3. Any displays of affection that make others uncomfortable or are inappropriate at the workplace.

# **RESTRICTIVE CLAUSE**

* + Any exceptions to the above would be at the sole discretion of the Management.
	+ Management reserves the right to change and or modify the policy without stating any reason.
* The organization reserves its right to withdraw this policy without assigning any reason by using its sole discretion which will be binding on all members. The Employees hereby unconditionally agree to all such changes/ amendments/ additions/ deletions/ modifications.
* The Company's reputation and credibility are based upon its total commitment to ethical business practices and also on ethical conduct of its Employees. To safeguard the Company's reputation, Employees must conduct themselves in accordance with the highest ethical standards and also be perceived to be acting ethically at all times. Compliance with all policies of the Company, relevant applicable laws and regulations is the minimum standard which should be adhered to by all the Employees all the times.

# **ANNEXURE 1- INTERNAL COMPLAINTS COMMITTEE**

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