



Myna Mahila Foundation

“The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal)” Policy.

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INTRODUCTION

Myna Mahila Foundation (hereinafter referred as the “NGO”) is committed to providing an enabling working environment for its employees which is free of unlawful discrimination or harassment and provides a sense of security at the workplace for the inclusive growth of its employees. Sexual harassment of women at workplace is discriminatory and unlawful. It violates the Code of Conduct of the NGO and the law of the land. The NGO forbids any act of Sexual Harassment. It is a grave misconduct under the applicable laws of the country and the NGO shall initiate appropriate action against any individual who commits any act of sexual harassment or violates the provisions of this policy.

OBJECTIVE

The objective of this policy is to prevent incidents of Sexual Harassment at Workplace and to provide a mechanism for the redressal of such complaints to ensure a safe working environment for employee at all offices of the NGO. The measure will help in achieving gender empowerment and equality which includes protection from sexual harassment and a right to work with dignity.

TITLE, SCOPE & APPLICABILITY OF THE POLICY

This Policy will be called as “The Sexual Harassment at Workplace (Prevention, Prohibition and Redressal) Policy. The policy is applicable to all the team members engaged with the NGO including its office, centers and any other units or premises of the NGO.

The complaints redressal mechanism incorporated under this policy is as per the “The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 and rules made thereunder and is primarily applicable for the aggrieved woman. The complaint redressal mechanism and any relief thereunder for the complaint/s raised by men under this policy would be non-statutory and solely at the discretion of the NGO.



EMPLOYEE OBLIGATIONS

All persons employed by or in any way acting in connection with the work / functioning of the NGO shall-

- Familiarize themselves with the contents of this Policy and prohibitions thereof.
- Familiarise themselves with the penal consequences of Sexual Harassment and the order constituting the Internal Complaints Committee displayed at the Workplace/ Offices of the NGO.
- Strictly honour the confidentiality of any ongoing proceedings.
- Attend the workshops and awareness programs organized by the NGO.
- Maintain highest standards of conduct that would not make any other person uncomfortable and violate the employee's right to work with dignity in a safe working environment.

DEFINITIONS

- a. Act means "The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 and Rules made thereunder.
- b. Aggrieved person means in relation to a workplace a person including a woman of any age whether employed or not, who alleges to have been subjected to any act of sexual harassment by the respondent.
- c. Employee means a person employed at a workplace for any work on regular, temporary, adhoc or daily basis either directly by the NGO or through a contractor and includes for the purposes of this policy director of the NGO, any co-employee, a contract worker, probationer, trainee, apprentice (or called by any other name under any statutory or internal scheme of the NGO), whether employed on remuneration or on a voluntary basis such as interns working on specific projects.
- d. Employer means the Chief Executive Officer or Managing Director or President of the NGO and where the complaint is against the CEO or Managing Director or the President, any other member of the Board of Directors of the NGO.
- e. Human Resources Department means the Human Resources Department of the NGO entrusted with the responsibility of the implementation of this policy.
- f. Internal Complaints Committee (Hereinafter referred to as "IC" or "Complaints Committee" as



appropriately) means an Internal Complaints Committee constituted under **clause 6** of this policy.

g. Member means the member of the Internal Committee.

h. Respondent means a person against whom the aggrieved person has made the sexual harassment complaint as per **definition 4 (i) and clause 8** of this policy.

i. Sexual Harassment includes any one or more of the following unwelcome acts or behavior (whether directly or by implication)

- i. Physical contact and advances; or
- ii. A demand or request for sexual favor
- iii. Making sexually colored remarks; or
- iv. Showing pornography; or
- v. Any other unwelcome physical, verbal or non-verbal conduct of sexual nature.

Following circumstances, if it occurs or is present in relation to or connected with any act or behavior of sexual harassment will also amount to sexual harassment:

1. Implied or explicit promise of preferential treatment in employment of the aggrieved person.
2. Implied or explicit threat of detrimental treatment in the employment of the aggrieved person.
3. Implied or explicit threat about the present or future status of the employment of the aggrieved person.
4. Creating an intimidating, offensive or hostile working environment for the aggrieved person.
5. Humiliating treatment likely to affect the health, safety, dignity or physical integrity of the aggrieved person.
6. Workplace means all offices and branches of the NGO owned or leased by the NGO, all other places visited by the employee arising out of or during the course of employment such as conferences, customer meetings, off-sites, NGO organized functions etc. including transportation provided by the NGO for undertaking such journeys.





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INTERNAL COMPLAINTS COMMITTEE (“IC”)

The NGO has constituted Internal Complaints Committees (hereinafter referred as the “Internal Committee” or “IC”) under the policy. The details of the same are attached or annexed with this policy.

RESPONSIBILITIES OF INTERNAL COMMITTEE

The Internal Committee shall-

- a. Provide fair and impartial mechanism of complaint redressal through the inquiry founded on the principles of natural justice. Suggested process of enquiry is provided in **clause 10** of this policy.
- b. Provide mechanism of fair conciliation wherever requested by the Complainant.
- c. Ensure that the complainant, respondent or witnesses are not victimized or discriminated against while dealing with the complaints of sexual harassment.
- d. Provide the recommendation to the employer for requisite interim relief as per terms of this policy.

SEXUAL HARASSMENT COMPLAINT

Any aggrieved person may make a complaint of sexual harassment in writing to the Internal Committee at Head office within a period of three months of the incident and in case of series of incidents, within a period of three months from the date of the last incident. The complainant shall submit to the Internal Committee copy of the complaint along with any supporting documents and the names and address of the witnesses if any. In exceptional circumstances, the committee may allow the extension of the time limit to file the complaint by another three months by recording the reasons in writing for granting such extension.

Following persons can file the complaint on behalf of the aggrieved person in case the aggrieved person is unable to file the complaint due to any physical or medical reasons.

1. Aggrieved person's relative.
2. Friend.
3. Colleague.
4. Any other person who has the knowledge of the incident of sexual harassment.



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Depending upon the circumstances, the committee shall ask for the written consent of the aggrieved person from the person who is making a complaint on the aggrieved person's behalf.

CONCILIATION

Based on the written request made by the aggrieved person for the settlement of the complaint, the Internal Committee may initiate steps to settle the matter between the aggrieved person and the respondent through conciliation before initiating an inquiry as enumerated in **clause 10** of this policy. The aggrieved person can however, approach the Internal Committee for the initiation of the inquiry if the respondent fails to abide by any of the terms of the settlement arrived at in conciliation proceedings between both the parties.

The IC while settling the case under conciliation process will ensure following-

1. No monetary settlement will be awarded under the conciliation process.
2. Both parties shall submit terms of settlement to the Internal Committee.
3. The IC shall record the settlement and the copies of the settlement arrived at through the conciliation.
4. No further inquiry will be conducted thereafter.
5. IC will provide one copy of the settlement to the employer.

PROCEDURE OF INQUIRY

Following procedure can be adopted by the Internal Committee in addressing the complaints of sexual harassment. In case of any contravention with respect to the provisions incorporated in the Act, the process suggested in the Act shall prevail

1. The IC shall send one copy of the complaint and documents if any to the respondent within a period of seven days of such receipt.
2. The respondent shall file his or her reply within a period of ten days to the complaint along with the list of documents, names and addresses of witnesses if any.



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3. The IC shall thereafter intimate to both the parties the time, venue and date of the inquiry and will conduct the inquiry as per the principles of natural justice. In conducting the inquiry, a minimum of three members of the IC including the Presiding Officer shall be present.
4. The parties shall not be allowed to bring in any legal practitioner or representative to represent them in their case at any stage of the proceedings before the IC.
5. The IC shall provide reasonable opportunity to the complainant and the respondent for presenting and defending her/his case.
6. The complainant and the respondent shall be offered an opportunity to cross examine the witnesses produced by the opposite party. However, the IC may curtail the scope and extent of the right of cross examination in appropriate cases in accordance with demands of justice. The IC may, depending upon the circumstances allow cross examination of the aggrieved person and or witnesses by submission of questionnaire by respondent.
7. The IC shall have the right to disallow any questions or behavior that it has reason to believe to be irrelevant, mischievous, or gender-insensitive that may intimidate the complainant.
8. The complainant and the respondent shall be chiefly responsible for presenting their own witnesses before the IC or may seek assistance of the IC in enforcing the attendance of any witness if it is of the opinion that it shall be in the interest of justice.
9. The parties shall sign the proceedings of each day in the form of minutes/summary of proceedings prepared by the IC during the proceedings. The chief examination of the parties and their witnesses shall be recorded in summary form by IC or in affidavit and the cross examination shall be recorded in question and answer form. These proceedings shall be signed by all the concerned parties or witnesses.
10. If the complainant or respondent fails, without sufficient cause to present herself or himself for three consecutive hearings, the IC shall have the right to terminate the inquiry proceedings and decide the complaint ex-parte appropriately. Provided that such termination or an ex-parte order will not be passed without giving a notice in writing to the party concerned, fifteen days in advance.
11. Documents produced by either party in the inquiry as evidence shall be supplied to the other party in the form of true copies of such documents.
12. The IC shall endeavor to complete the inquiry in ninety days and shall submit a detailed report of its findings along-with its recommendation to the employer within 10 days of concluding the inquiry. The IC will also provide the copy of its report to the complainant and the respondent to enable them to make any representation before IC against the findings.



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13. If the IC finds the respondent guilty of sexual harassment, it shall recommend to the employer the nature of disciplinary action to be taken on the complaint as referred in **clause 11** of the policy. If the complaints committee finds no merit in the complaint, it shall accordingly submit its report to the employer giving reasons for its conclusions.

INTERIM RELIEF

During the pendency of the inquiry and on a written request made by the aggrieved person, the Internal Committee may recommend to the employer to –

1. Transfer the aggrieved person or respondent.
2. Grant leave to the aggrieved person over and above the aggrieved person's internal leave entitlement. Any additional leave granted under this provision will be up to a period of three months.
3. Issue a restraint order to warn the respondent about any attempt to directly or indirectly contact, influence, intimidate or exert pressure on the complainant or witnesses during the course of the inquiry proceedings.
4. Restrain the respondent from reporting on the work performance or writing confidential reports of the aggrieved person and assign the same to another person as appropriate.

DISCIPLINARY ACTION AGAINST PROVED CASES OF SEXUAL HARASSMENT

Internal Committee shall recommend to the employer to initiate action against the respondent in the proved cases of sexual harassment in the following manner:

1. Written apology.
2. Warning.
3. Withholding of Promotion.
4. Withholding of pay rise or increments.
5. Termination from service.
6. Counseling.





Additionally, the Internal Committee can also recommend to the employer compensation as per **clause 13** of the policy to be paid to the aggrieved person if she is a woman.

The employer shall act upon the recommendation of the Internal Committee issued within sixty days of its receipt by him/her.

COMPENSATION

Notwithstanding anything in the service conditions applicable to the respondent, the IC can also recommend to the employer to deduct, from the salary or wages of the respondent such sum as it may consider appropriate to be paid to the aggrieved woman or to aggrieved woman's legal heirs, as it may determine appropriately as per the provisions of the Act.

FALSE OR MALICIOUS COMPLAINT, FALSE EVIDENCE AND ACTION THEREOF

Where the Internal Committee arrives at a conclusion that the allegation against the respondent is malicious or the aggrieved person 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 initiate action against the person in accordance with **clause 12** of this policy. Provided that a mere inability to substantiate a complaint or provide adequate proof will not attract action against the complainant under this provision and the malicious intent on part of the complainant shall be established after an inquiry in accordance with the procedure prescribed under **clause 10** of the policy before any action is recommended.

Where the Internal Committee arrives at a conclusion that during the inquiry any witness has given false evidence or produced any forged or misleading document, it may recommend to the employer of the witness to initiate action in accordance with **clause 12** of this policy



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CONFIDENTIALITY

All the parties concerned who have the knowledge of the incident in whatever capacity such as Internal Committee members, witnesses, complainant, respondent etc. shall maintain the confidentiality with regards to the contents of the complaint, identity & address of the aggrieved person, respondent, witnesses, information relating to conciliation and inquiry proceedings, recommendations of the committee and action taken by the employer. The same shall not be published, communicated or made known to the public, press and media in any manner.

Any person who contravenes the provision of this clause will be punished with fine as determined appropriate by the employer in accordance with the provisions of the Act.

SEXUAL HARASSMENT AND INDIAN PENAL CODE 1860

The Government of India has also inserted the offence of sexual harassment in the Indian Penal Code 1860 under **section 354-A**. The section is reproduced herewith for information purposes.

Section 354A- Sexual Harassment and Punishment for Sexual Harassment-

1. A man committing any of the following acts-

- i. Physical contact and advances involving unwelcome and explicit sexual overtures; or
 - ii. A demand or request for sexual favors; or
 - iii. Showing pornography against the will of a woman; or
 - iv. Making sexually colored remarks;
- Shall be guilty of the offence of sexual harassment.

2. Any man who commits the offence specified in clause (i) or clause (ii) or clause (iii) of sub-section (1) shall be punished with rigorous imprisonment for a term which may extend to three years, or with fine or with both.

3. Any man who commits the offence specified in clause (iv) of sub-section (1) shall be punished with imprisonment of either description for a term which may extend to one year, or with fine or with both.





Note - Offence under section 354A is Cognizable, Bailable & Triable by any Magistrate.

SEXUAL HARASSMENT AMOUNTING TO CRIMINAL OFFENCE

In any circumstances, where an aggrieved woman chooses to file a complaint in relation to the offense under Indian Penal Code with appropriate government machinery, the NGO shall provide all reasonable support to the woman in filing the complaint.

NON- RETALIATION

The aggrieved person or any person who in good faith has participated in the inquiry or has provided information pertaining to the incident/s of sexual harassment shall be protected from any kind of retaliation and the NGO will observe zero tolerance in the case of any such retaliation. Individuals engaging in retaliatory conduct will be subject to disciplinary action by the NGO.

APPEAL

If an aggrieved person intends to appeal against the decision of the committee, such person can appeal to competent authority notified by the Government as per the provisions of the Act within 90 days from the date of recommendations. For the purposes of Sexual Harassment matters, the concerned provisions of this policy shall deemed to be considered as the service rules for this purpose.

Sr.No.	Name	Internal/External	Role
01	Sweta Kanavaje	Internal	Presiding Officer
02	Bhagyashri Mestry	Internal	Committee Member
03	Dheeraj Verma	Internal	Committee Member
04	Shraddha Kale Kapile	Internal	Committee Member
05	Adv. Smita Patil	External Empanelment	Committee Member



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