

# POLICY ON PREVENTION OF SEXUAL HARASSMENT AT WORKPLACE

## INTRODUCTION:

Sexual Harassment results in violation of the fundamental right of a woman to equality under Article 14 and 15 of the Constitution of India, her right to life and to live with dignity under Article 21 of the constitution and her 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.

In accordance with the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 and rules made thereunder, the Company has framed and adopted the a policy for Prevention of Sexual Harassment at Workplace.

## OBJECT:

The objective of this policy is 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.

## SCOPE:

This policy shall be applicable to all employees of the Company. It includes permanent management and workmen, temporary appointees, trainees and employees on contract at its workplace or at client sites.

It shall also include any unwelcome behaviour of a sexual nature mentioned in the policy by any other employees, customers, consultants, visitors, vendors, contractors or other non-employees during the course of a business relationship, to any of our employees.

## DEFINITION:

**“Company”** means TRESCON LIMITED.

**“Aggrieved Woman”** means in relation to 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.

**“Respondent”** means a person against whom the aggrieved woman has made a complaint.

**“Employee”** means a person employed at a workplace for any work on regular, temporary, *ad hoc* 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.

**“Employer”** means the head of the organisation or any person who is responsible for the management, supervision and control of the work place.

**“Workplace”** means

- (i) All offices or other premises where the Company’s business is conducted.
- (ii) All company related activities performed at any other place away from the Company’s premises.
- (iii) Any social, business or other functions where the conduct or comments may have an adverse impact on the workplace or workplace relations.

**“Internal Complaints Committee (ICC)”** means a committee constituted by Company as per this Policy.

**“Sexual Harassment”** includes any one or more of the following unwelcome acts or behaviour (whether directly or by implication) such as:

- (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 other offensive or derogatory pictures, cartoons, representations, graphics, pamphlets or sayings; or
- (v) Any other unwelcome physical, verbal or non - verbal conduct of sexual nature; or

Following circumstances amongst other circumstances mentioned above may constitute sexual harassment if it occurs or is present in relation or connected with any act or behaviour of sexual harassment:

- (i) Implied or explicit promise of preferential treatment in their employment;

- (ii) Implied or explicit threat of detrimental treatment in their employment;
- (iii) Implied or explicit threat about their present or future employment status;
- (iv) Interfering with their work or creating an intimidating or offensive or hostile work environment; humiliation treatment likely to affect their health or safety.
- (v) Humiliating treatment likely to affect the health and safety of the aggrieved woman.

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

#### **INTERNAL COMPLAINTS COMMITTEE (ICC):**

The Internal Complaints Committee will comprise of the following:-

- **Presiding Officer** - Shall be a woman employed at a senior level at workplace amongst the employees.
- **Two members** - Shall be amongst employees preferably committed to the cause of woman or who have an experience in social work or have legal knowledge.
- **One Member** - amongst Non-Governmental Organisations or associations committed to cause of woman 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.

The Presiding Officer and every member shall hold office for such period, not exceeding three years, from the date of their nomination.

#### **PROCEDURE FOR GRIEVANCE REDRESSAL:**

1. The aggrieved woman may make, in writing, a complaint of sexual harassment at the workplace to ICC, within a period of three months from the date of incident and in case of a series of incidents, within a period of three months from the date of the last incident. Provided where such complaint cannot be made in writing, the Member of the Committee shall render all reasonable assistance to the aggrieved for making the complaint in writing.

2. If the Committee finds that the circumstances were such which prevented the aggrieved from filing a complaint within the said period, then the Committee may extend the time limit. However the extension cannot exceed three months. A reason for extension of time limit has also to be recorded in writing.
3. On receipt of complaint, the ICC 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.
  - (i). Where the aggrieved is unable to make a complaint on account of her physical incapacity, a complaint may be filed by aggrieved woman's-
    - a) Relative or friend; or
    - b) Co-worker; or
    - c) An officer of the National Commission for Women or state Women's Commission; or
    - d) Commission; or
    - e) Any person who has knowledge of the incident, with the written consent of the aggrieved.
  - (ii). Where the aggrieved is unable to make a complaint on account of her mental incapacity, a complaint may be filed by the aggrieved woman's:
    - a) Relative or friend; or
    - b) A special educator; or
    - c) A qualified psychiatrist; 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 the aggrieved's relative or friend or a special educator or qualified psychiatrist or psychologist or guardian or authority under whose care the aggrieved is receiving treatment or care;
  - (iii). 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;
  - (iv). 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.

4. The Complainant or person authorized on their behalf as per above provision, shall make a complaint to the ICC through following mode:
  - At the time of filing the complaint, the complainant shall submit 6 copies of the complaint along with the supporting documents and the names and addresses of the witness, to ICC.
  - On receipt of the complaint, ICC shall send one of the copies received from the aggrieved to the respondent within 7 working days
  - The respondent then has to file its reply to the complaint along with its list of documents and names and addresses of witnesses, within 10 working days from the date of receipt of documents by the respondent.
  - In case the respondent or the complainant fails to present themselves for three consecutive hearings convened by the Presiding Officer, ICC shall have the right to terminate the inquiry proceedings or make an ex-parte decision on the complaint.
  - The Committee however cannot terminate or pass an ex parte decision unless a notice is giving in 15 days advance to the parties concerned. The Committee shall see to it that it shall act fairly at the time of inquiry into the complaint.
  - The parties shall not be allowed to bring any legal practitioner to represent them in their case in any stage of the proceedings before ICC.
  - Minimum three members of ICC, including the Presiding Officer, shall be present at the time of conducting the inquiry.
5. The Internal Committee may before initiating an inquiry, and at the aggrieved woman's request, attempt to settle the matter through conciliation. However, Internal Complaints Committee shall ensure that:
  - Monetary settlement will not be made as a basis of conciliation.
  - 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.
  - Where, a settlement is arrived as mentioned hereinabove, no further enquiry shall be conducted by the ICC.

6. 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.
7. During such enquiry, upon written request by the aggrieved woman, the committee may at its discretion recommend:-
  - To transfer the aggrieved woman or the respondent to any other workplace;
  - Grant leave to the aggrieved woman of up to three months which is in addition to leave to which she is otherwise entitled.
  - Grant such other relief to the aggrieved woman as may be prescribed.

Provided, the aggrieved woman has to tender justified reason for such transfer or leave, such as threat to work in the workplace.

**ACTION:**

1. 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.
2. If the allegation against the respondent has not been proved, the Committee may recommend that no action needs to be taken in the matter.
3. If the Internal Complaints Committee arrives at the conclusion that the allegation against the respondent has been proved, it shall recommend to:
  - Take action for sexual harassment as a misconduct.
  - To tender written apology to the complainant, issue warning, withholding of promotions / increments of the respondent, terminating the respondent from services or undergoing a counselling session or carrying out community services.
  - 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 woman or to their legal heirs, as it may determine.
4. Such action will be taken within 60 days of the receipt of report.

### **FALSE ACCUSATIONS:**

1. The complaint of sexual harassment made by any employee shall be taken up with utmost seriousness by Company. However, there shall be zero tolerance for any false accusation.
2. If the Internal Complaint Committee comes to a conclusion that the allegation was made with malicious intent or the aggrieved woman or any other person making the complaint on behalf of the aggrieved woman 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.
3. It is to be noted that this statement is not intended to discourage employees from coming forward with any complaints. The Company 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.

### **DETERMINATION OF DAMAGES/COMPENSATION**

1. Determination of damages/Compensation shall be based on the following:
2. Mental trauma, pain, suffering and emotional distress caused to the person
3. Loss in career opportunity due to incident of sexual harassment
4. Medical expenses incurred by the person for physical and psychiatric treatment

In addition to the above mentioned points income and financial status of the respondent and feasibility to pay in lump sum or instalments shall be taken into account.

## **PROHIBITION OF PUBLICATION OR DISCLOSING THE CONTENT OF COMPLAINT OR INQUIRY PROCEEDINGS:**

The contents of the complaint made, the identity and addresses of the aggrieved, respondent and witnesses, any information relating to conciliation and inquiry proceedings, recommendations of ICC and the action taken by the employer shall not be published, communication or made known to the public, press or media in any manner.

Any person who violates the above shall be penalised by the employer with such amount as may be prescribed in the applicable statutory rules.

However justice secured to any victim of sexual harassment can be disseminated without disclosing the details mentioned above.

## **APPEAL TO THE COURT**

Any person, who is aggrieved from the recommendations made, may prefer an appeal to the Court or Tribunal. This appeal shall be made within a period of 90 days from the date of the recommendation.

## **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 accused person 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.

## **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.

**MODIFICATION:**

The 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 employee.

**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.

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Approved and adopted by the Board of Directors at its meeting held on May 30, 2019