

POLICY AGAINST SEXUAL HARASSMENT & WOMEN SAFETY AT WORKPLACE

The burden of preventing sexual harassment and protecting safety of women at work place and in the course of employment rests on the Employer. This can be achieved only with the implementation of the following Preventive and Protective policy measures;

(A) PREVENTIVE POLICY:

1. To promote equality of status & of opportunity among employees irrespective of seniority.
2. To provide education and information about Anti-sexual harassment policy to all staff on regular basis.
3. To promote cordial inter-personal communication among employees by organising group discussions/ personal meetings.
4. To provide safe and hygiene work environment free from discrimination and harassment.
5. To conduct gender sensitisation & awareness programs.

(B) PROTECTIVE POLICY:

1. To enforce Anti-Sexual Harassment Policy without exception.
2. To assist the law enforcing authority by reporting the sexual harassment incident without delay.
3. To protect & provide moral & social support to employee/s who is/are subjected to sexual harassment.
4. To ensure that Internal Committee(IC) conducts enquiry without fear or favour and dispose of every complaint expeditiously.
5. To Document all the incidents of sexual harassment.

1. Background

1a.B.PAC is committed to creating and ensuring an enabling, dignified and equitable work environment for every employee. All employees should be able to work together in an environment free of exploitation, harassment and violence. We believe that sexual harassment is not only a criminal offence but is a violation of human rights. According to the Protection of Human Rights Act, 1993 "human rights" means the rights relating to life, liberty, equality and dignity of the individual guaranteed by the Constitution or embodied in the International Covenants and enforceable by courts in India. It is necessary and expedient for employers in work places as well as other responsible persons or institutions to observe certain guidelines to ensure the prevention of sexual harassment of women so as to live with dignity which is a fundamental right guaranteed by our constitution. Sexual harassment is contrary to Constitutional provisions of gender neutrality/anti-discrimination law (Article 15: "prohibition of discrimination on grounds of religion, race, caste, sex or place of birth" and Article 19 (1) (g) Right to freedom of Occupation) which upholds a woman's right "to practice any profession, or to carry on any occupation, trade or business."

1b. Sexual harassment is pervert exhibition of an act of dominance of male power, and violation of a woman's dignity and privacy that is oftentrivialized by labelling it an interpersonal transgression. The Sexual Harassment of Women at Workplace (Prevention, Prohibition & Redressal) Act, 2013 (hereinafter referred to as The Act) is in line with the Guidelines of the Supreme Court Vishakha Judgement which casts duty on the employer for addressing issues concerning sexual harassment at Work Place. B.PAC endeavours to comply with the above legislation and also put in place adequate measures to ensure preservation of safety, security, dignity, rights and equality of women.

Sexual Harassment is unlawful and will not be tolerated and is a disciplinary issue other than it being a criminal offence. The principles governing it are:

- i. Speedy Disposal of Complaints.
- ii. Confidentiality

It is the duty of all staff, part time or casual employees, volunteers and consultants to comply with ACT and this policy. Any retaliation against an individual who has complained about sexual harassment (complainant) or retaliation against individuals for cooperating with an investigation of a harassment complaint is similarly unlawful and will not be tolerated. Misuse of policy or Malicious complaints will be dealt with as a disciplinary matter

2. Sexual Harassment: The Law

2a. The Act has laid down process and procedures for Prevention, Prohibition and Redressal of Sexual Harassment of Women at Workplace by enjoining employers with an onerous responsibility and task of providing a safe work environment for women. The Act applies to both organized and unorganized work sectors and to all women whether working part time, on contract or in voluntary/honorary capacity. This policy is in sync with the guidelines and procedures laid down by the Act and is with the paramount purpose of expressly prohibiting & preventing sexual harassment of Women at B.PAC

3. Purpose

3a. Pursuant to The Act, B.PAC has promulgated this Policy Against Sexual Harassment which will be strictly implemented in the BPAC office, and other places where women employees engage themselves in connection with work.

3b. Pursuant to the Act, an Internal Committee is constituted which is the body responsible to uphold the principles of this policy and also ensure the implementation of the POSH Act in B.PAC

3c. It is important to provide an organisation climate free from discrimination and harassment with a particular focus on sexual harassment and ensure this through all of B.PAC's interventions and practices.

3d. The purpose of the policy is to promote a work place free from sexual harassment, prevent harassment of sexual nature, and provide an appropriate complaint mechanism to redress the complaints and ensure time bound redressal.

3e. Specifically this policy aims:

- i. To put in place a mechanism for prevention and redressal of sexual harassment incidents at work place.
- ii. To create a secure and stress free environment for women workers/ employees
- iii. To ensure that no gender based discrimination takes places which hinders women's progress and equal opportunities for them

- iv. To promote a healthy work environment in which men and women can work as colleagues and develop their fuller potential

4. Definitions:

The Definitions contained in the enabling POSH Act are hereby further qualified/clarified for administrative convenience and ready reference of B.PAC, B.CLIP, etc.

4a. "Staff or employee" shall mean any woman employed by B.PAC, including fulltime, part-time, temporary, voluntary, seconded, contracted or casual staff, researchers, trainees and consultants.

4b. B.CLIP leaders are the ones who have completed B.CLIP program and B.CLIP participants are the ones who are undergoing the B.CLIP program.

4c. "Partners" for the purposes of this policy means any Government, non-governmental organization, institutions or organisations of any other nature who have working relationship with B.PAC either through contracts, or agreements or MoU for implementing project or undertaking any specific assignment.

4d. "workplace", in relation to an employee, means any place where an aggrieved woman or defendant is employed or works, or visits in connection with work during the course of or arising out of employment. It can be B.PAC office, B.CLIP sessions or any other place where B.PAC or B.CLIP programs are conducted.

4e. "Complainant" means,-

- i. an aggrieved person;
- ii. an aggrieved person or self and/or on behalf of others, in the case of more than one aggrieved person;

4f. "defendant" means a person against whom a complaint is filed by a complainant

4g. "Sexual Harassment" in the Act is defined as any unwelcome act or behaviour (whether directly or by implication) namely:

- i. Physical contacts and advances
- ii. Demand or request for sexual favours;
- iii. Sexually coloured remarks
- iv. Showing pornography

4h. or any other unwelcome sexually determined physical, verbal or non-verbal conduct of a sexual nature. Explanation: "Unwelcome sexually determined behaviour" shall include but not be limited to the following instances:

- i. where submission to or rejection of sexual advances, requests or conduct is made either explicitly or implicitly a term or condition of employment or as a basis for employment decisions; or,
- ii. such advances, requests or conduct (whether direct or implied) have the purpose or effect of interfering with an individual's work performance by creating an intimidating, hostile, humiliating or sexually offensive work environment.
- iii. Under these definitions, direct or implied requests by any staff for sexual favours in exchange for actual or promised job benefits such as favorable reviews, salary increases, promotions, increased benefits, or continued employment constitutes sexual harassment.

4i. The legal definition of sexual harassment is broad and in addition to the above examples, other sexually oriented conduct, whether it is intended or not, when that is unwelcome and where any staff

has a reasonable apprehension that the conduct has the effect of creating a work place environment that is hostile, offensive, intimidating, or humiliating to staff may also constitute sexual harassment.

4j. While it is not possible to list all those additional circumstances that may constitute sexual harassment, the following are some examples of conduct which if unwelcome, may constitute sexual harassment depending upon the totality of the circumstances including the severity of the conduct and its pervasiveness.

- i. Unwelcome sexual advances - whether they involve physical touching or not;
- ii. Sexual epithets, jokes, written or oral references to sexual conduct, gossip regarding one's sex life; comment on an individual's body, comment about an individual's sexual activity, deficiencies, or prowess; banter, insults, taunts or gibes which are disparaging about a particular gender or make reference to sexuality or intimate parts of the body
- iii. Displaying pornographic or sexually suggestive objects, pictures, cartoons;
- iv. Unwelcome leering, whistling, brushing against the body, sexual gestures, suggestive or insulting comments;
- v. Inquiries into one's sexual experiences; and,
- vi. Sexually oriented comments and use of abusive language in the presence of women or any other foul language which shows disrespect towards women;
- vii. Persistent or unwanted attention or physical contact or similar;
- viii. The exercise of undue influence to obtain consent to a sexual relationship;
- ix. The general use of sexually explicit or provocative language;
- x. Obscene behaviour in front of women colleagues; seeing or compelling them to see photographs which make them feel harassed;
- xi. Any behaviour that creates an environment that is intimidating, hostile, or offensive for members of one sex, and thus interferes with a person's ability to work;
- xii. The above is not exhaustive and can only be used as a guide for examples of sexual harassment. All staff should take special note that, as stated above, retaliation against an individual who has complained about sexual harassment, and retaliation against individuals for cooperating with an investigation of a sexual harassment complaint is unlawful and will be treated as gross indiscipline.

5. Scope of the Policy

5a. This policy shall extend to all staff and members of B.PAC, B.CLIP participants, leaders, interns and volunteers.

5b. All women employees, civic leaders and volunteers of B.PAC, regardless of the nature of their contract, duration of employment or position in the organisation.

5c. Women volunteers, B.CLIP leaders and interns, regardless of the duration of their association with the organisation.

5d. Women employees of partner organisations who come in contact with B.PAC staff.

5e. Action under this policy will be initiated in cases where any of the above are subjected to sexual harassment by a B.PAC member, employee or B.CLIP leader, participant inside or outside the office.

5f. The policy framed by BPAC to Prevent, Prohibit and Redress any form of Sexual Harassment of females at BPAC and to actively to ensure the safety of female staff, members and B.CLIP leaders in the office premises and also outside office premises including third party contacts whatsoever arising out and during the course of their engagements with B.PAC programs/workshops/ its initiatives.

5g. In cases where an B.PAC employee/B.CLIP leader/B.PAC member is subjected to sexual harassment by a third party who is not aB.PAC employee/B.CLIP leader/B.PAC member employee, this policy mandates immediate action to protect the complainant and to initiate action against the harasser, either through the appropriate policy of the concerned employer or, in cases where this is not possible, through the criminal justice system.

5h. Where sexual harassment occurs as a result of an act or omission by any third party or outsider, the Committee and B.PAC management will take all steps necessary and reasonable to assist the affected person in terms of support and preventive action.

5i. Partners will be advised and requested to consider adopting suitable measures to ensure that the guidelines laid down by this order are also observed by their organisations.

6. Employer's duties and liabilities:

- 6a. To constitute IC
- 6b. To provide safe working environment & ensure safety of women at the workplace.
- 6c. To assist women in filing complaint civil or criminal.
- 6d. To implement the Inquiry Report within 60 Days of its receipt.
- 6e. To send report to IC/LC on compliance of Inquiry Report.
- 6f. Penalties for Non-Compliance of the Act
- 6g. Penalties for Non-Compliance of the Inquiry Report
- 6h. Penalty upto Rs.50,000/- for 1st offence
- 6i. Penalty will double for 2nd offence
- 6j. Penalty for repeated offence may also be cancellation of trade/business licence

7. Internal Committee (IC):

7a. Constitution of the Committee- The Committee consists of 5 members in total, which is explained as below:

- i. Presiding Officer- Shall be a woman at a senior level
- ii. Internal Members- 3 Internal members out of whom at least one would be a male member.
- iii. External Member- 1 external member who is a person committed to the cause of women. No meeting of the IC can be held without at least 3/5 members present including the external member. No member shall be part of IC for more than a period of 3 years. The only exception of extension in any member's tenure would be in case of an ongoing investigation.

7b. Management- For the implementation of this policy, the IC would report all matters to the CEO and the CEO shall act as Management for the purpose of this policy and the Act.

7c. IC Members

Sl. No.	Member	Role at IC
1	Chitra Talwar	Presiding officer
2	Sujata Puranik	Internal Member
3	Ananda Gundurao	Internal Member
4	Harish. N	Internal Member
5	Rupande Padaki	External Member

8. WORKING OF IC:

- 8a. To know the Act, Policy/ relevant Service Rules.
- 8b. To receive Complaints and Acknowledge its receipt.
- 8c. To keep the identity of the victim confidential throughout the process.
- 8d. To ensure parties are made aware of the process and their rights & responsibilities.
- 8e. To determine main issues in the complaint.
- 8f. To submit enquiry report within 3 months to the Employer.
- 8g. To recommend Interim Relief during an Enquiry.
- 8h. To support the victim if she chooses to initiate criminal proceedings.
- 8i. To punish and/or to determine compensation.
- 8j. IC orders appealable within 90Days to the Civil Court/Tribunal.

9. Prevention and Prohibition measures:

The following initiatives to be undertaken to prevent sexual harassment at workplace

- 9a. Workshop on 'Gender sensitisation and introduction to sexual harassment at workplace act' to all B.CLIP leaders and B.PAC team members
- 9b. Orientation to all B.PAC interns on B.PAC's SHWP policy
- 9c. Setting up of IC

10. Redressal measures of sexual harassment at workplace:

- 10a. All B.PAC members, B.CLIP leaders, participants, interns and other will be made aware of IC and procedure to file complaint.
- 10b. The IC members will address the complaints received as per the procedure laid out in the policy.

11. Complaint

- 11a. Complaint to be made to any members of the IC.
- 11b. Time Limitation- The aggrieved party must complaint to the Committee in writing within 3 months of the incident or 3 months from the last incident in case of series of incidents. This can be further extended to another 3 months in case of exceptional circumstances by the IC but in no case more than 6 months.
- 11c. The complaint can also be made by the legal heir in case the aggrieved party is not in physical or mental condition to do so.

12. Procedures for IC:

- 12a. The inquiry procedure will be treated as highly confidential.
- 12b. The inquiry must finish within a period of 90 days.
- 12c. Both parties heard- The IC is responsible to give the opportunity of representation to both parties during the course of inquiry before reaching any conclusion.

12d. Recommendations- At the end of such inquiry, the IC needs to submit a recommendation to the Management and the Management is bound to implement such recommendations. The Management is also required to submit a report of such implementation to the IC. Copy of such recommendations shall be submitted within 10 days of finishing the inquiry. A copy of the same shall also be submitted to the two parties involved.

12e. In the event the conduct complained of amounts to a specific offence under the Indian Penal Code or under any other law in existence, the IC, shall recommend to management to take appropriate action in making a complaint with the appropriate authority.

13. Powers of IC

The IC has the powers under law as equivalent to that of a Civil Court in the following matters:

13a. IC will ask for any evidence like data, CCTV footage, call record, emails, etc. or meet any person in relation to the investigation.

13b. Summoning and enforcing the attendance of any person and examining him/ her on oath.

13c. Requiring the discovery and production of documents

13d. Suggesting intermediate step such as work from home or to take leave

13e. Complaint- IC cannot function suo-motto but will have to wait for the complaint to happen.

13f. Conciliation- IC at the request of the aggrieved party may take steps to settle the matter between her and the respondent through conciliation. Such conciliation can't result in monetary settlement.

13g. Settlement- The IC shall record the settlement and submit the same to the Management and also a copy each to aggrieved party and the respondent. If settlement is submitted once, no further investigation to be made by the IC.

13h. Police Complaint- During the course of investigation, if the IC deems to believe that a prima facie case exists, shall forward the complaint to the police within 7 days for registering the case under Sec 509 of IPC.

14. Recommendations of IC:

IC can give any of the following recommendations to the management after completion of the investigation

14a. Being put on Probation for 6 months irrespective of length of service

14b. Censure/Reprimand in writing to be placed on record in the Personal File

14c. Reduction in salary not exceeding 1/3 of the gross pay

14d. Forfeiture of Annual Increment

14e. Suspension from work for a period not exceeding 3 months

14f. Removal from B.CLIP program

15. Malicious Complaint-

If the IC comes to a conclusion that the allegation made against the respondent are malicious or have been made even after the knowledge of it being false or has produced forged or misleading documents, it shall report the same to the Management and the Management is bound to take action against the person involved in such malice.

16. Non Disclosure or Publication

Any complaint, the identity of the aggrieved woman, respondents and witnesses, any information relating to conciliation, compensation, settlement, inquiry proceedings, recommendations and actions taken shall not be disclosed or published to public, press and media in any manner.

17. Provision of appeal-

In case any party is not satisfied with the recommendations, has the freedom to appeal in the court of law within 90 days of such recommendations.

18. Conclusion

18a. The proceedings under this policy shall not be stalled or postponed merely because the complainant is proceeding against the accused under any other provision of law.

18b. The provisions of this policy shall not restrict the powers of the Management or the complainant to proceed against the alleged offender for any other misconduct or other legal remedies.

18c. The policy will be reviewed from time to time and revised to keep it up to date with changes in state acts, employment policies or lessons learnt. The process for review will also consult all staff and seek advice externally

18d. The Committee will minute all its meetings and proceedings and submit quarterly reports to the CEO/ Senior Management Team.

18e. Summary of these Reports will be placed before the Board for information at the Board Meeting every quarter.