

NPC Policy on Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) (SHWW(PPR))

1.1 PREAMBLE

NPC is committed to creating a healthy working environment that enables employees to work without fear of prejudice, gender bias and sexual harassment. The Council also believes that all employees have the right to be treated with dignity. Sexual harassment at the work place or other than the work place is a grave offence and is, therefore, punishable.

Consequent to The Supreme Court Judgement of 1997 (Vishaka vs. State of Rajasthan) which had made it obligatory for every employer and other responsible persons to follow the guidelines laid down by the court, the government of India has enacted a law known as 'Sexual Harassment of Woman at Workplace (Prevention, Prohibition, And Redressal) Act, 2013' and also framed the rules there under which has come into force from 9th Dec., 2013. This envisages a specific policy to combat sexual harassment in the workplace. NPC is always committed to uphold the constitutional mandate ensuring the human rights of all those who fall within its jurisdiction.

1.2 OBJECTIVES OF THE POLICY

- To provide an environment free of gender-based discrimination.
- Deal with cases of sexual harassment, in a time bound manner and in accordance with the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013, aiming at ensuring support services to the victimized and termination of the harassment;
- To evolve a permanent mechanism for the prevention and prohibition of sexual harassment cases and other acts of gender based violence at the Council.

- To ensure the implementation of the policy through proper reporting of the complaints and their follow-up procedures.
- To create awareness about sexual harassment in its various forms so that each one in the council community deters from being involved in acts of gender based discrimination and harassment.

2.1 DEFINITIONS

- (i) “Sexual Harassment” includes any one or more of the following unwelcome acts of behavior (whether directly or by implication) namely;
- Physical contact and advances; or
 - A demand or request for sexual favours; or
 - Making sexually coloured remarks; or
 - Showing pornography; or
 - Any other unwelcome physical, verbal or non-verbal conduct of sexual nature.

Sexual Harassment would mean but not limited to at the workplace:

1. Making sexually suggestive remarks or innuendos.
2. Serious or repeated offensive remarks, such as teasing related to a person’s body or appearance.
3. Offensive comments or jokes.
4. Inappropriate questions, suggestions or remarks about a person’s sex life.
5. Displaying sexist or other offensive pictures, posters, mms, sms, whatsapp, or e-mails.
6. Intimidation, threats, blackmail around sexual favours.
7. Threats, intimidation or retaliation against an employee who speaks up about unwelcome behaviour with sexual overtones.
8. Unwelcome social invitations, with sexual overtones commonly understood as flirting.
9. Unwelcome sexual advances which may or may not be accompanied by promises or threats, explicit or implicit.
10. Deliberate Physical contact such as touching or pinching.

11. Caressing, kissing or fondling someone against her will (could be considered assault).
12. Invasion of personal space (getting too close for no reason, brushing against or cornering someone).
13. Persistently asking someone out, despite being turned down.
14. Stalking an individual.
15. Abuse of authority or power to threaten a person's job or undermine her performance against sexual favours.
16. Falsely accusing and undermining a person behind closed doors for sexual favours.
17. Controlling a person's reputation by rumour-mongering about her private life.

The following Circumstances, among other circumstances, if it occurs or is present in relation to or connected with any act or behavior may indicate underlying workplace sexual harassment and merit inquiry:

1. Criticizing, insulting, blaming, reprimanding or condemning an employee in public.
2. Exclusion from group activities or assignments without a valid reason.
3. Statements damaging a person's reputation or career.
4. Removing areas of responsibility, unjustifiably.
5. Inappropriately giving too little or too much work.
6. Constantly overruling authority without just cause.
7. Unjustifiably monitoring everything that is done.
8. Blaming an individual constantly for errors without just cause.
9. Repeatedly singling out an employee by assigning her with demeaning and belittling jobs that are not part of her regular duties.
10. Insults or humiliations, repeated attempts to exclude or isolate a person.
11. Systematically interfering with normal work conditions, sabotaging places or instruments of work.
12. Humiliating a person in front of colleagues, engaging in smear campaigns.
13. Arbitrarily taking disciplinary action against an employee.

14. Controlling the person by withholding resources (time, budget, autonomy, and training) necessary to succeed.

(ii) **Employee** would mean a person employed with NPC for any work on regular, deputation, temporary, consultants- part-time, 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.

(iii) **Aggrieved Woman:**

An Aggrieved Woman, in relation to a workplace, is a person, of any age, whether employed or not, who alleges to have been subjected to any act of Sexual Harassment by the respondent.

(iv) **Complainant:**

A Complainant is any Aggrieved Individual (if the Aggrieved Individual is unable to make a complaint on account of his/her physical or mental incapacity or death or otherwise) who makes a complaint alleging Sexual Harassment under this Policy.

(v) **Respondent:**

A Respondent means a person against whom the Aggrieved Woman/ Complainant has made a complaint under section 9 of the Act.

(vi) **Workplace:**

(a) Any department, organization, 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 cooperative society.

- (b) Any place visited by the employee arising out of or during the course of employment including transportation provided by the employer for undertaking such journey.
- (vii) **Internal Committee:**
Internal Committee means an Internal Complaints Committee constituted by NPC under Section-4 of the Act.
- (viii) Member means a Member of the Internal Committee.
- (ix) Prescribed means prescribed by rules made under this Act.
- (x) Presiding Officer means the Presiding of the Internal Complaints Committee nominated under sub-section (2) of section 4.

2.2 COMPLAINT OF SEXUAL HARASSMENT

2.2.1 Any aggrieved woman may make, in writing, a complaint of sexual harassment at Workplace to the Internal Committee within a period of three months from the date of Incident and in case of a series of incidence, within a period of three months from the date of last incident.

2.2.2 Explanation: for the purpose of the above and in accordance with Rule (6) read with Section 9 (2) of the Act and Rules as follows:

- (i) 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 a 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;
- (ii) 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 or 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 or qualified psychiatrist or psychologist, or guardian or authority under whose care she 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 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.

The complaints may also be submitted electronically to members of the complaints committee.

2.3 Complaints Committee:

A committee has been constituted by the Management in compliance with OM No. 11013/2/2014-Estt (A III) dated 27th Nov, 2014 issued by Government of India, Ministry of Personnel, Public Grievances and Pensions (Department of Personnel and Training) to consider and redress complaints of sexual harassment. The Chairperson and the members of the Committee are as per Annexure-A.

2.4 Redressal & Enquiry Process:

- i) The Committee will maintain a register to endorse the complaint received and keep the contents confidential, if it is so desired, except to use the same for discreet investigation.
- ii) However, before proceeding the respondent will be served with the copy of the complaint within 7 working days for his reply. The respondent shall file his reply to the complaint along with his list of documents and names and address of witness/witnesses if any within a period not exceeding 10 working days of receiving the copy of the

complaint. Copy of the reply of the respondent along with documents, if any and names of witnesses, if any will be furnished to the complainant.

iii) Before initiating an inquiry the aggrieved woman may request the Internal Complaints Committee to take steps to settle the matter between her and the respondent through conciliation and in case a settlement is arrived the same shall be recorded and will be forwarded to the management and copies of the said settlement will be given to the complainant and the respondent.

iv) In case no settlement is done through conciliation as referred above, the Internal Complaints Committee shall proceed with the matter and conduct an enquiry as per the process detailed below:

v) The Internal Complaints Committee shall hold an enquiry into the complaint in accordance with the principles of natural justice and as per the process mentioned below: (The process mentioned is not exhaustive and is only indicative).

vi) The Internal Complaints Committee shall summon both the complainant and the respondent and give opportunity to provide oral statement, if any or confirm the written statements.

vii) The complainant will be given opportunity to bring any witness and produce evidence oral and or documentary to support her complaint. The respondent will be permitted to cross examine the complainant and the witnesses produced on behalf of the complainant.

viii) Similarly, the respondent may adduce evidence bringing his own witnesses and also producing any supporting documents. The complainant will be provided opportunity to cross examine the respondent and also the witnesses deposing on behalf of the respondent.

ix) The Committee shall provide every reasonable opportunity to the Complainant/aggrieved women and respondent, for putting forward and defending their respective case. After the evidence of both parties is recorded, they are permitted to make oral/written submissions (if any) and enquiry shall be concluded.

x) The Committee shall complete the enquiry within reasonable period but not beyond three months and communicate its findings and its recommendations for action to the Director General of the Council from time to time and the Management will direct appropriate action to be taken in this matter.

xi) The Internal Complaints committee shall have the right to terminate the inquiry proceedings or to give an expert 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 Chairperson as the case may be:

xii) 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.

xiii) 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 Internal Complaints Committee.

xiv) In conducting the inquiry, a minimum of three members of the Internal Complaints committee including the Chairperson as the case may be shall be present.

xv) In the event the complaint of Sexual Harassment is made against any member of the Internal Complaints Committee that member shall, till the said complaint is disposed off by the Internal Complaints Committee, cease to be a member of the Internal Complaints Committee and if found guilty will automatically and with immediate effect be removed from the Internal Complaints Committee and be proceed with the enquiry.

2.5 Penalty/ Punishment

Where the Internal Committee arrives at conclusion that the allegation against the respondent is malicious or the aggrieved woman or any other person making 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, it may recommend to the employer or the as the case may be, to take action against the woman or the person who has made the complaint under sub-section (7) or sub-section (20 of section 9, as the case may be, in accordance with the provisions of the service rules applicable to her or him or where no such service rules exist in such manner as may be prescribed.

2.6 Appeal

- (i) Any person aggrieved from the recommendations made under sub-section (2) of section 13 or under clause (i) of clause (ii) of sub-section (3) of section 13 or sub-section (1) or sub-section (2) of section 14 or section 17 on non-implementation of such recommendations may prefer an appeal to the court or tribunal in accordance with the provisions of the service rules applicable to the said person or where no such service rules exist then, without prejudice to provisions contained in any other law for the time being in force, the person aggrieved may prefer an appeal in such manner as may be prescribed.
- (ii) The appeal under sub-section (1) shall be preferred within a period on ninety days of the recommendations.

2.5 Miscellaneous:

- i) The management shall provide all necessary assistance for the purpose of ensuring full, effective and speedy implementation of this policy.
- ii) Where sexual harassment occurs as a result of an act or omission by any third party or outsider, NPC shall take all steps necessary and reasonable to assist the affected person in terms of support and preventive action.
- iii) The committee shall analyze and put up report on all complaints of this nature at the end of the year for submission to the office of the Director General, NPC.
- iv) In case, the committee finds the degree of offence coverable under the Indian penal code, then this fact shall be mentioned in its report and appropriate action shall be initiated by the management, for making a police complaint.
- v) This policy is subject to the provisions of Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act 2013 and the rules framed there under and any amendments/alterations/notifications that may be issued and also any judicial Pronouncements that may be pronounced by competent courts.

vi) In case only, occurrence of incident is reported and “no action” is desired by the complainant against the employee/ person, the complaints committee must seek the suggested alternative for mitigation and prohibition of such incidents.

Annexure A

The following members are appointed to the NPC Women's Cell from February, 02, 2016 (vide Office order No. 649/Pt.I/2016 dated 02.02.2016 File No. 26074/Pt.V)

1. Ms. Rachana Shalini, DD, NPC-Chairperson, 374, rachana.shalini@npcindia.gov.in
2. Ms. Chitra Sarkar, AIWC, Member
3. Dr. Rajat Sharma, DD, Member, 314, rajat.sharma@npcindia.gov.in
4. Ms. Kritika Shukla, DD, Member, 364, kritika.shukla@npcindia.gov.in
5. Ms. Anju Baweja, Stenographer-Member, 342, anju.baweja@npcindia.gov.in