



SHARNAM LEGAL

ADVOCATES & SOLICITORS

"Building longterm relations through our work."

Policy on Prevention of Sexual Harassment of Women at Workplace

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Policy on Prevention of Sexual Harassment of Women at Workplace for SHARNAM LEGAL

This Policy has been issued in compliance with the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013

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SHARNAM LEGAL
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1. INTRODUCTION

SHARNAM LEGAL (hereinafter referred as “the Firm”) is committed to provide an equal opportunity and a harassment free workplace notwithstanding color, caste, race, religion, gender, marital status, sexual orientation, nationality, ethnic origin or disability, as the case may be. Thus in order to create such a safe and conducive work environment, this Policy has been framed, in line with the provisions of the “Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013” of India as amended from time to time (hereinafter referred to as the “Act”) and existing rules framed thereunder including but not limited to the “Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Rules, 2013 (hereinafter referred to as the “Rules”.

2. PURPOSE & SCOPE

Purpose of this policy is to provide protection against sexual harassment of women at workplace and the prevention and redressal of complaints of sexual harassment and matters related to it. This policy extends to all employees and independent consultants including individuals coming to the workplace for employment or for any other purpose whatsoever including but not limited to visitors, vendors, contractual resources, secondees and applies to any alleged act of sexual harassment against persons at workplace, whether the incident has occurred during or beyond office hours.

This policy does not prevent any aggrieved person from taking recourse to the law of the land. IMPORTANT DEFINITIONS

1. **Aggrieved Women means** - a female employee, consultant or independent contractor who has experienced or has been subjected to any act of sexual harassment by another employee (including female employee) or by any third party;
2. **Complainant** – means an aggrieved woman who lodges a Complaint with the Internal Committee;
3. **Employee(s)** - means a person retained as an employee, consultant or an independent contractor at workplace on regular, temporary, 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; employment are express or implied and includes a co-worker, a contract worker, probationer, trainee, apprentice or called by any other such name;
4. **Employer/ Senior Management** - means a person responsible for management, supervision and control of the workplace;

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5. **Internal Committee** – means an Internal Complaints Committee constituted under Clause 5;
6. **Member** - means a Member of the Internal Committee;
7. **Parties** - means a Complainant and a Respondent;
8. **Presiding Officer** - the Presiding Officer of the Internal Complaints Committee nominated under sub- clause (B) of Clause 4;
9. **Respondent** - a person against whom the aggrieved woman has made a complaint under section 9;
10. **Workplace** - means Premises, locations, establishments, enterprises, institutions, offices, branches, units established or subsidiaries which are controlled by the Company and includes places visited by the Employee arising out of or during the course of employment including official events, accommodation and transportation provided by the employer for undertaking a journey.

‘Sexual harassment’ Black's Law Dictionary defines Sexual harassment as **"A type of employment discrimination consisting in verbal or physical abuse of a sexual nature."**; It may occur not only where a person uses sexual behavior to control, influence or affect the career, salary or job of another person, but also between co-workers. It may occur between an employee and someone that employee deals within the course of her work who is not even employed by the Company.

Sexual harassment includes any one or more of the following unwelcome acts or behaviour (whether directly or by implication) namely unwelcome sexual advances involve verbal, non-verbal, or physical conduct such as sexually colored remarks, jokes, letters, phone calls, e-mail, gestures, showing of pornography, lurid stares, eve teasing, innuendos and taunts, physical contact or molestation, stalking, sounds, display of pictures, signs, verbal or non-verbal communication which offends the women sensibilities and affect her performance.

An alleged act of sexual harassment committed during or outside of office hours falls under the purview of this policy.

3. RESPONSIBILITY OF THE FIRM

- Provide safe working environment at the workplace which shall include safety from the persons coming into the contact at the workplace.
- Display at all conspicuous places in the workplace, the penal consequence of sexual harassment and the order constituting the Internal committee.
- Organize workshops and awareness programs at regular interval for sensitizing the employees with the provisions of the Act and orientation programs for the member of Internal committee.

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- Provide assistance to the woman if she so elects to file a complaint in relation to the offence under the Indian Penal Code or any other law for the time being in force.
- Cause to initiate action, under the Indian Penal Code or any other law for the time being in force, against the perpetrator, or if the aggrieved woman so desires, where the perpetrator is not an employee, in the workplace at which the incident of sexual harassment took place.
- Monitor the timely submission of reports by the internal committee.
- Provide necessary facilities to the Internal committee for dealing with the complaint and conducting an inquiry.
- Make available such information to the internal committee, as it may require having regard to the complaint.
- Assist in securing the attendance of respondent and witnesses before the Internal committee.
- Treat sexual harassment as a misconduct under the service rules and initiate action for such misconduct.

4. **INTERNAL COMPLAINTS COMMITTEE**

A. **Constitution of the Internal Complaints Committee (“ICC”)**

To prevent instances of sexual harassment and to receive and effectively deal with complaints pertaining to the same, an "**Internal Complaints Committee**" ('the Committee' or 'ICC') shall be constituted.

The committee shall be constituted at each location having at least 10 employees.

B. **Appointment of Internal Committee**

The Senior Management and HRD will decide and appoint members of the Committee for each location. The members of the Committee shall have necessary experience and expertise. The committee should comprise of the following:

Presiding Officer: A woman employed at a senior level in the organization preferably at a designation of Director or Senior Manager or above. In case a senior level woman employee is unavailable, the Presiding Officer shall be nominated from other offices or administrative units of the Firm.

Provided that in case the other offices or administrative units of the workplace do not have a senior level woman employee, the Presiding Officer shall be nominated from any other workplace of the same employer or other department or organization;

- At least **2 members** from amongst employees preferably committed to the cause of women or who have had experience in social work or have legal knowledge;

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- **One external member** i.e. 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 **50 % of member** should be women of all times.

The details of the committee are enclosed as **Annexure A**

The external member appointed from amongst non-governmental organization shall be entitled to an allowance of at least Rs. 200 per day as stipulated under the Act or any higher amount as the Senior Management may decide for general matters.

C. Tenure

The Presiding officer and every member of the Internal Committee shall hold office for maximum **three years** from the date of their appointment.

5. WHO CAN FILE A COMPLAINT

- i. The Victim/ Aggrieved Woman.
- ii. If the victim/ Aggrieved Woman is unable to lodge the complaint owing to physical

incapacity, the following may file the complaint on the victim's behalf:

- a) Relative or friend
- b) Co-Worker
- c) An officer of the National Commission for Women or State Women's Commission.
- iv. Any person having knowledge of the incident with the written consent of the complainant. Where the
- v. 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 any person mentioned above.

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- vi. If the Aggrieved Woman for any other reason is unable to make a Complaint, a Complaint may be filed by a person who has knowledge of the incident, with her written consent.
- vii. 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(s).

An Aggrieved Woman may make in writing, a Complaint of Sexual Harassment to the Internal Committee, within a period of three (3) months from the date of the incident and in case of series of incident, within a period of three (3) months from the date of last incident.

Where the Internal Committee is satisfied that the circumstances were such which prevented the Aggrieved Woman from filing a complaint within the said period of three months, the Internal Committee may extend the time limit beyond 3 months, by recording the reasons in writing.

A Complaint may also be made orally. If the Complaint is oral, member of the Internal Committee to whom the Complaint is made shall record the same in writing, in detail, and have the contents confirmed by the Complainant within a period of three (3) months from the date of the incident.

6. TYPES OF SEXUAL HARASSMENT

Sexual harassment in the workplace is generally of two distinct types.

(i) Quid Pro Quo (Conditional) Sexual Harassment

“Quid pro quo” sexual harassment means seeking sexual favors or advances in exchange for preferential treatment. This kind of sexual harassment occurs when consent to sexually explicit behavior or speech is made a condition for employment or preferential treatment in employment. This kind of sexual harassment also occurs when refusal to comply with a “request of sexual favor” is met with retaliatory action such as dismissal, demotion, difficult working conditions etc.

(ii) Hostile working environment sexual harassment

Hostile working environment sexual harassment occurs where employees in a workplace are subject to a pattern of exposure to unwanted and unwelcome sexual behavior from the management or co-workers. This kind of behavior makes the work environment of a woman employee hostile. This is for the reason that such conduct creates an intimidating, offensive, oppressive, abusive or humiliating work environment and which is severe and pervasive enough to interfere with her ability to work and perform.

Explanation of the word ‘Unwelcome’

“Unwelcome” is the key in defining what conduct constitutes sexual harassment. The conduct in question must have been unwelcome. In other words, the complaining woman employee

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must have found the behavior in question offensive, repulsive or repugnant. It is the impact and effect the behavior or conduct has on the recipient that will define the behavior as sexual harassment.

Annexure ‘B’ of this Policy provides a partial list of examples of behavior which may be found to constitute sexual harassment in the workplace.

Unwelcome “sexually determined behavior” shall include but not be limited to the following instances:

- where submission to or rejection of sexual advances, requests or conduct is made either explicitly or implicitly as a term or condition of employment or as a basis for employment decisions; or,
- 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.

Creating a “**hostile work environment**” means

- Creating a work environment where Sexual Harassment may go unheeded, where there is a nexus between accused/aggressor & higher management, and where complainant is placed under fear, disadvantage or threat of victimization.
- It will also mean Retaliation which includes marginalizing someone in the workplace with regard to his/her roles and responsibilities, socially ostracizing or intimidating someone physically, psychologically, emotionally or someone close to or related to the victim. And any other behavior that may commonly be

construed as retaliatory

Note: 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 unacceptable and will be actionable.

7. DEALING WITH SEXUAL HARRASMENT AT WORKPLACE

A. Informal Action

When an incident of sexual harassment occurs, the victim of such conduct can communicate her disapproval and objections immediately to the harasser and request the harasser to behave decently.

B. Formal Action

If the harassment does not stop or if victim is not comfortable with addressing the harasser directly or if in victim’s view the incident of sexual harassment is serious enough to warrant formal intervention, the victim should lodge a written complaint, which shall be followed by a formal redressal mechanism as described in this Policy. The complaint should be made

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immediately after the alleged offence is committed, unless the complainant submits sufficient cause for a delay, as described in “Lodging a complaint” section.

8. LODGING A COMPLAINT

1. The Complainant should email her complaint along with the supporting documents to all the members of Internal Committee. Their email ids are provided in **Annexure A**.
2. The complaint must contain the following information/ details:
 - Name, designation, contact number and address of the Complainant.
 - Name, designation, contact number, address (if available) of the respondent.
 - Nature, type and details of the complaint, including, but not limited to the time, place and the number of times the respondent has exhibited Unwelcome Sexual Conduct towards the Complainant.
 - Details of witnesses (if any).
 - Other Complainants if any).

If the complaint cannot be made in writing, the Presiding Officer or any Member of the Internal Complaints Committee shall render all reasonable assistance to the woman for making the complaint in writing.

It is not intended to impair or limit the right of any Employee seeking a remedy available under law. Proceedings under this Policy shall continue notwithstanding any proceedings initiated by a Complainant (as defined hereinafter) against an alleged perpetrator under any law in force.

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9. RESOLUTION PROCEDURE THROUGH FORMAL INQUIRY

Complainant along with supporting documents to be mailed to all the members of IC within 3 months of date of incident

In case of series of incidents, within a period of 3 months from the date of last incident

At the request of aggrieved person, the IC can proceed to settle the case through conciliation.

Kindly note no monetary settlement can be made basis conciliation

Complaint of Sexual Harassment

The IC can extend the time limit of reporting the complaint for not exceeding 3 months and the reasons for extension should be recorded in writing

Conciliation

The IC shall record the settlement and forward the same to Board of director to take action specified in recommendation

Inquiry into complaint

Settlement copies will be provided to aggrieved women and respondent

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If the conciliation has been not requested by the aggrieved party or no settlement could be arrived through conciliation. IC will proceed with inquiry of complaint. IC can also proceed with inquiry, if the terms of settlement are not met by respondent

Within **7 working days**, a copy of compliant received from aggrieved women will be sent to respondent Within **10 working days** of the receipt of the compliant, the respondent shall file his reply to the compliant along with list of documents, name and address of witness

Aggrieved women and respondent shall be given opportunity of being heard and a copy of the finding shall be made available to both the parties enabling them to make representation before IC

IC shall have the power as vested in a civil court under Code of Civil Procedure, 1908

Process during Inquiry

During pendency of an inquiry, the IC can make recommendation like transfer of the aggrieved women or respondent or grant of leave up to 3 months etc. Inquiry to be completed within 90 days

Inquiry to be completed **within 90 days**

Termination of Inquiry/ex-parte decision

Inquiry Report

Malicious Allegations

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If Complainant or respondent absent themselves for 3 consecutive hearing, without reasons, then IC can terminate or pass ex-parte decision on the complaint by giving 15 days advance notice.

The committee will submit its report containing the finding and recommendation to the Board of Directors, within 10 days of completion of inquiry.

The Board of Directors shall implement the actions recommended through Inquiry report.

Where the committee arrives at the conclusion that the allegation against the respondent has not been proved, it shall recommend that no action is required by Board of directors.

Where the committee arrives at the conclusion that the allegation against the respondent is

- Malicious
- Person making the complaint has made the complaint knowing it to be false
- Person making the complaint has produced any forged or misleading document

IC may recommend to the Board of Directors to take action against the person making the complaint.

Kindly note mere inability to substantiate or provide adequate proof to a complaint need not mean malicious intent.



Note: "Board of Directors" to be read as "Senior Management" in above flow chart.

The recommendations to be provided by Internal Complaints Committee may include the following:

- Written apology;
- Warning;
- Reprimand or Censure;
- Withholding of promotion;
- Withholding of pay rise or increments;
- Terminating the respondent from service

These recommendations shall be subject to the severity of the incident and shall be dependent on an action which may not cause the incident in question to occur again.

The ICC must recommend the action to the senior management for implementation. The senior management shall decide the action to be taken against the respondent based on ICC recommendation. The Senior Management shall act upon the recommendations within sixty (60) days and confirm to ICC.

10. CONSIDERATIONS WHILE PREPARING INQUIRY REPORT

While preparing the findings/recommendations, following should be considered:

- Whether the language used (written or spoken), visual material or physical behavior was of sexual or derogatory nature.
- Whether the allegations or events follow logically and reasonably from the evidence.
- Credibility of complainant, respondent, witnesses and evidence.

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- Other similar facts, evidence, for e.g. if there have been any previous accounts of harassment pertaining to the respondent
- Both parties have been given an opportunity of being heard.
- A copy of the proceedings was made available to both parties enabling them to make representation against the findings.

If the Senior Management of the Firm is unable to deduct salary or wage of the Respondent for reasons such as his absence from duty or cessation of employment, he may direct the Respondent to pay the said amount of money to the Complainant directly.

If the Respondent fails to pay the amount referred to above, the IC may forward the order for recovery of the said amount as an arrear of land revenue to the District Officer.

11. DETERMINATION OF COMPENSATION

ICC shall keep in mind the following while deciding the amount of compensation to the Aggrieved Woman:

- The mental trauma, pain, suffering and emotional distress caused to the aggrieved woman;
- The loss in the career opportunity of the aggrieved woman due to the incident of sexual harassment;
- Medical expenses incurred by the victim for physical or psychiatric treatment;
- The income and financial status of the Respondent; and
- Feasibility of such payments in lump sum or instalments.

Note: the leave granted to the aggrieved woman under this section shall be in addition to the leave she would be otherwise entitled to.

12. CONFIDENTIALITY

The identity of the complainant, respondent, witnesses, statements and other evidence obtained in the course of inquiry process, recommendations of the committees, action taken by the Senior Management will be considered as confidential materials, and not published or made known to public or media.

Any person contravening the confidentiality clauses will be subject to disciplinary action as prescribed in the act.

13. TIME PERIOD

The Internal Committee shall complete the inquiry within a period of Ninety (90) days from the date on which the Complaint is lodged.

14. APPEAL

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It is important to understand that an act of Sexual Harassment may also be a criminal offence. Any person not satisfied or further aggrieved by the implementation or non-implementation of recommendations made, may prefer an appeal to the appellate authority as per the provisions of the Act, within **90 days** of the recommendations being communicated.

15. RETALIATION & VICTIMIZATION

1. The policy seeks to encourage women to express freely, responsibly and in an orderly manner opinions and feelings about any problem or complaint of sexual harassment.
2. Retaliation or victimization against any women who report or provide information about sexual harassment or behavior that might constitute sexual harassment is strictly prohibited.
3. Any act of reprisal, including internal interface, coercion and restraint by any women or one acting on his/her behalf, violates this policy and will result in appropriate disciplinary action.
4. The Policy envisages appropriate disciplinary action against any employee who indulges himself/herself or abets the activities of sexual harassment or the acts of victimization or retaliation against complainant or employee involved in the process of complaints of sexual harassment in whatsoever manner.

Any employee who engages in conduct amounting to be harassment, or who encourages such conduct by others, or who indulges in victimization of or retaliation against the complainant or the complainant's witnesses or the complainant's confidential counselor or any other employee who supported or supports them shall become liable for corrective action including appropriate disciplinary action, which may even include dismissal from service.

16. RECORDS

A copy of the final report, notes of meetings and interviews, evidence and documentation relating to any action taken as a result of an investigation will be retained by the Internal Committee. These records should not be placed on personnel files unless the Complaint results in disciplinary action against one or more of the parties involved in the Complaint, in which case any appropriate records may be placed on the disciplined Employee's file.

17. ANNUAL REPORT

The internal committee shall in each calendar year prepare an annual report and submit the same to the Senior Management and District officer.

The Annual Report shall have the following details:

- number of complaints of sexual harassment received in the year;
- number of complaints disposed off during the year;
- number of cases pending for more than ninety days;

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- number of workshops or awareness programme against sexual harassment carried out;
- nature of action taken by the employer or District Officer.

18. MALICIOUS OR FALE COMPLAINTS

If an Employee is found to have raised a malicious or false Complaint against another person in order to prejudice that person, the Complainant may also be subject to appropriate disciplinary action, which may include termination of employment, engagement or relationship with THE FIRM, as the case may be.

19. MISCELLANEOUS

Firm shall in consultation with the IC periodically review the provisions of this Policy and its implementation (taking into account practical problems, if any, faced by the IC and/or Firm in the implementation of this Policy). Firm reserves the right to amend the provisions of this Policy, from time to time, as it deems fit, subject to applicable law.

This Policy will not prejudice any rights available under the Protection of Human Rights Act, 1993, The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 or any other legislation.

ANNEXURE 'A'

MEMBERS OF THE INTERNAL COMPLAINTS COMMITTEE

As on Ghaziabad & Noida

S.N O	NAME	DESIGNATION	E-MAIL ID	CONTACT NUMBER
1	Ms. Shabd Priya Gupta	Presiding officer & Member	mp@sharnamlegal.com	9205001461
2	Mukul Gupta	Member	mukulgupta@sharnamlegal.com	9811023739
3	Prateek Gupta	Member	prateekgupta@sharnamlegal.com	9654140247
4	Ms. Priyam Gupta	External Member	ops@sharnamlegal.com	9205001461

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ANNEXURE 'B'

SOME EXAMPLES OF SEXUAL HARASSMENT AT THE WORKPLACE

A. Visual Conduct:

- Leering
- Making sexual gestures
- Displaying sexually suggestive or explicit objects, pictures (still or moving), cartoons, graffiti or posters in any manner, including as part of e-mail transmissions

B. Verbal Conduct:

- Whistling and catcalls
- Foul or obscene language
- Making or using derogatory comments which are sexual in nature
- Explicit discussions about sexual activities/behaviors
- Comments about a woman's physical attributes
- Spreading rumors about another person's sexual activities/conduct and/or partners
- Jokes which contain offensive, obscene or lascivious content
- Sexual advances / Sexual propositions
- Sexual innuendo or double entendres

C. Written Conduct:

- Suggestive, obscene or propositioning letters, notes, greeting cards or invitations, including but not limited to those transmitted via e-mail
- Displaying pictures (still or moving), cartoons, graffiti or posters in writing, including but not limited to e-mail
- Physical Conduct:
 - Unwelcome touching
 - Sexual Assault
 - Kissing / Hugging / Grabbing
 - Coercing another person to participate in sexual intercourse or other sexual behaviors
 - Impeding or blocking movements
 - Any physical interference with normal work or movement.
 - Sexual gestures

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