

## **POLICY FOR PREVENTION OF SEXUAL HARASSMENT AT THE WORKPLACE**

### **BACKGROUND**

**Under the prevailing law in India,<sup>1</sup> Sexual Harassment** is perceived as a form of discrimination which violates the human right to equality and dignity at work. Consistent with the law and its zero-tolerance policy, Sakshi. Sakshi seeks to strengthen its goal to promote a healthy and quality workplace environment and to ensure gender justice and gender equality at all of its workplaces.

**Sexual harassment** is any form of unwanted verbal, non-verbal or physical conduct of a sexual nature, which has the purpose and effect of violating a person's dignity and creating an intimidating, hostile, degrading, humiliating or offensive environment for the person. Such conduct may consist of acts, requests, spoken words, gestures or the production, display or circulation of written words, pictures or other material.

Sexual harassment of employees occurring in the workplace or in other settings in which employees may find themselves in connection with their employment is unlawful and will not be tolerated by Sakshi. Further, any retaliation against an individual who has complained about sexual harassment or retaliation against individuals for cooperating with an investigation of a sexual harassment complaint is similarly unlawful and will not be tolerated. To achieve its goal of providing a workplace free from sexual harassment, this policy provides a brief of conduct that will not be tolerated and a procedure by which inappropriate conduct, if encountered by any employee, will be handled.

Because Sakshi takes complaints/allegations of sexual harassment seriously, it will respond promptly to complaints of sexual harassment and where it is determined that such inappropriate conduct has occurred, it will act promptly to eliminate such conduct and impose corrective action as necessary, ranging from warnings to termination where appropriate.

### **OBJECTIVE**

#### **Zero Tolerance**

Given it is the policy of Sakshi to provide all employees a safe, healthy and equal work environment, sexual harassment will not be tolerated. A "zero tolerance" policy means working to prevent any inappropriate behaviour, so corrective actions, up to and including formal discipline, will be taken when policy violations occur, even if they are not so serious as to be unlawful. For example, even though a sexual comment does not in itself rise to the level of creating a hostile work environment under the law, such a comment is unacceptable in the workplace, and violates a zero-tolerance policy and will be subject to corrective action.

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<sup>1</sup> Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2012

## **SCOPE**

- This policy shall extend to all employees of Sakshi and to third party sexual harassment of employees.
- Employees of Sakshi shall include full-time, part-time, contract employees, subcontractors, suppliers and any other person(s), involved in employment or other activities on behalf of Sakshi.
- For the purposes of this policy, the expression 'workplace' or 'at work' shall not be confined or limited to the actual physical working place of Sakshi employees but shall include for instance work sites, washrooms, training sessions, travel, conferences, work-related social gatherings, a donor's home or their work site.
- It shall also extend to phone calls, sending messages through cellular phones, email or other electronic form from locations outside of a physical workplace even on an off day, as well as other contact outside office hours and work-related interactions. Further, it shall apply to relationships between colleagues, between managers (supervisors) and employees as well as between employees and third parties.

## **DEFINITIONS**

What is Sexual Harassment?

"Sexual harassment" includes any one or more of the following **unwelcome**<sup>2</sup> acts or behaviour (whether directly or by implication) including:

- Physical contact and advances;
- A demand or request for sexual favours;
- Sexually coloured remarks;
- Showing pornography;
- Any other unwelcome physical, verbal or non-verbal conduct of a sexual nature.

**Explanation:** "Unwelcome acts or behaviour" of a sexual nature shall include but not be limited to the following instances:

- (a) 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,
- (b) 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.
- (c) Submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such an individual.

Commonly referred to as "**quid pro quo**" (*this for that*) sexual harassment, such instances involve direct or implied requests by any person in the employment of Sakshi for sexual favours in exchange for actual or promised job benefits such as favourable reviews, salary

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<sup>2</sup> A key characteristic of sexual harassment is that it is "unwelcome" by the recipient. It is for each person to decide what behaviour is acceptable to them and what they regard as offensive. While there is general agreement about what *can* constitute sexual harassment, the *experience* of sexual harassment is subjective in nature.

increases, promotions, increased benefits or continued employment constitutes sexual harassment.

**Examples:**

- Withholding benefits from the employee if they refuse to participate in sexual requests
- Penalizing the employee for refusing to participate
- Making work project opportunities conditional upon the sexual request
- Threatening to terminate the employee if they do not participate.
- Formulates employee evaluations based on their willingness to cooperate with sexual advances.
- In addition to the above examples, other sexually oriented behaviour which is unwelcome and has the effect of creating an environment that is hostile, offensive, intimidating, or humiliating to any employee or employees may also constitute sexual harassment.

While it is not possible to list all those additional circumstances that may constitute **“hostile workplace”** sexual harassment, the following are some examples:

- Unwelcome sexual advances whether they involve physical touching or not;
- 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;
- Indecent remarks;
- Displaying sexually suggestive objects, pictures, cartoons in physical or electronic form;
- Unwelcome leering, whistling, brushing against the body, sexual gestures, suggestive or insulting comments;
- Inquiries into one's sexual experiences;
- Discussion of one's sexual activities;
- Behaviour which creates an environment that is intimidating, hostile, or offensive for members of one sex, and thus interferes with a person's ability to work.

**GUIDELINES**

Consistent with the existing law, Sakshi shall take all reasonable steps to promote prevention of sexual harassment at work. Such steps shall include:

1. Effective communication of this policy through notification, publicity and circulation including at induction and training sessions at all Sakshi workplaces.
2. Encouraging sexual harassment as an issue is raised and discussed at workplace meetings from time to time.
3. Create appropriate work conditions with respect to the work environment, leisure, health and hygiene.

4. Conduct orientation, awareness-raising and training at regular intervals. Sakshi recognizes the importance of training its employees, particularly first instance intervenors, supervisors and managers, so as to better equip them to effectively deal with instances or complaints of sexual harassment. The main objects of such training would be to:
  - Initiate orientation/awareness – for all Sakshi employees to be more sensitive to and aware of workplace sexual harassment and respond appropriately as per Sakshi's policy.
  - Conduct in-house training to develop skills and capacities particularly with those involved with responding to complaints and otherwise involved with implementation of this policy.
- a. Establish a complaint's committee to respond to sexual harassment complaints as set out below.
- b. Follow through with realizing complaint committee findings and recommendations.

## **ROLES & RESPONSIBILITIES**

Pursuant to the Preventive Steps set out – managers, supervisors, employees and Human Resource shall have the following responsibilities with respect to unwelcome sexual conduct at Sakshi.

### **Employees**

They have a responsibility to-

1. Treat colleagues, managers and stakeholders in general in a way that maintains the highest standards of conduct;
2. Maintain a harmonious working environment by behaving in a manner that is free of intimidation, hostility, offence and any form of workplace sexual harassment;
3. Become fully informed about Sakshi's policy on sexual harassment, including an understanding of conduct that constitutes workplace sexual harassment.
4. Attend training/orientation sessions on sexual harassment organized at Sakshi.
5. Speak up where either they or someone they know is experiencing sexual harassment at work.
6. Resist from and discourage the spreading of rumours with regard to any instance of sexual harassment.
7. Be aware of the various options and internal channels available to them for addressing such unwelcome sexual conduct and behaviour.
8. Respect confidentiality and cooperate in any investigation of a sexual harassment complaint.

### **Managers and Supervisors**

Managers and Supervisors must take all reasonable steps to ensure a safe working environment for their employees, including:

1. Create a harmonious working environment, free of intimidation, hostility, offence and any form of sexual harassment. To achieve such an environment, managers and

supervisors must act as role models by behaviour and treat all with dignity and respect.

2. Ensure all employees are aware of what constitutes inappropriate behaviour.
3. Act promptly to prevent/resolve sexual harassment.
4. Initiate prompt action without waiting for a complaint when there is good reason to believe harassment is occurring.
5. Ensure that incidents of workplace harassment or abuse of authority are promptly addressed. In such cases, managers and supervisors must demonstrate fairness, impartiality, and be free from intimidation or favouritism.

### **Human Resources**

They have a responsibility to-

1. Own this policy and take responsibility for updating the same from time to time.
2. Announce this policy to all employees and effectively display the same along with all other employment policies.
3. Ensure this policy is included in the induction process for new employees.
4. Advise and counsel employees.
5. Receive complaints.
6. Assist informal and formal complaint processes.

### **REDRESSAL MECHANISMS**

Where an employee believes she/he has been subjected to sexual harassment, she/he will have the option to avail of either an informal or formal complaint process as described below.

#### **Informal Complaints Mechanism**

Informal procedures do not involve an investigation, a report, or an official decision. An employee who complains informally is enlisting informal support/intervention to stop unwelcome behaviour. In such circumstances, an employee may approach a Human Resources Relationship Manager (HRRM), or any member of the Sexual Harassment Complaints Committee (SHCC) for intervention to stop unwelcome behaviour.

Where informal intervention is sought, it shall be carried out in a confidential, fair and expeditious manner and attempt to resolve the issue informally. In such circumstances an employee may obtain advice as to how to proceed, enlist help to write a letter or initiate a conversation, or seek support to approach the person accused of sexual harassment to let them know their behavior is causing discomfort or not appropriate.

However, if the conduct persists or is determined by the HRRM or SHCC member in consultation with the complainant to be of a serious nature, the complainant shall have a right to formally refer the matter to the SHCC.

#### **Formal Complaints Mechanism**

Notwithstanding the above, if any employee at SAKSHI believes that she has been subjected to sexual harassment, such person (or any person who may have assisted the complainant or



any persons who have otherwise witnessed sexual harassment at Sakshi), shall have the option to register a formal written complaint. Complaints can be submitted through multiple channels within Sakshi namely, HRRMs, an SHCC member or otherwise someone who has been designated to receive such a complaint on behalf of the SHCC.

Pursuant to this policy, Sakshi has put into place a Sexual Harassment Complaints Committee (SHCC). The SHCC has been constituted as per following guidelines:

1. The Chairperson shall be a woman
2. A third party person/ NGO adequately skilled with the issue of sexual harassment
3. At least 50% of members are women

Membership to the SHCC shall be for a period of 2 years. Thereafter, new appointments shall be made.

The SHCC will meet once in a quarter giving a full account of its activities during the previous quarter. Three committee members present which must include the mandatory criteria at the meeting shall be a quorum. All matters considered at the meeting shall be decided by majority of votes.

SHCC members shall have undergone minimum training to respond effectively to investigation and handling of sexual harassment complaints.

A member of the SHCC shall cease to hold membership should any one of the following conditions arise:

1. Upon she/he ceasing to be in the employment of Sakshi
2. Any member of the SHCC against whom a complaint of sexual harassment or criminal charges are made and prima facie established.

The names and contact details of all members of the SHCC and HRRM's shall be effectively displayed at all Sakshi offices. A list of current members of the SHCC are attached hereto as Annexure.

### **Making a Formal Complaint**

Where a complainant opts to file a formal complaint, she/he may do so by contacting any one of the members of the SHCC or seeking the assistance of an HRRM in the matter. SHCC members as well as the HRRM will be available to discuss any concerns a complainant may have and to equip them with an understanding of the policy and complaint process. Complainants are encouraged to report the matter as soon as possible.<sup>3</sup>

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<sup>3</sup> A written complaint should include the following:

- a. description of the harassing behavior
- b. name of the alleged harasser
- c. when and where the harassing behavior occurred (be as detailed as possible)
- d. what effect the behavior had on the complainant
- e. who witnessed the behavior, if applicable
- f. whom the complainant spoke to about the behavior, if applicable

Investigation into a complaint will be conducted promptly and in such a way as to maintain confidentiality to the extent practicable under the circumstances. It will include a private interview with the person filing the complaint as well as any witnesses. The SHCC will also interview the person alleged to have committed sexual harassment. “What an alleged harasser intended” is not at issue in determining the outcome in a sexual harassment complaint. Rather, the SHCC will be guided by whether the alleged conduct was consistent with Sakshi’s workplace standards and the impact on a particular complainant.

In general, the SHCC shall ensure that the principles of natural justice are adhered to including:

1. giving reasonable opportunity to both parties to be heard as well as taking on record any relevant documents
2. upon completion of an inquiry informing both parties, to the extent possible, of the results
3. taking all other actions necessary to ensure a fair and equal process including ensuring neither the complainant nor supporting witnesses or other cooperating with the inquiry process are victimized or discriminated in any way

The SHCC shall have discretion to make appropriate interim recommendations with respect to an accused person, pending the outcome of a complaint.

The SHCC shall hear and determine the outcome of an inquiry within a period of 35 days from the date of receipt of a written complaint.

In the event, the SHCC determines on a balance of probability<sup>4</sup> that unwelcome sexual conduct has occurred, it will make appropriate recommendations as to necessary action to be instituted to remove the offensive conduct and, where appropriate, to institute disciplinary action. Discipline may include oral and written warnings, suspensions, terminations, or demotions. The complainant’s views shall begin to be taken into consideration for this purpose.

### **Additional Remedies**

In the event the conduct complained of amounts to a specific offense under the Indian Penal Code, 1860 or under any other law in existence, the SHCC, subject to the wishes of the complainant, shall take appropriate action in making a complaint with the appropriate authority.

The SHCC will actively assist and do all that is necessary to ensure the safety of a complainant in the office premises or otherwise in respect to any duties/activities performed in connection with her/his work which takes place outside office premises.

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<sup>4</sup> **Balance of probability** is the standard adopted to determine whether in the given facts of a complaint, is it more likely than not that the alleged sexual harassment took place.

**Savings**

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.

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.

**INTERNAL COMMITTEE -  
DELHI NCR**

Name	Designation	Department	Email Id	Mobile no
Smita Bharti	Chairperson	Program	smita.bharti@sakshi.org.in	9899382226
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**MUMBAI**

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