

DISHA-Policy for Prevention of Sexual Harassment Against Women at Workplace

Purpose of this Policy

1. Society for Direct Initiative for Social and Health Action (DISHA) believes, recognizes and upholds that sexual harassment of women at the workplace violates the fundamental rights of the individual to life, liberty, dignity and equality and that the right to a safe work environment free from sexual harassment is integral to the rights of all its employees, including of all persons who are associated with it in any professional or vocational capacity.
2. As such, DISHA is committed to providing a safe working environment including safety from persons that the employees come in contact with during the course of their employment. DISHA is committed to sensitizing employees to organizational policy and laws dealing with sexual harassment at the workplace.
3. In this context, and with regard to the complete and effective implementation of the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act 2013 (hereafter referred to as the “**Act**”, read with the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Rules 2013, the following Policy for Prevention, Prohibition and Redressal of Sexual Harassment at Workplace for DISHA is given below.

What is sexual harassment of women at the workplace?

4. DISHA adopts and accepts the definition of sexual harassment at workplace as given in Sections 2(n) and 3(2) of the **Act**. According to the **Act**, the ambit of sexual harassment at workplace includes, but is not limited to, the following:
 - 4.1. Sexual harassment includes, but is not limited to any one or more of the following unwelcome acts or behaviour, whether directly or by implication:
 - a. Physical contact or advances;
 - b. A demand or request for sexual favours;
 - c. Making remarks of a sexually suggestive nature;
 - d. Showing pornography; and
 - e. Any other unwelcome physical verbal or non-verbal contact of a sexual nature.
 - 4.2 It also includes any act or behaviour of sexual harassment in relation to or connected with the following circumstances:
 - a. Implied or explicit promise of preferential treatment in employment
 - b. Implied or explicit threat of detrimental treatment in employment
 - c. Implied or explicit threat about present or future employment status
 - d. Interference with work or creating an intimidating, offensive or hostile work environment.
 - e. Humiliating treatment likely to affect health or safety.

5. In addition to the Act, some acts of sexual harassment at the workplace are also classifiable as offences under Sections 354(A-D) and 509 of the Indian Penal Code, 1860 (IPC) as amended by the Criminal Law (Amendment) Act, 2013, and these are also adopted and accepted by DISHA within the ambit of actions that constitute sexual harassment in the workplace. The relevant legal provisions in this context are:

(i) Section 354 A: The following acts committed by a man constitute the offence of sexual harassment punishable with imprisonment and fine:

- a. Physical contact and advances involving unwelcome and sexual overtures; or
- b. Demand or request for sexual favours; or
- c. Showing pornography against the will of a woman; and
- d. Making sexually coloured remarks.

(ii) Sections 354 B, C and D: Use of criminal force or assault to disrobe a woman, voyeurism and stalking of a woman are offences punishable with imprisonment and fine.

(iii) Section 509: Any act, word or gesture intended to insult the modesty of a woman is an offence punishable with imprisonment and fine.

6. It is also declared that the definitions of “aggrieved woman”, “employee”, “employer” and “workplace” as laid down by Sections 2(a), 2(f), 2(g) and 2(o) of the **Act** are being accepted and adopted by DISHA for the purposes of this Policy document and implementation thereof. In this regard, the relevant definitions as quoted hereinbelow are all adopted by DISHA:

- Aggrieved Woman: “...in relation to a 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”
[N.B. Gender-Neutral Policy: It is also clarified that, without prejudice to the law of the land and to the other pointers as laid down in this Policy document, DISHA extends this definition to all survivors, victims and sufferers of sexual-harassment irrespective of their gender and sexual orientation. This is within the ambit of the rule of law as established through a catena of decisions as pronounced by the Higher Judiciary of India and International Principles. DISHA is therefore committed to treating all allegations of sexual harassment and misconduct, irrespective of the gender and sexual orientation of the perpetrator or of the complainant, and, shall proceed accordingly to conduct an enquiry and take action]
- Employee: Any person employed at DISHA for any work on regular, temporary or ad hoc basis, 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, a probationer, trainee, or intern, or apprentice or any such term at DISHA.
- Employer: Any person of DISHA including those working in its head office and all its branch/unit and zonal offices, who are “responsible for the management, supervision and control of the workplace”, and who are “are discharging contractual obligations with respect to their employees
- Workplace: Workplace units all the offices of DISHA including all the units from where the work of DISHA is conducted, and this includes “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”. It is clarified in this context that this can

also include a public place where a meeting is held or is supposed/ slotted to be held and where an act of sexual harassment is perpetrated by an employer on an employee

It is further clarified that these definitions are not exhaustive and are implementable without prejudice to any situational specificity as may arise, and without prejudice to any law, policy or guideline in force or to this Policy and the **Guidelines for the ICC and Staff** as attached herewith as **Annexure I**

How DISHA combats sexual harassment of women at the workplace:

7. Acts mentioned in the law as documented in Points 1 to 5 of the previous section are offences if committed by a man against a woman, and DISHA is committed to providing assistance to the aggrieved woman should they choose to file a criminal complaint and/or initiate action against the perpetrator under the IPC or any other law.

8. DISHA is committed towards effective implementation of Chapters II and III of the **Act** for the creation of an **Internal Complaints Committee (ICC)** – the constitution, modus operandi, guidelines and mandates of which shall be developed within three months from the official date of circulation of this present Policy-document among all its employees and other crucial stakeholders.

9. The ICC shall, on receipt of complaint of sexual harassment as workplace in DISHA, proceed, as per the requirements of the given situation, and, depending on a case-to-case basis, initiate its processes and procedures as mandated under the **Act** and **Rules** of 2013, and in consonance with the provisions of this Policy-document and with the **ICC-Guidelines** as attached as **Annexure I** with this Policy-document.

10. These Processes and Procedures that are to be adapted by the ICC shall include, but shall not be limited to the following:

- i. **INFORMAL PROCEDURES including Consultation with Special Counselor and Direct Communication**
- ii. **COMPLAINTS-PROCESS including Complaints and Proxy Complaints in consonance with Section 9 of the Act**
- iii. **CONCILIATION PROCESS in consonance with Section 10 of the Act**
- iv. **INQUIRY PROCESS in consonance with Section 11 of the Act**
- v. **INTERIM RELIEF in consonance with Section 12 of the Act**
- vi. **INQUIRY REPORT AND PENALTY in consonance with Section 13 of the Act**
- vii. **Dealing with MALICIOUS COMPLAINTS AND FALSE EVIDENCE in consonance with Section 14 of the Act**
- viii. **Enforcement of confidentiality in the form of PROHIBITION OF PUBLICATION of any complaint or inquiry record in consonance with Section 16 of the Act and enforcement of penalty under Section 17 of the Act on violation of the same**
- ix. **Facilitation of the APPEAL-process, if sought and deemed necessary, following the due processes of law**
- x. **Preparation and submission of ANNUAL REPORT in consonance with Section 21 of the Act**

It is to be noted in this context that the ICC is mandated with facilitating these processes and procedures and the same are described in detail in the **ICC-Guidelines** which are attached with this **Policy-document as Annexure I.**

Clarifications

11. It is hereby clarified that disciplinary proceedings undertaken by DISHA and criminal proceedings undertaken through due process of the law are independent parallel proceedings and can be in simultaneous motion.

12. It is also clarified that where the conduct of an employee amounts to a specific offence under the Indian Penal Code, 1860 or under any other law, DISHA shall initiate appropriate action in accordance with law by making a complaint with the appropriate authority

13. It is further clarified that mutual attraction between people is not deemed to be sexual harassment. Conduct which is welcome or consensual is not unlawful and friendships (sexual or otherwise) which develop between people who meet at work are a private concern unless they prejudice the legitimate interests DISHA in any manner whatsoever. However, it must be borne in mind that conduct which is otherwise welcome or consensual may not be appropriate in the workplace. In all situations, the chain-of-command, the power-dynamics, the fiduciary relationships and the relationships of professional trust if and as present between the relevant parties shall be borne in mind.

Prevention Checklist

DISHA upholds taking the following measures to ensure that sexual harassment does not occur in the workplace:

- ✓ Display at any conspicuous place in the workplace listing the penal consequences of sexual harassment, and the order constituting the ICC
- ✓ Conduct workshops and awareness programs at regular intervals to sensitize the employees of the provisions of the Act and orientation programs for the members of the ICC
- ✓ Anyone who feels uncomfortable or unsafe about any interaction with any other individual has the right to refuse participation and must report it to the ICC and/or their respective supervisor immediately. Under these circumstances, the staff does not have an obligation to seek permission to refuse the meeting
- ✓ It is advised that all work-related meetings preferably take place during office hours – between 10am to 6pm and are held within the office space of either DISHA or of the partner organization/s/ Media/ Service Providers/Grantors/ Unions/ other NGOs/ Benefactors/ Project-beneficiaries *et al* with members of which such meetings are to be held. If having such meetings in office spaces and within office hours becomes difficult owing to circumstances, then the same can happen at a public place at any suitable time as agreed upon by all the parties who are to be present in such meetings and sanctioned by the organization from before. DISHA will prepare, with assistance from the ICC, meeting guidelines for safeguards that should be mandatorily in place to address the concerns of employees during physical meetings both at offices as well as in field and/or in other spaces during travel, etc.

- ✓ It is advised that no family or friends should accompany staff on official work or meetings. A friend or family member can travel with staff during official travel as long as they refrain from attending any official meetings
- ✓ All work-related conversations must be recorded in emails as much as possible depending on the context following the conversation, and this includes those that take place over the phone and over social media including services, included but not limited to WhatsApp and Facebook
- ✓ If anyone feels uncomfortable or unsafe about any meeting, but still wants to attend the meeting, it is advised that they ask a colleague to accompany them to the meeting
- ✓ If during communications over social media or e-mail, any employee feels uncomfortable or harassed sexually whether in a direct manner or through innuendoes, it is advised that the employee should disengage forthwith, take screenshots, save the URL links to such communication and report it to the ICC and/or their immediate supervisor

If a case of sexual harassment has already occurred and been reported within the stipulated 90, or, in certain circumstances, 180 days, the checklist below can offer guidelines for what can come next from our end:

- ✓ Provision assistance to employees if they choose to bring complaints before the ICC and provide complete assistance to the ICC throughout the inquiry process, ensuring attendance of the respondent and witnesses during proceedings, monitoring timely submission of reports by the ICC, ensuring that the final decisions in consonance with the findings of the ICC are followed etc.
- ✓ Provision therapy and counseling to any employee who have been sexually harassed during their tenure with the organization by adequately qualified and sufficiently experienced counselor/ therapist/ psychologist/ psychiatrist if the same is sought by the aggrieved employee
- ✓ Provision of complete support and cooperation to any employee who have been sexually harassed during their tenure with the organization and intends to invoke the due processes of law against the perpetrator

Annexure I: Guidelines to be followed by the Internal Complaints Committee, (ICC), DISHA