

PREVENTION OF SEXUAL HARASSMENT POLICY AT WORKPLACE (POSH POLICY)

DCM Nouvelle Limited (DCMNVL) is committed to creating a healthy working environment that enables employees to work without fear of prejudice, gender bias and sexual harassment. Consistent with its commitment to foster an environment of mutual respect and dignity of all its employees, any act of inappropriate behaviour of a sexual nature and/ or retaliation will not be tolerated at DCMNVL.

The purpose of this policy is to lay down the guidelines for reporting acts of Sexual Harassment at DCMNVL and to provide the procedure for the Resolution and Redressal of complaints of Sexual Harassment in line with The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013.

Background

The Supreme Court of India, in 1997, in the Vishaka Judgment, for the first time, acknowledged sexual harassment at the workplace as a human rights violation. The Supreme Court relied on the Convention on the Elimination of All Forms Discrimination Against Women, adopted by the General Assembly of the United Nations, in 1979, which India has both signed and ratified. In its judgment, the Supreme Court outlined the Guidelines making it mandatory for employers to provide for sympathetic and non-retributive mechanisms to enforce the right to gender equality of working women. As per the Vishaka Judgment, the Guidelines, until such time a legislative frame work on the subject is drawn-up and enacted, have the effect of law and the Guidelines are to be mandatorily followed by organizations, both in the private and government sector. While there were several attempts made to enact a law on this subject previously, the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Bill, 2012 was eventually passed by the Lower House of the Parliament (Lok Sabha) on September 3, 2012, then passed by the Upper House of the Parliament (Rajya Sabha) on February 26, 2013 and received the President's assent on April 22, 2013.

Sexual Harassment -Objective of the Law, Meaning and Prohibition

The Sexual Harassment Act has been enacted with the objective of providing women protection against sexual harassment- at the workplace and for the prevention and redressal of complaints of sexual harassment. Sexual harassment is considered as a violation of the fundamental right of a woman to equality as guaranteed under Articles 14 and 15 of the Constitution of India ("Constitution") and her right to life and to live with dignity as per Article 21 of the Constitution. It has also been considered as a violation of a right to practice or to carry out any occupation, trade, or business under Article 19(1)(g) of the Constitution, which includes a right to a safe environment free from harassment.

The definition of sexual harassment in the Sexual Harassment Act is in line with the Supreme Court's definition in the Vishaka Judgment and includes any unwelcome sexually determined behaviour (whether directly or by implication) such as physical contact and

advances, demand, or request for sexual favours, sexually coloured remarks, showing pornography, or any other unwelcome physical verbal or non-verbal conduct of sexual nature.

The Sexual Harassment Act stipulates that a woman shall not be subjected to sexual harassment at any workplace. As per the statute, presence, or occurrence of circumstances of implied or explicit promise of preferential treatment in employment; threat of detrimental treatment in employment; threat about present or future employment; interference with work or creating an intimidating or offensive or hostile work environment; or humiliating treatment likely to affect the lady employee's health or safety may amount to sexual harassment.

Salient Features of the Sexual Harassment Act

Scope: The ambit of the Sexual Harassment Act is very wide. As per the Sexual Harassment Act, a workplace also covers within its scope places visited by employees during the course of employment or for reasons arising out of employment - including transportation provided by the employer for the purpose of commuting to and from the place of employment.

The definition of 'employee' under the Sexual Harassment Act is fairly wide and covers regular, temporary, ad hoc employees, individuals-engaged on daily wage basis, either directly or through an agent, contract labour, co-workers, probationers, trainees, and apprentices, with or without the knowledge of the principal employer, whether for remuneration or not, working on a voluntary basis or otherwise, whether the terms of employment are express or implied.

Internal Complaints Committee and Local Complaints Committee: The Sexual Harassment Act requires an employer to set up an 'Internal Complaints Committee' ("ICC") at each office or branch, of an organization employing at least 10 employees. The government is in turn required to set up a 'Local Complaints committees' ("LCC") at the district level to investigate complaints regarding sexual harassment from establishments where the ICC has not been constituted on account of the establishment having less than 10 employees or if the complaint is against the employer. The Sexual Harassment Act also sets out the constitution of the committees, process to be followed for making a complaint and inquiring into the complaint in a time bound manner.

Interim Relief: The Sexual Harassment Act empowers the ICC and the LCC to recommend to the employer, at request of the aggrieved employee, interim measures such as

- i. transfer of the aggrieved woman or the respondent to any other workplace; or
- ii. granting leave to the aggrieved woman up to a period of 3 months in addition to her regular statutory/ contractual leave entitlement.

Process for Complaint and Inquiry: Please refer to the following flowchart which provides, in brief, the process to be followed by the aggrieved employee to make the complaint and by the employer to inquire into the complaint. The law allows female employees to request for conciliation in order to settle the matter although a monetary settlement should not be made as a basis of conciliation.



Action against Frivolous Complaints: So as to ensure that the protections contemplated under the Sexual Harassment Act do not get misused, provisions for action against "false or malicious" complainants have been made

Employer's Obligations

In addition to ensuring compliance with the other provisions stipulated, the Sexual Harassment' Act casts certain obligations upon the employer to, inter alia,

- i. provide a safe working environment
- ii. display conspicuously at the workplace, the penal consequences of indulging in acts that may constitute sexual harassment and the composition of the Internal Complaints Committee.

- iii. Organize workshops and awareness programmes at regular intervals for sensitizing employees on the issues and implications of workplace sexual harassment and organizing orientation programmes for members of the Internal Complaints Committee.
- iv. Treat sexual harassment as a mis-conduct under the service rules and initiate action for misconduct.

The employer is also required to monitor the timely submission of reports by the ICC.

If an employer fails to constitute an Internal Complaints Committee or does not comply with any provisions contained therein, the Sexual Harassment Act prescribes a monetary penalty of up to INR,50,000 (approx. US\$1,000). A repetition of the same offence could result in the punishment being doubled and I or de-registration of the entity or revocation of any statutory business licenses.

Amendments to the Indian Penal Code

As a result of the growing importance of the issues relating to sexual harassment and protection of female employees in India, a new section 3 was added to the Indian Penal Code, 1860 through the Criminal Law (Amendment) Act, 2013, which enlists the acts which constitute the offence of sexual harassment and further envisages penalty / punishment for such acts. A man committing an offence under this section is punishable with imprisonment, the term of which may range between 1 - 3 years or with fine or both. Since the amendment criminalizes all acts of sexual harassment, employers shall be required to report any offences of sexual harassment to the appropriate authorities.

References

The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 (herein after referred to as "the Act") Provisions of the act will prevail in case of varying interpretation.

Scope

The policy is applicable to all the employees (including contractual and support staff), sub-contractors, sub-consultants, interns, temporary / part- time personnel or any other party(ies).

In continuation of the same, this Policy will be applicable within or outside office premises, on project site, in conference/seminar, on study tour, field visit. etc. including transportation provided by the employer for the purpose of commuting to and from the place of employment.

Where sexual harassment occurs between third parties on the premises of DCMNVL (for

example, between members of third-party audit team), DCMNVL will take all steps necessary and reasonable to assist the affected party.

Sexual Harassment will amount to misconduct in employment under the relevant Conduct and Service Rules and Regulations. The said Rules/Regulations shall stand amended accordingly

Internal Complaint Committee (ICC)

The ICC will consist following members to be nominated by the Management, namely: -

- a) **Chairperson:** Female employee who will be at senior level at workplace from amongst the employees.
- b) **Member:** One HOD from any Department, One IR, and Welfare officer, one another female employee at workplace.
- c) **Outside Member:** One female member from amongst NGO or Associations committed to the cause of women or a person familiar with issues relating to sexual harassment.

A quorum of four members is required to be present for the proceedings to take place. The quorum shall include the Chairperson, and at least three members, one of whom shall be a lady.

Roles and Responsibilities:

Employees

It is the responsibility of the employees to:

- a) Refrain from committing any acts which amount to sexual harassment at the Workplace;
- b) Report incidents of sexual harassment without fear or favour.
- c) Create a conducive environment for co-workers to work together without fear of harassment;
- d) When in doubt, seek clarifications from Head-HR.

Department/ Practice Heads

- a) Ensure that there is no hostile working environment in the work place.
- b) Report any complaint or grievance received, immediately to the concerned authorities.
- c) Ensure that no victimization of the aggrieved party happens at the workplace where the supposed action is to have taken place.
- d) Ensure that issues pertaining to sexual harassment are discussed periodically during the meetings. During such meetings, relevant details such as the brief outline of this Policy, the details of the members of the Complaints Committee shall also be discussed.

Human Resources

- a) Conduct necessary communication and training across the company, with respect to this Policy at the workplace.
- b) Ensure this policy is communicated, explained, and handed over at the time of orientation of every employee.
- c) Any act of sexual harassment to be notified as misconduct under the service rule/Certified Standing order of the company and initiate action for such misconduct.
- d) Maintain records of all the Sexual Harassment cases and findings.
- e) Assist in securing the attendance of despondence and witness before the internal committee.
- f) Make available such information to the internal committee, as the case may be, as it may require having regard to the complaint made.

Redressal Process

- a) Any employee who feels and is being sexually harassed directly or indirectly may submit a complaint of the alleged incident to any member of the Committee in writing with her signature within 10 days of occurrence of incident.
- b) The Committee will maintain a register to endorse the complaint received by it and keep the contents confidential, if it is so desired, except to use the same for discreet investigation.
- c) Before initiating enquiry into alleged complaint, at the discretion of aggrieved party, ICC may, take steps to resolve the matter between the aggrieved party and respondent, through conciliation.
- d) If the complaint has not been resolved through conciliation, ICC may proceed to initiate enquiry into the complaint. The enquiry shall be completed within a period of 90 days.
- e) The Committee will hold a meeting with the Complainant within seven days of the receipt of the complaint.
- f) At the first meeting, the Committee members shall hear the Complainant and record her allegations. The Complainant can also submit any corroborative material with a documentary proof, oral or written material, etc., to substantiate her complaint. If the Complainant does not wish to depose personally due to embarrassment of narration of event, a lady officer for lady employees involved shall meet and record the statement.
- g) Thereafter, the Respondent person against whom complaint is made may be called for a deposition before the Committee and an opportunity will be asked to give an explanation, where after, an "Enquiry" shall be conducted and concluded.
- h) In the event, the complaint does not fall under the purview of Sexual Harassment or the complaint does not mean an offence of Sexual Harassment, the same would be dropped after recording the reasons thereof.

- i) In case the complaint is found to be false, the Complainant shall, if deemed fit, be liable for appropriate disciplinary action by the Management.

Enquiry Process

- a) The Committee shall immediately proceed with the Enquiry and communicate the same to the Complainant and the respondent.
- b) The Committee shall prepare and hand over the Statement of Allegation to
- c) the respondent and can give an opportunity to submit a written explanation if respondent so desires within 7 days of receipt of the same.
- d) The Complainant shall be provided with a copy of the written explanation Submitted by the person against whom complaint is made.
- e) If the Complainant or respondent desires any witness/es to be called, they shall communicate in writing to the Committee the names of witness/es whom they propose to call.
- f) If the Complainant desires to tender any documents by way of evidence before the Committee, she shall supply original copies of such documents. Similarly, if respondent desires to tender any documents in evidence before the Committee, shall supply original copies of such documents. Both shall affix their signature on the respective documents to certify these to be original copies.
- g) The Committee shall call upon all witnesses mentioned by both the parties.
- h) The Committee shall provide every reasonable opportunity to the complainant and to the, respondent, for putting forward and defending their respective case.
- i) The Committee shall complete the "Enquiry" within reasonable period but not beyond 90 days and communicate its findings and its recommendations for action to the Head-HR. The report of the committee shall be treated as an enquiry report on the basis of which an erring employee can be awarded appropriate punishment straightaway.
- j) The Head -HR will take due permission from CEO for appropriate action in accordance with their commendation proposed by the Committee.
- k) The Committee shall be governed by such rules as may be framed by the Supreme Court orders or any other legislation enacted later on.

Other Points to be Considered

- a) During the pendency of an enquiry, on a written request made by the aggrieved women, the ICC, as the case may be, may recommend to the Transfer the aggrieved women or the respondent to any other workplace; or can grant leave to the aggrieved women up to a period of 3 months.
- b) The Committee may recommend to the Head-HR action which may include transfer or any of the other appropriate disciplinary action_
- c) The management shall provide all necessary assistance for the purpose of ensuring full, effective, and speedy implementation of this policy.

- d) Where sexual harassment occurs as a result of an act or omission by any third party or outsider, DCMNVL shall take all steps necessary and reasonable to assist the affected person in terms of support and preventive action.
- e) The Committee shall analyze and put-up report on all complaints of this nature at the end of the year for submission to Head - HR.
- f) In case the Committee find 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.

For DCM Nouvelle Limited

Sd/-

Rakesh Goel

Whole Time Director

Date: 05.05.2022

Place: Hisar

***The policy has been approved/signed by the whole time Director of the Company on May 05, 2022**

Notice

Date:

To,

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A complaint of sexual harassment has been made against you.....
by Ms./Mrs..... on
The complaint refers to incidents(s) that allegedly took place on/between.....in.....
where you allegedly.....

The Committee Against Sexual Harassment is at present examining the complaint. The Committee would like to meet you on..... at..... a.m./p.m. in the Office.

You are also requested to submit a written statement in this regard to the Committee.

If in the opinion of the Committee a prima facie case is made out against you, an enquiry shall be instituted into the complaint. In such an event, you shall be informed in writing.

For any change in the time or date of your appointment with the Committee, please contact undersigned.

Yours truly,

Chairperson (I.C.C.)

Date