

# **POLICY ON PREVENTION OF SEXUAL HARASSMENT (POSH) AT WORKPLACE**

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## INTRODUCTION

CBM believes that all employees have a right to be treated with respect and dignity. The organisation is committed for creating a healthy working environment that enables employees to work without fear or prejudice, gender bias or sexual harassment.

CBM had in place anti sexual harassment initiative in its HR Policy. In accordance with the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 & Rules, 2013 CBM has framed a policy for Prevention of Sexual Harassment (POSH) at Workplace and adopted the same w.e.f 3<sup>rd</sup> July, 2014. This policy is part of HR Policy of the organization.

The objective of the policy is to provide its employees a workplace, free from sexual harassment/discrimination and wherein every employee is treated with dignity and respect.

## I. COMMITMENT:

CBM is committed to provide a work environment that ensures every employee is treated with dignity and respect and afforded equitable treatment. The organisation is also committed to promote a work environment that is conducive to the professional growth of its employees and encourages equality of opportunity. The Organisation will not tolerate any form of sexual harassment and is committed to take all necessary steps to ensure that its employees are not subjected to any form of sexual harassment.

## II. SCOPE:

This policy applies to all categories of employees of the Organisation, including all employees on rolls and workmen, temporary staff, trainees, consultants, advisers and employees on contract at its workplace or at visits to partner organisations. The Organisation will not tolerate sexual harassment, if engaged in by partners, or by suppliers or any other associates of the organisation.

### **The workplace includes:**

- i. All offices or other premises where the Organisation's activities are conducted including Work from Home.
- ii. All Organisation-related activities will be performed at any other site away from the Organisation's premises or during travel to such other place.
- iii. Any social, business, or other functions where the conduct or comments may have an adverse impact on the workplace or workplace relations.

## III. DEFINITION OF Terms

- a) **“Complainant”** means, in relation to a workplace, a man or a woman, of any age whether employed or not, who alleges to have been subjected to any act of sexual harassment by the respondent.

b) “**Employer**” means, and includes

- i. Management
- ii. Any person(s) or board or committee responsible for the formulation and administration of policies that enables management, supervision, and control of the workplace.

(c) “**Employee**” includes all categories of employees of CBM either working part-time or full time:

- Employees on rolls.
- Temporary employees.
- Trainees.
- Contract employees.
- Consultants
- Advisers

(d) “**Internal Committee (IC)**” means a committee constituted by the employer for the purpose of dealing with all matters in relation to or connected with sexual harassment at the work place.

(e) “**Respondent**” means a person against whom the complainant has made a complaint.

(f) “**Sexual harassment**” includes any one or more of the following unwelcome acts or behavior (whether directly or by implication) namely:

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

#### **IV. CONSTITUENTS OF SEXUAL HARASSMENT:**

Sexual Harassment is said to exist on occurrence of either or all of the following events:

- i. Conduct must be unwelcomed, unwanted, uninvited, unreasonable, and offensive to the complainant which adversely affects the dignity of the complainant.
- ii. Physical contact is not an essential factor for sexual harassment.
- iii. A person’s rejection of or submission to such conduct is used explicitly or implicitly as a basis for a decision which affects that person’s job.
- iv. Conduct that creates an intimidating, hostile or humiliating working environment for the complainant.

Few examples that may be termed as sexual harassment are listed in Annexure1.

## **V. RESPONSIBILITIES REGARDING SEXUAL HARASSMENT:**

### RESPONSIBILITY OF EMPLOYER

- i. **Notification:** The employer has notified the constitution of the IC and the penal consequences of Sexual Harassment. The notification is circulated to all staff by e-mail. the Notification is also displayed at prominent place in CBM Office premises.
- ii. **Provide necessary facilities & assistance to the IC:** The employer shall provide all the required infrastructure, facilities, and assistance for dealing with the complaint and conducting an inquiry.
- iii. **Provide assistance to complainant:** Employer shall offer Assistance to the complainant if he/she so chooses to file a complaint in relation to the offence under the Indian Penal Code (IPC) or any other law.
- iv. **Initiate action under IPC:** Employer shall cause to initiate action under the IPC or any other law against the perpetrator, or if the complainant so desires, where the person is not an employee, in the workplace at which the incident of sexual harassment took place.
- v. **Treat Sexual Harassment at work place as misconduct:** Treat sexual harassment as misconduct under the service rules and initiate action for such misconduct.

### RESPONSIBILITIES OF EMPLOYEES:

- i. All employees of the Organisation have a personal responsibility to ensure that their behaviour is in compliance with this policy.
- ii. All employees are encouraged to reinforce the maintenance of a work environment free from sexual harassment. That is, an Employee who notices any kind of sexual harassment against any co-employee or receives any information in good faith about any kind of sexual harassment at the workplace is also encouraged to report such incidents.

### ROLES & RESPONSIBILITIES OF IC:

- i. IC shall ensure effective implementation of the Prevention of Sexual Harassment (POSH) policy of the organization.
- ii. IC may at periodic intervals organize workshops and training programs on sexual harassment in conjunction with the Human Resources department.
- iii. IC may at periodic intervals formulate programs for creating awareness of the policy amongst the employer and employees of the organisation.
- iv. IC may from time to time bring out internal publications on Prevention of Sexual harassment and also matters concerning implementation of this policy.
- v. IC shall prepare Annual Report on its functioning and submit the same to the

- employer every year.
- vi. IC shall conduct an inquiry into complaint according to the procedures established by law.
  - vii. IC shall ensure and supervise proper constitution and functioning of the Sub-Committee for investigation of complaints.
  - viii. IC shall take into consideration and discuss on each and every instance of sexual harassment that the organization may have come across, including during exit interviews, gossips, rumours.
  - ix. IC shall recommend to the employer to take appropriate preventive steps from time to time.

#### **VI. COMPLAINT MECHANISM:**

An appropriate complaint mechanism in the form of “Internal Committee” has been created by the employer for time-bound redressal of the complaint made by the complainant.

#### **VII. INTERNAL COMPLAINTS COMMITTEE (IC):**

1. The Employer has constituted an Internal Complaints Committee for redressal of sexual harassment complaint.
2. In accordance with the sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013, the Internal Complaints Committee will comprise of the following:
  - i. Chairperson (Presiding Officer)- Shall be a woman employed at a senior level at workplace amongst the employees
  - ii. Three members -Shall be amongst employees preferably committed to the cause of woman.
  - iii. One external Member who is possessing adequate expertise on gender equality and sexual harassment at work place.
  - iv. Provided that at least one-half of the total Members so nominated shall be women.
3. The Internal Committee is responsible for:
  - i. Investigating every formal written complaint of sexual harassment.
  - ii. Recommending appropriate remedial measures to respond to any substantiated allegations of sexual harassment.
  - iii. Discouraging and preventing employment-related sexual harassment and to make recommendations to the employer in this regard.
4. Tenure- The tenure of the committee will be for a period of three years. The Employer shall reconstitute the committee after 3 years from the date of formation of IC. In the event vacancy arises due to resignation, voluntary withdrawal or otherwise by any member of IC before the expiry of tenure, Employer shall exercise its right to reconstitute the committee within (15) fifteen working days from the date when such a vacancy arises.

5. Meeting-IC shall meet at regular intervals.
6. Quorum- Atleast 50% of IC members must be present to make the proceedings of IC meeting valid. If the quorum is not available in a meeting, then the meeting should be adjourned, notifying a specific date. If a quorum is not present even in the adjourned meeting the meeting can be held as a valid meeting.
7. Formation of sub committees- on receipt of complaint, IC may form subcommittee. The Presiding Officer and external member should be members of subcommittee. The subcommittee should consist of at least 3 members including presiding officer and external member.
8. Powers of IC: The IC shall have the following powers:
  - i. Summoning and enforcing the attendance of any person and examining him/her on oath.
  - ii. Requiring the discovery and production of documents; and
  - iii. Any other matter which may be prescribed.

## **VIII. PROCEDURES FOR RESOLUTION, SETTLEMENT OR PROSECUTION OF ACTS OF SEXUAL HARASSMENT**

The Organisation is committed to providing a supportive environment in which the concerns of sexual harassment shall be resolved as follows:

### **A. Informal Resolution Options:**

- i. When an incident of sexual harassment occurs, the victim of such conduct can communicate his/her disapproval and objections immediately to the harasser and request the harasser to behave appropriately.
- i. If the harassment does not stop or if victim is not comfortable with addressing the harasser directly, she/he can bring her/his concern to the attention of the IC for redressal of his/her grievances.
- i. IC will thereafter provide advice or extend support as requested and will undertake prompt investigation to resolve the matter.

### **B. Complaints:**

- i. Any employee with a sexual harassment concern, who is not comfortable with the informal resolution options or has exhausted such options, may make a formal complaint to the Presiding Officer of IC constituted by the Employer.
- i. Alternatively, the complainant shall submit written Complaint to any member of IC along with supporting documents, if any and the names and addresses of the witnesses if any in writing and may either be in form of a

letter, preferably within 3 months from the date



of occurrence of the alleged incident, sent in a sealed envelope or by email addressed to ICC member.

The complainant is required to disclose the following:

- i. the full name and address of the complainant.
- ii. the full name and address of the respondent.
- iii. a specification of the charge or charges.
- iv. a brief statement of the relevant and material facts.

To enable the Presiding Officer to contact him/her and take the matter forward.

The IC is empowered to extend the time limit not exceeding three months for the reasons to be recorded if it is satisfied that the circumstances were such which prevented the person from filing the complaint within the said period.

The complaint may also be forwarded by the employer.

The Presiding Officer or any member may also render reasonable assistance to the person for making any complaint in writing, if the person cannot make the complaint in writing.

Legal heirs or such other persons may also make the complaint if the complainant is unable to make the complaint on account of his/her physical or mental incapacity or death or otherwise.

1. The IC shall send either a copy of the complaint or abstract of complaint (if complainant identity is not to be revealed to respondent) to the respondent within a period of 7 working days.
2. The respondent shall file his/her reply to the Complaint along with supporting documents if any, and the names and addresses of the witnesses if any, within a period not exceeding 10 working days from the date of receipt of the complaint.
3. The IC have the right to terminate the inquiry proceedings or to give an ex-parte decision on the complaint, if the Aggrieved (complainant) or Harasser (respondent) fails, without sufficient cause, to present herself or himself for 3 consecutive hearings convened by the Presiding Officer as the case may be, provided that such termination or ex-parte order may not be passed without giving a notice in writing, 15 days in advance, to the party concerned.

A withdrawal of the complaint made or filed at any stage of the proceedings shall not preclude the IC from proceeding with the investigation of the case.

If so requested by the complainant, pending completion of the inquiry, the IC may recommend Employer to (a) transfer the complainant or the respondent to any other workplace; or (b) grant

leave to the complainant; or (c) grant such other relief to the complainant or recommend appropriate restraint orders against the respondent as may be prescribed by rules of the organisation. The Employer shall implement such recommendations and send a report of such implementation to the IC.

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 IC.

The IC shall conduct such investigations in a timely manner and shall submit a written report containing the findings and recommendations to the Employer as soon as practically possible and in any case, not later than 10 days from the date of completion of inquiry. The Employer shall act upon the recommendation within 60 days and communicate the same to the IC.

The inquiry report shall also be made available to concerned parties.

## **IX. MANNER OF TAKING ACTION AGAINST THE RESPONDENT:**

### **1. Conciliation**

- i. The complainant may request the IC to take steps to settle the matter between complainant and the respondent through conciliation, provided that no monetary settlement shall be made as a basis of conciliation.
- ii. The IC shall then record the settlement so arrived and forward the same to the employer to take action as specified in the recommendation.
- iii. The IC shall also provide the copies of the settlement to the complainant and the respondent.
- iv. Where a settlement is arrived under conciliation, no further inquiry shall be conducted by the IC.

### **2. Inquiry into Complaint**

- A) If the complaint is not addressed through “conciliation procedure”, IC shall initiate inquiry. Inquiry shall also be initiated if there is breach of terms set out in “Conciliation Settlement”.
- B) The IC shall follow the prescribed procedures as laid down under the Act and Rules to conduct the inquiry and submission of Inquiry Report.
- C) IC shall abide by the principles of natural justice and shall give “opportunity of being heard” to both the parties.
- D) The inquiry shall be completed within ninety days. The IC shall forward the copy of findings to both the parties to make representation against findings of the IC.
- E) On completion of proceedings of inquiry, IC shall prepare Report on the findings and share with

complainant, respondent & employer.

- F) Where the IC arrives at the conclusion that the allegation against the respondents has been proved, it shall recommend to the employer to take one or more of the following actions:
- a) Written apology;
  - b) Warning;
  - c) Reprimand or Censure;
  - d) Withholding of Promotion;
  - e) Withholding of pay raise or increments;
  - f) Terminating the respondent from service;
  - g) Undergoing a counselling session or carrying out community service.
  - h) Monetary compensation by Respondent to Complainant. While arriving at monetary settlement,

IC shall have regard to:

- i. The mental trauma, pain, suffering and emotional distress caused to the complainant;
- ii. the loss in the career opportunity due to the incident of sexual harassment;
- iii. Medical expenses incurred by the complainant for physical or psychiatric treatment;
- iv. the income and financial status of the respondent;
- v. Feasibility of such payment in lump sum or in instalments.

### **3. Virtual Inquiry proceedings**

While the inquiry/ conciliation proceedings shall ordinarily be conducted face-to-face with the parties and witnesses physically appearing for meetings at the office premises or any other location specified by the IC, in certain circumstances, the IC may allow the parties or witnesses to appear before it through videoconference or telephonic means. In such situations, the following guidelines shall also be observed:

- i. Videoconference or telephonic proceedings shall be conducted only with the consent of the parties and witnesses involved.
- ii. The parties or witnesses who are required to depose before the IC shall be given adequate notice of 24 hours to ensure that they have enough time to set up the infrastructure required for taking a video- conference call.
- iii. The IC members/ parties/ witnesses to any inquiry or conciliation will be bound by the same standards of confidentiality as in the case of face-to-face proceedings. Audio or video recording of proceedings shall not be permitted. The IC member/ party/ witness appearing through virtual means must ensure that they are alone in the room when taking the call and that no part of information relating to the proceedings is made known to any unauthorised individual.
- iv. Parties/ witnesses will be sent a copy of the minutes of meetings or other relevant

documentation (such as inquiry/ findings reports, evidence etc.) via email.

- v. Any and all communication (including but not limited to consent, confirmations, questions, comments, responses, statements) shall be made through email and/ or with digital signatures.
- vi. In the event that videoconference or telephonic proceedings are not feasible, the IC may postpone the same until physical meetings can be conducted.

#### **X. PUNISHMENT FOR FALSE OR MALICIOUS COMPLAINT AND FALSE EVIDENCE:**

Where IC arrives at a conclusion that the allegation against the respondent is malicious or the complainant has made the complaint knowing it to be false or the complainant making the complaint has produced any forged or misleading document, it may recommend to the employer to take action in accordance with the provisions of the service rules applicable to her or him.

#### **XI. CONFIDENTIALITY:**

The Organisation understands that it is difficult for the complainant to come forward with a complaint of sexual harassment and recognizes the complainant's interest in keeping the matter confidential. To protect the interests of the complainant, the accused person and others who may report incidents of sexual harassment, confidentiality shall be maintained throughout any investigatory process to the extent practicable and appropriate under the circumstances.

#### **XII. ACCESS TO REPORTS AND DOCUMENTS:**

All records of complaints, including contents of meetings, results of investigations and other relevant material shall be kept confidential by the Organisation except where disclosure is required under disciplinary or other remedial processes.

#### **XIII. PROTECTION TO COMPLAINANT / VICTIM:**

The Organisation is committed to ensuring that no employee who brings forward a sexual harassment concern is subject to any form of reprisal or retaliation. Any reprisal or retaliation shall be subject to disciplinary action.

The Organisation shall ensure that complainant or witnesses are not victimized or discriminated against while dealing with complaints of sexual harassment.

However, anyone who abuses the procedure (for example, by maliciously putting an allegation knowing it to be untrue) will be subject to disciplinary action.

#### **XIV. REVISIONS TO THE POLICY**

The Employer/IC may review or modify this Policy, if so required, in order to make the enforcement

of the Policy more expedient or to accommodate any changes in the law.

**XV. CONCLUSION:**

In conclusion, the Organisation reiterates its commitment to providing all its employees, a workplace free from harassment/ discrimination and where every employee is treated with dignity and respect.

## Annexure1

### Examples of Sexual harassment

The following is illustrative list of some of the acts or incidents which may be termed as sexual harassment:

- malicious leering or ogling
- suggestive comments/smutty jokes or sending these through text, electronic mail or other similar means, causing embarrassment or offense and carried out after the offender has been advised that they are offensive or embarrassing or, even without such advice, when they are by their nature clearly embarrassing, offensive or vulgar
- Display of sexually offensive pictures, screen savers, posters, materials or graffiti
- unwelcome inquiries or comments about a person's sex life or private life or body
- unwelcome sexual flirtation, advances, propositions
- making offensive hand or body gestures at an employee
- persistent unwanted attention with sexual overtones
- unwelcome phone calls with sexual overtones causing discomfort, embarrassment, offense or insult to the receiver
- unwelcome touching or brushing, hugging or kissing
- sexual assault
- requesting for sexual favour in exchange for employment, promotion, local or foreign travels, favourable working conditions or assignments, a passing grade, the granting of honours or scholarship, or the grant of benefits or payment of a stipend or allowance,
- derogatory or degrading remarks or innuendoes directed toward the members of one sex, or one's sexual orientation or used to describe a person
- verbal abuse with sexual overtones
- unwanted invitations to go out on dates or requests for sex
- unnecessary familiarity, such as deliberately brushing up against someone
- insults or taunts of a sexual nature
- sexually explicit emails or SMS messages
- accessing sexually explicit internet sites
- inappropriate advances on social networking sites