

## **POLICY ON SEXUAL HARASSMENT AT WORKPLACE**

**2014**

(APPROVED AND ADOPTED IN THE 18<sup>TH</sup> BOARD OF TRUSTEES MEETING HELD ON  
2<sup>ND</sup> SEPTEMBER 2014 MEET AT CHSJ OFFICE -  
BASEMENT OF YOUNG WOMEN'S HOSTEL NO. 2, AVENUE 21, G BLOCK, SAKET,  
NEW DELHI-110017)

AMMENDED AND UPDATED – 21<sup>ST</sup> MARCH 2018

CENTRE FOR HEALTH AND SOCIAL JUSTICE

Basement of Young Women's Hostel No. 2  
Avenue 21, G Block, Saket, New Delhi-110017



## FOREWORD

This policy one of the several tools developed by the Centre for Health and Social Justice (CHSJ), New Delhi towards the promotion of a congenial work environment. It defines the policies and the modalities pertaining to allegations of sexual harassment, in case they occur.

A copy of this policy is provided to all CHSJ workers to better understand what CHSJ expects from them as much as what they may expect from CHSJ. This will give us another common keystone of shared understanding, create a happier workplace and help develop a more cohesive team for social change and justice.

Sexual harassment is gross misconduct. It undermines the workplace environment and individual relationships between workers. No CHSJ worker, either male or female, should be subjected verbally or physically to unsolicited and unwelcome sexual overtures or conduct. Harassment, be it sexual, racial or ethnic or of any other kind, is personally demeaning and professionally counter-productive. It is also forbidden by Indian law and is strictly prohibited by CHSJ. Violation of this policy will be subject to disciplinary action, including termination.

We welcome constructive suggestions from our co-workers that would promote a harmonious and ethical relationship in the work place. Hopefully, this policy will play a part in making our workplace happier and safer for all of us.



s/d  
Director

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## Chapter I - PREAMBLE AND DEFINITIONS

### PREAMBLE

WHEREAS sexual harassment results in violation of the fundamental rights of a woman to equality under articles 14 and 15 of the Constitution of India and her right to life and to live with dignity under article 21 of the Constitution and right to practice any profession or to carry on any occupation, trade or business which includes a right to a safe environment free from sexual harassment;

AND WHEREAS the protection against sexual harassment and the right to work with dignity are universally recognized human rights by international conventions and instruments such as Convention on the Elimination of all Forms of Discrimination against Women, which has been ratified on the 25<sup>th</sup> June, 1993 by the Government of India;

AND WHEREAS it is expedient to make provisions for giving effect to the said Convention for protection of women against sexual harassment at workplace.

AND WHEREAS India has passed the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013;

NOW THEREFORE CHSJ has prepared and adopted this Policy on Sexual Harassment at its Workplace

### 1. DEFINITIONS

In this Policy, unless otherwise stated—

- (a) **“Aggrieved person”** means a person who works with CHSJ, of any age, gender whether employed or not, who alleges to have been subjected to any act of sexual harassment by the respondent;
- (b) **“The Board”** or **“The Board of Trustees”** refers to the persons who are members of the board of trustees of CHSJ, at the time of receiving the complaint.
- (c) **“Complaint”** means a complaint within the provisions of this Policy;
- (d) **“Complainant”** means any the aggrieved person, or any other person who makes a complaint on behalf of the aggrieved person within the purview of this Policy;
- (e) **“Employee/Worker”** means a person employed at CHSJ for any work, on regular, temporary, ad hoc or daily wage basis, either directly or through an agent, including a contractor, either voluntary or paid, whether the terms of employment are express or implied, and includes a co – worker, a contract worker, probationer, trainee or apprentice.

- (f) "**Employer**" means the Executive Director of Centre for Health & Social Justice, or such other person bearing overall responsibility for the management, supervision and control of CHSJ
- (g) "**Internal Committee**" means the Internal Committee (IC) constituted by CHSJ;
- (h) "**Local Complaint Committee**" means the Local Complaint Committee constituted under section 6 of Chapter III of The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 (No. 14 of 2013)
- (i) "**Member**" means a Member of the Internal Committee;
- (j) "**Presiding Officer**" means the Presiding Officer of the Internal Committee;
- (k) "**Respondent**" means a person against whom a complaint has been made under this policy
- (l) "**Sexual Harassment**" includes any one or more of the following unwelcome acts or behavior (whether directly or by implication) namely:-
  - a. Physical contact and advances; or
  - b. A demand or request for sexual favors; or
  - c. Making sexually colored remarks; or
  - d. Showing pornography; or
  - e. Any other unwelcome physical, verbal or non-verbal conduct of sexual nature
- (m) "**Third party or outsider**" refers to any person who is not included in the definition of an employee or worker in CHSJ as defined in 1.e.
- (n) "**Workplace**" includes premises of CHSJ head office, Field Offices, any place visited by the employee arising out of or during the course of employment including the transportation provided by CHSJ for undertaking such journey.

**Conditions under which CHSJ will take cognizance of the complaint:**

2. Every employee/worker has the right to work in an environment free from any form of sexual harassment.
3. No person who is a part of CHSJ in any capacity shall sexually harass a colleague whether male or female; at the workplace or at any place whatsoever.
3. None of CHSJ's employees/workers, shall sexually harass an outsider who visits the Head Office or any of its field offices or operational areas.
4. Sexual harassment is gross misconduct and the CHSJ Office Policy governing employment shall govern such misconduct.
5. In the event of any complaint by any **Employee/Worker against any employee /worker of CHSJ** all necessary steps will be taken to assist the aggrieved party to redress the incident/s by the Internal Committee. The employer will ensure preventive measures and protection/support to the aggrieved.

6. In the event of any complaint by a third party complaint **against any employee /worker of CHSJ** all necessary steps will be taken to assist the aggrieved party to redress the incident/s by the Internal Committee. The employer will ensure preventive measures and protection/support to the aggrieved.
7. In the event of any complaint by any **Employee/Worker against any third party respondent the employer will support to take** will take all necessary and reasonable steps to assist the affected person with support and preventive action.
8. If the events or complaints made goes beyond the purview of the IC, it is the responsibility of the employer to guide and support the complainant to reach out and access the Local Complaints Committee services.

## **Chapter II: CONSTITUTION OF INTERNAL COMMITTEE**

9. CHSJ (as represented by its Executive Director/employer) shall, by an order in writing duly approved by the Board of Trustees, constitute a Committee to be known as the "Internal Committee":

Provided that where the offices or administrative units of CHSJ are located at different places or divisional or sub-divisional level, the Internal Committee shall be constituted at all administrative units or offices, unless the same would cause undue hardship to CHSJ, in which case a single ICC will look into all such matters.

10. (1)The Internal Committee shall consist of the following members to be nominated by the employer, namely:-

- (a) A Presiding Officer who shall be a woman employed at a senior level at workplace from amongst the employees:

Provided that in case a senior level woman employee is not available, the Presiding Officer shall be nominated from other offices or administrative units of the workplace.

Provided further that in the event of non availability of any or adequate number of senior level women employee(s), as the case may be, the Presiding Officer shall be nominated from any other or organization;

- (b) Not less than two members from amongst employees, preferably committed to the cause of women or who have had experience in social work or have legal knowledge
- (c) One member from amongst non-governmental organizations or associations committed to the cause of women or a person familiar with the issues relating to sexual harassment

Provided that at least one-half of the total Members so nominated shall be women.

(2) The Presiding Officer and every Member of the Internal Committee shall hold office for such period, not exceeding three years, from the date of their nomination as may be specified by the employer.

(3) Member appointed from amongst the non-governmental organisation or associations shall be paid such fees or allowances for holding the proceedings of the Internal Committee, as prescribed by the Board of CHSJ.

#### **11. Removal of the Presiding Officer and Members of the Internal Committee**

Where the Presiding Officer or any Member of the Internal Committee:

- (a) Discloses to the public, press or media, in any manner whatsoever, the contents of a complaint under this policy, or the identity and/or address of the aggrieved person, respondent or witness, or information on any proceeding (whether conciliation, inquiry, recommendations, action taken, or otherwise);
- (b) Has been convicted of an offence or an inquiry into an offence under any law for the time being in force is pending against him/her, or
- (c) S/he has been found guilty in any disciplinary proceedings or a disciplinary proceeding is pending against him; or
- (d) Has so abused his/her position as to render his/her continuance in office prejudicial to the purposes of this policy:

Such Presiding Officer or Member, as the case may be, shall be removed from the Committee and the vacancy so created, or any casual vacancy, shall be filled by fresh nomination in accordance with the provisions Sections 8 and 9 of this policy.

### **Chapter III - REPORTING A COMPLAINT**

12. It is the duty of the Internal Committee (IC) to receive all sexual harassment complaints, verbal or written, for the organization. In case of verbal complaints, the Presiding Officer or any Member of the Internal Committee shall assist the complainant to make the complaint in writing. The written complaint will be read out to the complainant in the language requested by the complainant and his/her signature obtained.

13. (a) Where the complaint is against the employer, the case shall be referred by the Internal Committee to the Local Complaints Committee as set up under the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013. Provided that the Internal Committee may, for reasons to be recorded in writing, refer the case to the board of trustees, with the written consent of the complainant.

(b) Where the complaint is against a member of the board of trustees, the complaint shall be referred by the IC to the Local Complaints Committee as set up under the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013.

14. Where the complaint is in the nature of a criminal offence, or is reasonably understood to be in the nature of such offence, or the aggrieved person makes a request in this behalf, the matter will also be reported to the police or criminal complaint filed in court.

Under such situation it is the duty of Internal Committee to inform the complainant about the move before reporting it to the police.

Provided that the reporting of a matter to the police or filing of a criminal case in court shall not prevent the Internal Committee from proceeding with the complaint of sexual harassment.

15. Where the aggrieved person is unable to make a complaint on account of his/her physical or mental incapacity or death or otherwise, his/her legal heir or guardian or authorized representative may make a complaint under this section.

16. A sexual harassment complaint may be lodged with ICC at the earliest and in any case within 3 months of occurrence of the alleged incident, or in the case of a series of incidents, the last incident. The complaint shall contain all the material and relevant details concerning the incident/s.

Provided that the Internal Committee may, for reasons to be recorded in writing, extend the time limit not exceeding three months, if it is satisfied that the circumstances were such which prevented the aggrieved person from filing complaint within the said period.

17. The Presiding Officer shall communicate the same to all the members of ICC within 3 working days of receipt of the complaint.

18. The Internal Committee may, at the request of the aggrieved party, take steps to settle the matter between the complainant and the respondent. However, no monetary settlement shall be made as a basis of conciliation.

19. Where settlement has been arrived under Section 18, the Internal Committee shall record the settlement so arrived at and forward the same to the employer to take action as specified in the recommendation.

20. The Internal Committee shall provide the copies of the settlement to the aggrieved person

and the respondent.

21. Where settlement is arrived as under sub-section 18, no further enquiry shall be conducted by the Internal Committee

#### **Chapter IV: ENQUIRY INTO THE COMPLAINT**

22. Subject to the provision of section 18, the Internal Committee shall, proceed to make inquiry into the complaint. Where the aggrieved person informs the Internal Committee that any term or condition of the settlement arrived at under Section 18 has not been complied with by the respondent, the Internal Committee shall proceed to make an enquiry into the complaint.
23. For the purpose of making an enquiry under Section 22, the Internal Committee shall have the same powers as are vested in a civil court under the Code of Civil Procedure, 1908, when trying to suit, in respect of the following matters, namely:--
  - (a) Summoning and enforcing the attendance of any person and examining him/her on oath;
  - (b) Requiring the documents and production of documents; and
  - (c) Any other document which may be prescribed
24. During the pendency of the enquiry, on a written request made by the aggrieved woman, the Internal Committee may recommend to the employer to
  - (a) Transfer the aggrieved person or the respondent to any other workplace; or
  - (b) Grant leave to the aggrieved person up to a period of three months. The leave granted to the aggrieved person under this section shall be in addition to the leave s/he would be otherwise entitled

#### **Enquiry report**

25. On the completion of the enquiry the Internal Committee shall provide a report of its findings to the employer within a period of 10 days from the date of completion of the inquiry, and such report shall be made available to the concerned parties.
26. When the Internal Committee arrives at the conclusion that the allegation against the respondent has not been proved, it shall recommend to the employer that no action is required to be taken in the matter.

#### **Penalties, punishments**

27. Where the Internal Committee arrives at the conclusion that the allegation against the respondent has been proved, it shall recommend to the employer:
  - (i) To take action for sexual harassment as misconduct in accordance with the provisions of the service rules applicable to the respondent or where no such

service rules have been made , in such manner as may be prescribed under any law in India for the time being in force

- (ii) To deduct, notwithstanding in the service rules applicable to the respondent, from the salary or wages of the respondent such sum as it may consider appropriate to be paid to the aggrieved person or to his/her legal heirs, as it may determine, in accordance with the provision of section 15 of the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 being:
- (a) mental trauma, pain, suffering and emotional distress caused to the aggrieved person
  - (b) loss in career opportunity due to the incident/s sexual harassment
  - (c) medical expenses for physical or psychiatric treatment
  - (d) income and financial status of respondent
  - (e) feasibility of payment of such amount in installments or lumpsum

Provided that in case of the employer in unable to make such deduction from the salary or the respondent due his/her being absent from duty or cessation of employment it may direct to the respondent to pay such sum to the aggrieved person.

Provided further that in case the respondent fails to pay the sum referred to in clause (ii), the Internal Committee may forward the order of the sum as an arrear of land revenue to the concerned District Officer.

28. (a) Where the Internal Committee arrives at a conclusion that the allegation against the respondent is malicious or the aggrieved person or any other person making the complaint has made the complaint knowing it to be false or the aggrieved person or any other person making the complaint has produced any forged or misleading document, it may recommend to the employer to take action against the aggrieved person or the person who has made the complaint in accordance with the provisions of the service rules applicable to her or him, or where no such service rules exist, in such manner as may be prescribed in any law in India for the time being in force.

Provided that failure to substantiate a complaint or provide adequate proof of sexual harassment does not amount to a false or malicious complaint.

Provided further that malicious intent on part of the complainant shall be established and any action is recommended only after an enquiry in accordance with the procedure prescribed is completed.

- (b) Where the Internal Committee arrives at a conclusion that during the enquiry any witness has given false evidence or produced any forged or misleading document, it may recommend to the employer of the witness to take action in accordance with the provision of the service rules applicable to the said witness or where no such service rules exist, in such manner as it may be prescribed.

29. The employer shall act upon the recommendation within sixty days of its receipt by her/him and send the report of such implementation to the Internal Committee.

### **Confidentiality of complaints**

30. It shall be the duty of all the Internal Committee, employer, and all persons connecting with a proceeding before the Internal Committee to ensure that all complaints and proceedings thereof are kept confidential. The name of the aggrieved person shall not be referred to in any records of proceedings.

### **Prohibition of victimization**

31. (a) No person shall be victimized for anything said or done in relation to any complaints or proceedings under this Policy. Any instance of victimization shall be reported to the Internal Committee which will forthwith make recommendations to the employer for immediate action, including police assistance, where appropriate.

### **Procedure for Appeals**

32. Any person aggrieved from the recommendations made under sections 26 and 27, or non-implementation of recommendations made under section 29 may prefer an appeal in the following manner within a period of 90 days of the recommendations:

(i) the board of trustees for appeal over recommendations of the IC; or

(ii) the local complaints committee over recommendations of the board of trustees or the IC;  
or

(iii) appropriate court or tribunals or other judicial forum which the complainant deems fit for appeal.

## **Chapter V: DUTIES OF THE EMPLOYER, PREVENTIVE MEASURES AND MANAGEMENT OBLIGATIONS**

### **Duties of Employer**

33. a. CHSJ shall provide a safe working environment at the workplace which shall include safety from the persons coming into contact at the workplace;
- b. Display at any conspicuous in the workplace the penal consequences of sexual harassment and the order constituting the Internal Committee (IC).
- c. Organise workshops and awareness programmes at regular intervals for sensitising the workers/employees and orientation programmes for the IC.
- d. Provide necessary facilities to the IC or Local Committee as the case may be for dealing with the complaint and conducting enquiry.
- e. Assist in securing the attendance of respondent and witnesses before the IC or the Local Committee as the case may be.
- f. Make available such information to the IC or the Local Committee, as the case may be, as it may required by them in the course of the enquiry

- g. Provide assistance to the aggrieved person if she so chooses to file a complaint in relation to the offence under penal law in India or any other law for the time being in force.
- h. Cause to initiate action, under the penal law in India or any other law for the time being in force, against the perpetrator is not an employee, in the workplace at which incident of sexual harassment took place
- i. Treat sexual harassment as misconduct under the service rules and initiate action for such misconduct.
- j. Monitor the timely submission of reports by the IC.
- k. Include the reports submitted by IC in the annual report of CHSJ

### **Management Obligations**

34. (a) Management of CHSJ shall provide all necessary assistance for the full, effective and prompt implementation of this policy. It shall further be bound by the decisions of the ICC and shall implement the same expeditiously.

(b)The support to be provided to IC includes:

- ✓ Secretarial and administrative support for training and other preventive actions;
- ✓ Helping to set up IC;
- ✓ Secretarial support during sexual harassment enquiries;
- ✓ Adequate financial resources for all activities related to preventing/dealing with sexual harassment in the workplace.

(c) CHSJ is expected to provide adequate protection to IC members in case of threats and any retaliation. Support & protection must also be provided if matters go to Court.

(d) Communicate the policy to all employees.

(e) Prevent, stop and correct harassment.

### **Preventive Steps**

35. Under existing Indian law, Centre for Health & Social Justice shall take reasonable steps to ensure prevention of sexual harassment at work. Such steps shall include:

- a) Copies of CHSJ's policy on Sexual Harassment at workplace will be freely available to all workers/employees. Copies of CHSJ's policy on Anti Sexual Harassment at workplace will also be circulated in CHSJ's regional offices and to CHSJ's NGO partners in the field and adherence is mandatory for all persons employed by or in any way acting in connection with the work and/or functioning of CHSJ;
- b) In-house orientation and training on sexual harassment for CHSJ's staff and NGO partners will be periodically carried out; Prominently display guidelines to create awareness on the topic;

- c) Inform all workers and partners that Sexual Harassment is a crime and will not be tolerated;
- d) CHSJ will assist its own workers affected by sexual harassment by outsiders;
- e) Establishing an Internal Committee to enforce CHSJ's commitment to Anti Sexual Harassment;
- f) Names and contact numbers of members of the Internal Committee will be prominently displayed in all offices/projects of CHSJ.
- g) CHSJ will take action to deter any future harassment. Moreover, disciplinary action will be taken against any employee who attempts to discourage or prevent another employee from bringing harassment to the attention of management.
- h) CHSJ assures all its workers/volunteers that measures will be undertaken to protect all complainants from harassment from any further acts of harassment or victimization due to their reporting an incident or participating in an investigation or proceeding concerning the alleged harassment.

**RECEIPT AND ACKNOWLEDGEMENT OF COPY OF THE POLICY ON SEXUAL HARASSMENT AT THE WORKPLACE**

This is to acknowledge that I have received a copy of the Centre for Health & Social Justice's Policy on Sexual Harassment at the Workplace.

This policy sets forth the policies and the modalities for administering those pertaining to sexual harassment. I understand and agree that it is my responsibility to read and familiarize myself with all of the provisions of the handbook.

I understand that the provisions of this policy, CHSJ reserves the right to amend, modify, rescind, delete, supplement or add to the provisions of this policy as it deems appropriate from time to time in its sole and absolute discretion. CHSJ will attempt to provide notification of any other changes as they occur.

I am committed to abide by the policy and to act in a professional manner that will respect the dignity of our colleagues, seniors, subordinates & visitors.

Date:<\_\_\_\_\_>

Signed:<\_\_\_\_\_> (Employee/ Third Party)

Signed:<\_\_\_\_\_> (Employer)