

GKW LIMITED

**OPERATING PROCEDURE ON SEXUAL HARASSMENT OF
WOMEN AT WORKPLACE HARASSMENT (PREVENTION,
PROHIBITION AND REDRESSAL) ACT, 2013**

PREAMBLE

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.

Therefore in order to provide protection against sexual harassment and the right to work, it is considered necessary to make provisions for giving effect to the protection of women against sexual harassment.

DEFINITIONS:

- (i) The Company : “the Company” means GKW Limited.
- (ii) Act : the “Act” means the Sexual harassment of women at workplace (Prevention, Prohibition and Redressal) Act, 2013.
- (iii) Rules : the “Rules” means the Sexual Harassment of women at workplace Rules, 2013.
- (iv) Aggrieved Woman : is a woman who alleges to have been subjected to any act of sexual harassment.
- (v) Respondent : is a person against whom a complaint of alleging sexual harassment has been made under this policy.
- (vi) Complainant : is the aggrieved woman or such person who is authorized to make Complaint on her behalf.

1. OBJECTIVE:

This operating procedure is formulated to achieve the below objectives:

- To provide guidelines for preventing inappropriate workplace behavior of sexual harassment.
- To encourage employees to adhere to their responsibilities of preventing and reporting such inappropriate conduct before it becomes severe or pervasive.

- To provide a timely and fair mechanism for handling and resolving of any such complaints.
- To ensure that employees are trained to perform their roles in relation to this operating procedure.

2. SCOPE AND APPLICABILITY:

This operating procedure is applicable to women who are –

- Employees on GKW payroll.
- Contractors engaged through direct or indirect contract and working at any of the GKW premises and/or at any of GKW customer sites within India.
- Trainees with or without remuneration.
- Apprentices under Apprenticeship Act, 1961
- Visitors to GKW premises including auditors, consultants, customers, vendors, bank representatives and candidates appearing for interviews.
- All employees as may be determined by GKW from time to time, at its sole discretion, without any gender differentiation.

3. CONSTITUTION OF INTERNAL COMPLAINTS COMMITTEE:

The Company constituted a Committee which is known as “Internal Complaints Committee”.

The Internal Committee consists of the members constituted under Section 4 of the sexual harassment of women at workplace Act, 2013.

4. SEXUAL HARASSMENT:

Sexual Harassment includes

- A. Any one or more of the following unwelcome acts or behavior (whether directly or by implication) namely –
- Physical contact and advances
 - Demand or request for sexual favours
 - Making sexually coloured remarks

- Display of pornographic material or sexual explicit written material
- Any behavior that is offensive or humiliating in a gender-related manner
- Any other unwelcome physical, verbal or non-verbal contact of sexual nature.

B. The following circumstances, among other circumstances, if it occurs or is present in relation to or connected with any act or behavior may amount to sexual harassment –

- Implied or explicit promise of preferential treatment in employment
- Implied or explicit threat of detrimental treatment in employment
- Implied or explicit threat about the present or future employment of the person
- Interference with work or creating an intimidating or offensive or hostile work environment for the person
- Humiliating treatment likely to affect the person's health or safety.

5. CONCILIATION:

The Internal Committee will take steps before initiating an inquiry under Section 11 and at the request of the aggrieved woman to settle the matter between aggrieved woman and the respondent through conciliation: -

Provided that no monetary settlement shall be made as a basis of conciliation.

The settlement will be as per Section 10 of the Act.

6. INQUIRY INTO COMPLAINT:

The Internal Committee shall make necessary inquiry into the complaint in accordance with Section 11 (1) of the Act.

7. REPORT OF THE INTERNAL COMPLAINTS COMMITTEE:

The Internal Committee shall make necessary actions and give Report in accordance with Section 13 of the Act.

8. DEALING WITH FALSE OR MALICIOUS COMPLAINT:

The Company prescribes punishment for false or malicious complaint and false evidence as per Section 14(1) of the Act.

9. DETERMINATION OF COMPENSATION:

The Internal Committee shall have power to determine compensation in accordance with Section 15 of the Act.

10. CONFIDENTIALITY

The proceedings under this operating procedure, including the contents of complaint, identity, address of the complainant, respondent and witnesses, recommendations of Internal Complaint Committee and the action taken by GKW under this operating procedure, shall always be kept confidential by GKW and the members of Internal Complaint Committee.

11. APPEAL:

Any person aggrieved for the recommendations may prefer an appeal without prejudice to provisions contained in any other law for the time being in force.

12. DUTIES OF THE COMPANY:

The Company shall comply with Section 19 of the Act in respect of the duties prescribed therein.

13. The full text of Sexual Harassment of women at workplace (Prevention, Prohibition and Redressal Act, and its rules are available at www.iitbbs.ac.in/notice/sexual-harrassment-of-women-act-and-rules-2013.pdf

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**ANNEXURE TO PROVISION OF ANTI SEXUAL
HARRASSMENT (PREVENTION, PROHIBITION
AND REDRESSAL) ACT, 2013**

1. CONSTITUTION OF INTERNAL COMPLAINTS COMMITTEE: (Section 4)

4. Constitution of Internal Complaints Committee –

- (1) Every employer of a workplace shall, by an order in writing, constitute a Committee to be known as the " Internal Complaints Committee":

Provided that where the offices or administrative units of the workplace are located at different places or divisional or sub-divisional level, the Internal Committee shall be constituted at all administrative units or offices.

- (2) 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 referred to in sub-section (1):

Provided further that in case the other offices or administrative units of the workplace do not have a senior level woman employee, the Presiding Officer shall be nominated from any other workplace of the same employer or other department or organisation;

- (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 organisations or associations committed to the cause of women or a person familiar with the issues relating to sexual harassment:

- (3) 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.

- (4) The Member appointed from amongst the non-governmental organisations or associations shall be paid such fees or allowance for holding the proceedings of the Internal Committee, by the employer, as may be prescribed.
- (5) Where the Presiding Officer or any Member of the Internal Committee:-
 - (a) Contravenes the provisions of section 16; or
 - (b) Has been convicted for an offence or an iniquity into an offence under any law for the time being in force is pending against him: or
 - (c) He has been found guilty in any disciplinary proceedings or a disciplinary proceeding is pending against him; or
 - (d) Has so abused his position as to render his continuance in office prejudicial to the public interest, 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 of this section.

2. CONCILIATION: (Section 11 & 10)

Inquiry into complaint (1) Subject to the provisions of section 10, the Internal Committee or the Local Committee, as the case may be, shall, where the respondent is an employee, proceed to make inquiry into the complaint in accordance with the provisions of the service rules applicable to the respondent and where no such rules exist, in such manner as may be prescribed or in case of a domestic worker, the Local Committee shall, if prima facie case exist, forward the complaint to the police, within a period of seven days for registering the case under section 509 of the Indian Penal Code (45 of 1860), and any other relevant provisions of the said Code where applicable:

Provided that where the aggrieved woman informs the Internal Committee or the Local Committee, as the case may be, that any term or condition of the settlement arrived at under sub-section (2) of section 10 has not been complied with by the respondent, the Internal Committee or the Local Committee shall proceed to make an inquiry into the complaint or, as the case may be, forward the complaint to the police:

Provided further that where both the parties are employees, the parties shall, during the course of inquiry, be given an opportunity of being heard and a copy of the findings shall be made available to both the parties enabling them to make representation against the findings before the Committee.

- (2) Notwithstanding anything contained in section 509 of the Indian Penal Code (45 of 1860), the court may, when the respondent is convicted of the offence, order payment of such sums as it may consider appropriate, to the aggrieved woman by the respondent, having regard to the provisions of section 15.

11. Conciliation –

- (1) The Internal Committee or, as the case may be, the Local Committee, may, before initiating an inquiry under section 11 and at the request of the aggrieved woman take steps to settle the matter between her and the respondent through conciliation: Provided that no monetary settlement shall be made as a basis of conciliation
- (2) Where a settlement has been arrived at under sub-section (1), the Internal Committee or the Local Committee, as the case may be, shall record the settlement so arrived and forward the same to the employer or the District Officer to take action as specified in the recommendation.
- (3) The Internal Committee or the Local Committee, as the case may be, shall provide the copies of the settlement as recorded under sub-section (2) to the aggrieved woman and the respondent.
- (4) Where a settlement is arrived at under sub-section (1), no further inquiry shall be conducted by the Internal Committee or the Local Committee, as the case may be.

3. INQUIRY INTO COMPLAINT: (SECTION 11 (1))

12. **Inquiry into complaint -** (1) Subject to the provisions of section 10, the Internal Committee or the Local Committee, as the case may be, shall, where the respondent is an employee, proceed to make inquiry into the complaint in accordance with the provisions of the service rules applicable to the respondent and where no such rules exist, in such manner as may be prescribed or in case of a domestic worker, the Local Committee shall, if prima facie case exist, forward the complaint to the police, within a period of seven days from registering the case under section 509 of the Indian Penal Code (45 of 1860) and any other relevant provisions of the said Code where applicable:

Provided that where the aggrieved woman informs the Internal Committee or the Local Committee, as the case may be, that any term or condition of the settlement arrived at under sub-section (2) of section 10 has not been complied with by the respondent, the Internal Committee or the Local Committee shall proceed to make an inquiry into the complaint or as the case may be, forward the complaint to the police:

Provided further that where both the parties are employees, the parties shall, during the course of inquiry, be given an opportunity of being heard and a copy of the findings shall be made available to both the parties enabling them to make representation against the findings before the Committee.

4. REPORT OF THE INTERNAL COMPLAINTS COMMITTEE: (Section 13)

13. Inquiry report-

- (1) On the completion of an inquiry under this Act, the Internal Committee or the Local Committee, as the case may be, shall provide a report of its findings to the employer, or as the case may be, the District Officer within a period of ten days from the date of completion of the inquiry and such report be made available to the concerned parties.
- (2) Where the Internal Committee or the Local Committee, as the case may be, arrives at the conclusion that the allegation against the respondent has not been proved, it shall recommend to the employer and the District Officer that no action is required to be taken in the matter.
- (3) Where the internal Committee or the Local Committee, as the case may be, arrives at the conclusion that the allegation against the respondent has been proved, it shall recommend to the employer or the District Officer, as the case may be-
 - (i) to take action for sexual harassment as a 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;
 - (ii) to deduct, notwithstanding anything 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 woman or to her legal heirs, as it may determine, in accordance with the provisions of section 15:

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

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

- (4) The employer or the District Officer shall act upon the recommendation within sixty days of its receipt by him.

5. DEALING WITH FALSE OR MALICIOUS COMPLAINT: {Section 14 (1)}

14 (1) Where the Internal Committee or the Local Committee, as the case may be, arrives at a conclusion that the allegation against the respondent is malicious or the aggrieved woman or any other person making the complaint has made the complaint knowing it to be false or the aggrieved woman or any other person making the complaint has produced any forged or misleading document, it may recommend to the employer or the District Officer as the case may be, to take action against the woman or the person who has made the complaint under sub-section (1) or sub-section (2) of section 9, as the case may be, 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:

Provided that a mere inability to substantiate a complaint or provide adequate proof need not attract action against the complainant under this section:

Provided further that the malicious intent part of the complainant shall be established after an inquiry in accordance with the procedure prescribed below any action is recommended.

6. DETERMINATION OF COMPENSATION: (Section 15)

15. Determination of compensation – for the purpose of determining the sums to be paid to the aggrieved woman under clause (ii) of sub-section (3) of section 13, the Internal Committee or the Local Committee, as the case may be, shall have regard to –

- (a) the mental trauma, pain, suffering and emotional distress caused to the aggrieved woman;
- (b) the loss in the career opportunity due to the incident of sexual harassment;
- (c) medical expenses incurred by the victim for physical or psychiatric treatment;
- (d) the income and financial status of the respondent;
- (e) feasibility of such payment in lump sum or in instalments

7. DUTIES OF THE COMPANY : (Section 19)

19. Duties of employer - Every employer shall –

- (a) 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 place in the workplace, the penal consequences of sexual harassments; and the order constituting the Internal Committee under sub-section (1) of section 4:
- (c) Organise workshops and awareness programmes at regular intervals for sensitising the employees with the provisions of the Act and orientation programmes for the Members of the Internal Committee in the manner as may be prescribed;
- (d) provide necessary facilities to the Internal Committee or the Local Committee, as the case may be, for dealing with the complaint and conducting an inquiry;
- (e) assist in securing the attendance of respondent and witnesses before the Internal Committee or the Local Committee, as the case may be;

- (f) make available such information to the Internal Committee or the Local Committee, as the case may be, as it may require having regard to the complaint made under sub-section (1) of section 9;
- (g) provide assistance to the woman if she chooses to file a complaint in relation to the offence under the Indian Penal Code (45 of 1860) or any other law for the time being in force;
- (h) cause to initiate action, under the Indian Penal Code (45 of 1860) or any other law for the time being in force, against the perpetrator, of if the aggrieved woman so desires, where the perpetrator is not an employee, in the workplace at which the incident of sexual harassment took place;
- (i) treat sexual harassment as a misconduct under the service rules and initiate action for such misconduct;
- (j) monitor the timely submission of reports by the Internal Committee.