

B.9. PREVENTION OF SEXUAL HARASSMENT

Dakshin is an equal opportunity organisation which is committed to creating a healthy and safe working environment. It strives to provide its employees with a harassment-free workspace, without fear of gender bias or prejudices relating to race, caste, religion, colour, marital status, gender, sexual orientation, age, nationality, ethnicity or disability. In this regard, we outline the following as Dakshin's Prevention of Sexual Harassment (POSH) policy.

1. Objective

The purpose of this policy is to:

- a. Create comprehensive guidelines to create awareness about sexual harassment at the workplace.
- b. Create an Internal Committee (IC) to address matters related to sexual harassment at the workplace.
- c. Create a mechanism for complaints to the IC.
- d. Create guidelines for Dakshin Foundation to prevent/prohibit any form of sexual harassment at the workplace.

2. Scope and definitions

This policy extends to all cases of sexual harassment at the workplace.

In this context, the term 'workplace' includes any place visited by the employee arising out of or in the course of employment including transportation provided by the employer for undertaking such a journey.

In this context, the term 'employee' means a person employed at a workplace for any work on regular, temporary, ad hoc or daily wage basis, either directly or through an agent, including a contractor, with or without the knowledge of the principal employer, whether for remuneration or not, whether working on a voluntary basis or otherwise, whether the terms of employment are express or implied and includes a co-worker, a contract worker, probationer, trainee, apprentice or anyone called by any other such name. At Dakshin, this applies to the director, programme heads, programme officers, full-time/part-time employees, researchers, volunteers, interns, consultants, affiliates, and non-contractual help such as field staff and housekeeping/support staff henceforth referred to as **members** at Dakshin.

In this context, the term 'employer' refers to the members of the Board of Trustees of Dakshin Foundation.

In this context, 'complainant' refers to the individual who has filed the sexual harassment complaint with the Internal Committee (IC)

In this context, 'respondent' refers to the individual who has been accused of sexual harassment in the complaint filed with the IC

This means that all Dakshin members have a responsibility to:

- a. Treat each other with dignity and respect.
- b. Refrain from any unwelcome behaviour that has explicit or implicit sexual connotations.
- c. Refrain from creating a hostile atmosphere at the workplace through sexual harassment.
- d. Cooperate with the organisation towards creating a conducive working atmosphere which is free from sexual harassment.
- e. Report sexual harassment they have experienced to the appropriate authority, as set up in the form of the IC and abide by the complaint handling procedure of the organisation.
- f. Create a supportive environment for colleagues to file complaints with the IC, under the guidelines provided in this policy.

3. Recognising harassment

Sexual harassment may be subtle, manipulative and is not always evident. It is also very subjective. It refers to behaviour that is not welcome and is personally offensive. Sexual offences, against all genders and with special reference to women, can be carried out by managers, supervisors, co-workers, and non-employees such as volunteers, interns, affiliates, consultants.

Sexual harassment includes any one or more of the following unwelcome acts of behaviour (whether directly or by implication) that could be reasonably expected to make someone feel offended, humiliated or intimidated. This may include (but is not restricted to):

a. Physical harassment

- i. Unwanted physical contact or advances.
- ii. Demand/request for sexual favours. Physical contact such as touching, pinching, or fondling or unnecessarily brushing up against someone (these are criminal offences).
- iii. Rape and molestation (these are criminal offences)
- iv. Stalking an individual (this is a criminal offence)

b. Verbal harassment

- i. Unwelcome comments about someone's sex life or physical appearance
- ii. Sexually offensive comments, stories or jokes
- iii. Making sexually explicit sounds, such as kissing sounds, suggestive sounds

c. Non-verbal harassment

- i. Leering and ogling
- ii. Showing pornography, displaying sexually offensive images or objects

d. Quid Pro Quo harassment

- i. Intimidation, threats, blackmail leading to sexual favours.
- ii. Threats, intimidation, or retaliation against an employee who speaks up about unwelcome behaviour with sexual overtones.
- iii. Unwelcome social invitations, with sexual overtones commonly understood as flirting, propositions or continued requests for dates

- iv. Falsely accusing and undermining a person behind closed doors for sexual favours
- v. Abuse of authority or power to threaten a person's job or undermine his/her /their performance against sexual favours.
- vi. Systematically interfering with normal work conditions, sabotaging places or instruments of work.

Sexual Harassment is also a criminal offence under Section 354A of the Indian Penal Code, 1860.

4. Statement of the POSH policy

- a. Sexual harassment is against the law. Dakshin condemns any act of sexual harassment and therefore every member at Dakshin has a responsibility to ensure that sexual harassment does not occur.
- b. Employees at Dakshin will undergo annual trainings to understand the importance of POSH and the manner in which sexual harassment can occur, and the process of lodging a complaint.
- c. Trainings on recognising and preventing sexual harassment will be provided to Dakshin employees once every year.

5. Creation of the IC

The IC will be set up by the BoT in consultation with the Director and the SMC. It has been formed according to the requirements laid down by the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, and Rules of 2013. The rules that apply to the committee are as follows:

- a. The Presiding Officer will be a woman and minimum 50% of the IC members will be women.
- b. Every Member of the IC shall hold office for not more than three years from the date of their nomination specified by the employer.
- c. The external member shall be appointed from a non-governmental organisation or association committed to the cause of women or familiar with the issues relating to sexual harassment. The member may be paid fees or allowances for holding the proceedings of the IC, by the employer, as prescribed in the policy.
- d. In case a member of the committee is traveling when a complaint is received, the committee can be temporarily reorganised to replace the committee member, based on requirement and availability of other potential members, under the guidance of the Board of Trustees.
- e. Committee members can also be changed when a complaint is received, if there is a conflict of interest between any of them and either the complainant or respondent.
- f. The committee can be contacted at iccposh@dakshin.org
- g. All other rules as prescribed in the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, and Rules of 2013

6. Removal of a Member of the IC

A member of the IC may be removed by the BoT only in consultation with the IC, Director and SMC based on a consensus decision if he/she/they:

- a. contravenes the provisions of section 16 of the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act
- b. has been convicted for an offence or an inquiry into an offence under any law for the time being in force is pending against him/her/them,
- c. has been found guilty in any disciplinary proceedings or a disciplinary proceeding is pending against him/her/them,
- d. has so abused his/her/their position as to render his/her /their continuance in office prejudicial to the public interest and/or
- e. has violated the requirement of confidentiality in any manner.
- f. leaves Dakshin's employment; the vacancy so created shall be filled by fresh nomination as specified in the policy.

7. Redressal by the IC

To effectively address workplace sexual harassment complaints, the IC must first be aware of their key responsibilities, some of which are highlighted below:

- a. Be thoroughly prepared.
- b. Participate in annual trainings to stay updated with the details of the policy and its implications.
- c. Know the Act, Policy and/or relevant Service Rules.
- d. Gather and record all relevant information [obtain and record a full, step-by-step account of the incident(s)].
- e. Determine the main issues in the complaint and ascertain the complainant's preferred outcome, e.g. an apology, the behaviour to cease, a change in working arrangements.
- f. Prepare relevant interview questions.
- g. Conduct necessary interviews, steering away from invasive questioning and victim blaming.
- h. Ensure parties are made aware of the process and their rights/responsibilities within it.
- i. Analyse information gathered.
- j. Prepare the report with findings/recommendations.
- k. Keep a confidential record of all details of this discussion and subsequent steps in the process.
- l. The IC committee will also be available to discuss any concerns employees may have and to provide information about Dakshin's policy on sexual harassment and the complaint process.

9. Complaint mechanism

- a. Any aggrieved person may make, in writing, a complaint of sexual harassment at the workplace to the ICC committee only. A complaint can be raised via an email to iccposh@dakshin.org or via a letter to any of the IC members, including the external member.
- b. A written complaint needs to be filed directly with the IC. The written complaint should contain a description of each incident. It should include relevant dates, timings and locations; name of the respondent(s); and the working relationship between the parties.
- c. Provided where such a complaint cannot be made in writing, due to a disability, the Presiding Officer or any Member of the Internal Committee can render assistance to the person for making the complaint in writing.

- d. Where the person is unable to make a complaint on account of her/his/their physical or mental incapacity or death or otherwise, her/his/their legal heir or such other person, as may be prescribed, may make a complaint.
- e. The IC only has jurisdiction over complaints that are filed within three months of the most recent incident of sexual harassment. The IC can extend the window by another three more months i.e. to a maximum of six months if the IC is satisfied that there were circumstances which prevented the complainant from filing a written complaint within the three month period.
- f. The IC may, before initiating an inquiry and at the request of the complainant settle the matter between her/him/them and the respondent through conciliation. However, no monetary settlement shall be made as a basis of conciliation. Conciliation will only be attempted at the request and consent of both parties and any evidence of such pressure on the complainant shall render the conciliation void.
- g. When a settlement has been arrived at, the IC shall record the same and forward it to the employer and provide copies to the complainant and the respondent. No further inquiry shall be conducted by the IC. However, if the complainant informs the IC that any term or condition of the settlement has not been complied by the respondent, the IC can make an inquiry into the complaint or forward the complaint to the police if legally possible.
- h. Anyone found to have sexually harassed another person will be subject to disciplinary action that may include an apology, mandatory counselling, transfer of duties or dismissal. A payment through deduction from his/her /their salary or wages or through direct payment may be required by the respondent towards the complainant. These will be decided by the IC and will be based on the nature and severity of the issue.
- i. For the purpose of an inquiry, the IC shall have the same powers as are vested in a civil court when trying a suit in respect of summoning and enforcing the attendance of any person and examining him/her/them on oath, requiring the discovery and production of documents and any other matters prescribed.
- j. The enquiry shall be completed by the IC within a period of ninety days. On completion of the enquiry, the IC shall provide a report of its findings to the employer within a period of ten days from the date of completion of the inquiry, while also providing the report to the concerned parties. The employer will then have up to sixty days to act upon the decisions of the IC.
- k. If the 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 has produced forged or misleading documents, it will recommend necessary disciplinary action to the employer to take action against the complainant.

10. Rights of complainants

- a. Dakshin recognises that the threat of reprisal is a significant deterrent for many survivors of sexual harassment, and Dakshin undertakes to guarantee to every complainant that an inquiry into a complaint of sexual harassment shall maintain the strictest standards of confidentiality, and all steps will be taken to ensure that the complainant is shielded from any reprisals or adverse repercussions stemming from the complaint.
- b. No member will be treated unfairly as a result of making a complaint of sexual harassment. Immediate disciplinary action will be taken against anyone who victimises or retaliates against someone who has made a complaint of sexual harassment.
- c. The IC, as far as its jurisdiction holds, will also prevent the victimisation of witnesses,

- supporters, and representatives of complainants or respondents.
- d. The respondent also has the right to have a supporter or representative chosen by them present when he/she /they responds to the allegations made.
 - e. The complainant will be informed about the ensuing process and the options available for the redressal.
 - f. Dakshin will afford natural justice to any person involved in a dispute. To this end, both parties shall, during the course of the enquiry, be given an opportunity of being heard and a copy of the findings shall be made available to both parties enabling them to make representation against their findings before the committee.
 - g. Every member has a right to expect - a trained, skilled and competent Internal Committee, a time-bound process, information confidentiality, assurance of non-retaliation, counselling or other enabling support where needed and assistance if the complainant opts for criminal proceedings, in accordance with the provisions of the sexual harassment act and rules.
 - h. The complainant has the right to request a discontinuation of the process at any time.
 - i. The content of the complaint, the addresses of the complainants, respondents and witnesses, any information relating to the conciliation and enquiry, recommendation of the IC and the action taken by the employer shall not be published, communicated or be made known to the public in any manner, as mandated under the law.

11. Pendency of a complaint

During the pendency of an inquiry on a written request made by the complainant, the IC may recommend the employer to:

- a. transfer the complainant or the respondent to any other workplace or place them on paid leave
- b. grant leave to the complainant up to a period of three months
- c. grant such other relief to the complainant as may be prescribed

The leave granted to the complainant under this section shall be in addition to the leave he/she/they would be otherwise entitled to.

Note: Since most cases of sexual harassment occur in private, there may not be any eye-witness. The IC will follow specific processes in its operation which will be guided by legal requirements and by a gender-just understanding of sexual harassment.