



**PREVENTION OF  
SEXUAL  
HARASSMENT AT  
WORKPLACE  
POLICY**

**The Hunger Project, India**

## CONTENTS

<b>1. Introduction.....</b>	<b>2</b>
<b>2. Applicability.....</b>	<b>3</b>
<b>3. Definitions.....</b>	<b>4</b>
<b>4. Constitution of the complaints redressal committee.....</b>	<b>7</b>
4.1 Composition of the internal committee	
4.2 Quorum	
4.3 Grounds for removal of presiding officers or members	
4.4 Responsibility of the internal committee	
4.5 Annual Report	
<b>5. Redressal mechanism.....</b>	<b>9</b>
5.1 Informal procedure	
5.2 Formal procedure	
5.3 Submission of inquiry report	
5.4 Recommendations to the management	
5.5 Determination of damages	
5.6 Disciplinary action	
5.7 Action to be taken by the management	
5.8 Appeals	
5.9 Grievance redressal process	
5.10 Timelines related to the inquiry process	
<b>6. Protection against retaliation.....</b>	<b>17</b>
<b>7. Confidentiality guidelines.....</b>	<b>17</b>
<b>8. Complaints made with malicious intent.....</b>	<b>18</b>
<b>9. Third-party harassment.....</b>	<b>18</b>
<b>10. Miscellaneous.....</b>	<b>18</b>
<b>11. Duties of the internal committee.....</b>	<b>19</b>
<b>12. Role of the management.....</b>	<b>20</b>
<b>Annexure I – Details of the internal committee members.....</b>	<b>21</b>
<b>Annexure II – Undertaking regarding THP India’s policy for prevention of sexual harassment at workplace.....</b>	<b>22</b>

## POLICY FOR PREVENTION OF SEXUAL HARASSMENT AT THE WORKPLACE

Policy Name	Policy for Prevention of Sexual Harassment at The Workplace (POSH)
Approved By	Governing Council, The Hunger Project, India
Version Date	20/02/2023

### 1. Introduction

1.1 It is a core principle of The Hunger Project (THP), India (the “Organisation”) to ensure gender equality and gender justice in the organisation. In keeping with this principle, it is important to ensure an organisational climate that is free from any discrimination and harassment based on gender, religion, race, caste, colour, age, ancestry, marital status, pregnancy, sexual orientation, including against members of the LGBTQ community, and persons with disabilities/special abilities. THP India strives to be a place of work that is gender-sensitive and recognises the role of men, women and the third gender as equal players and as agents of change in their families, communities, workplace and society.

The primary objective of this Policy is to prevent and address/redress sexual harassment of women in the workplace. It aims to do so by fostering a secure, harmonious and inclusive social, physical and psychological environment that will enable women to interact freely and fearlessly and work productively. This is as per The Sexual Harassment of Women at Workplace (Prevention, Prohibition & Redressal) Act, 2013 (hereinafter referred to as The Act) in lines with the Vishakha Judgement (1997) by the Hon’ble Supreme Court of India.

1.2 Sexual harassment of women occurring in the workplace or in other settings where employees may find themselves in connection with their employment, is unlawful and will not be tolerated by the organisation. Further, any retaliation against an individual who has complained about sexual harassment or retaliation against individuals for cooperating with an investigation of a sexual harassment complaint is similarly unacceptable and will not be tolerated. To achieve this goal, the conduct described as “Sexual Harassment” in this policy will not be tolerated. We have, therefore, instated a procedure whereby inappropriate conduct will be dealt with if encountered among or by employees.

The organisation will also take all the appropriate steps necessary to protect employees from retaliation. Such steps include:

- Action to stop retaliatory behaviour
- Providing required security measures

1.3 The organisation has always followed a zero-tolerance policy towards sexual harassment. It takes such allegations seriously and will respond promptly to complaints of sexual harassment; and where it is determined that such inappropriate conduct has occurred, prompt and appropriate corrective action, including disciplinary action, will be taken.

This Policy is meant to educate employees about what constitutes sexual harassment, the ways and means adopted to avoid the occurrence of any such event, and in the unlikely event of such an occurrence, to implement a fair mechanism for dealing with such conduct.

While this policy sets forth our goals of promoting a workplace that is free of sexual harassment of women the policy is not designed or intended to limit the authority of the organisation to discipline or take remedial action for workplace conduct that we deem unacceptable, regardless of whether that conduct satisfies the definition of sexual harassment. With respect to a workplace harassment complaint and complaints related to sexual harassment by other employees, besides women, please refer to the Staff Manual of the organisation.

1.4 The Country Director shall take the necessary steps to ensure this Policy is implemented and adhered to by the organisation. The Country Director shall also place an Annual Report on the status of sexual harassment at THP India before the Governing Council.

## **2. Applicability**

2.1 The Policy applies in all work-related settings and activities, whether inside or outside the workplace and includes work-related travel, social events and employees working from home. Work from home would also be considered as a workplace, and all facets of this Policy and sexual harassment-related laws shall apply.

2.2 The Policy applies to all employees of the organisation, including the Country director and Governing Council of the organisation. The Policy also applies to various categories of employees of the organisation, including any associate engaged on a fixed-term contract, short term engagement, trainees, ad-hoc employees, contract persons at its workplace of the offices of the organisation (“Employee”) or “Third-Party” vendor staff working on the premises associated with the India legal entities (The Hunger Project, India). It shall also include any unwelcome behaviour of a sexual nature mentioned in the policy by any Vendor/Supplier/Contractor, including their agents, supervisors, managers and their employees, all associated and affiliated persons (whether associated directly and/or indirectly).

2.3 This Policy requires the conduct of all individuals under its scope to be sensitive to cultural differences and varied sensitivities at the workplace. All acts/behavior in work situations (for example shaking hands, hugging or other physical touch) must be sensitive to the cultural context in which it takes place.

2.4 The Policy will also be applicable in cases of third-party sexual harassment, which shall include, both, complaints of sexual harassment by a third party (such as a client, or even a guest who visits the workplace) as well as cases, wherein a third party alleges being sexually harassed by an employee.

### **3 Definitions**

#### **3.1 Aggrieved Person or Complainant**

An Aggrieved Person or Complainant in relation to a workplace means a woman, who is either employed, associated or visiting the organisation, and who alleges to have been subjected to any form of sexual harassment.

#### **3.2 Employee**

An Employee includes everyone working at the workplace for any work - be it on a regular, temporary, ad hoc, contract or daily wage basis. It includes co-workers, contractors, probationers, interns or trainees, irrespective of whether they work pro bono, are paid workers, have been employed through an agent, are directly hired, or work on a voluntary basis, all associated and affiliated (directly and or indirectly) persons.

#### **3.3 Client**

Client means a person who avails the services of THP India or any third party at any of its premises either in exchange for monetary consideration or for pro bono work. A Client shall be referred to, but is not limited to, partner organisations, participants at THP India's organised activities, volunteers, community trainers, vendors, consultants, independent contractors, sub-contractors, investors, donors, visitors/guests, or any other person who is associated, directly and or indirectly, with THP India.

#### **3.4 Complaint**

Any written formal notice by or on behalf of an Aggrieved Person or Complainant against sexual harassment.

#### **3.5 Management**

Any reference to Management shall imply a reference to the Management of the organisation. At THP India, for the purpose of the Policy on POSH, Management refers to the Country Director. However, if a complaint related to sexual harassment is raised against the Country Director, the Management would refer to the Governing Council of THP India.

#### **3.6 Policy**

Any reference to the Policy in this document shall imply a reference to POSH of the organisation.

#### **3.7 Respondent**

Respondent means a person (employed, associated or visiting the organisation) against whom a complaint has been raised by the Aggrieved Person.

### **3.8 Workplace**

Any place where a working relationship and/or employer-employee relationship between the organisation and the Aggrieved Person exists. It includes but is not limited to the following:

- a. All offices or other premises where the organisation's work is conducted
- b. All organisation related activities performed at any other site away from the organisation's premises
- c. Any social, business or other activities/events attended by employees/Management while representing the organisation
- d. Any place visited by the employee arising out of or during the course of employment including transportation provided by the employer for undertaking such a journey
- e. The employee's place of residence when any of the employees are working remotely. This would also include all electronic mediums used for discharging office duties such as laptop, mobile phone, all video/audio calls etc.
- f. Any form of sexual harassment on the organisation's social media platforms shall also come within the purview of this Policy irrespective of whether such sexual behavior occurred during or outside of office hours.

### **3.9 Sexual harassment**

Under this Policy, any one or more of the following unwelcome and offensive acts or behaviour, whether they are direct or implied, shall amount to sexual harassment:

- a. Physical contact or advance(s) such as, but not limited to, kissing, patting, pinching, grabbing, touching the body and/or attempting to do so. Advances can be verbal, written or physical or signage.
- b. Quid pro harassment, i.e., demand(s) or request(s) for sexual favour(s) in return for either promises of employment related benefits such as promotions or increments, or else, accompanied with threats of negative consequences.
- c. Making sexually coloured remark(s) including, but not limited to, verbal sexual innuendos such as jokes, suggestions, or hints about sexual behavior, which may be suggestive or explicit in nature, repetitive commenting about physical appearance in a sexual context, use of affectionate names, questions and comments of a personal nature.
- d. Showing pornography such as display, giving or sending of pornography in the form of pictures, books, magazines, postcards, photos, animation, sound recording, film, video, and video games. This may be done personally and/or via documents, or by telephone, cell-phone messages or emails or by any other mode of transmission or communication.
- e. Any other physical, verbal and non-verbal behaviour which is sexual in nature, including:

- non-verbal communication through gestures;
  - stalking;
  - persistent visiting;
  - unwelcome and frequent home visits, especially at odd hours;
  - persistent telephoning;
  - staring/leering;
  - pin-ups, offensive publication, offensive letters/memos;
  - unsolicited and unwanted gifts;
  - sending of sexually coloured cell-phone messages, use of abusive language or derogatory remarks;
  - innuendos and taunts which are likely to intrude upon one's privacy;
  - exhibitionism/voyeurism
- f. Virtual sexual harassment - passing any off-colour or sexual remark, demand(s) for sexual favour, showing pornography or any other verbal or non-verbal conduct of a sexual nature via the internet, such as through SMS, MMS, email or chat or through video-conferencing and digital stalking.
- g. Under the Policy, any unwelcome act or conduct of a sexual nature that occurs virtually while working from home shall fall under the purview of sexual harassment at the workplace.

It includes:

- **Quid pro quo harassment:** This kind of harassment occurs in the context of a subordinate and superior relationship, where the latter demands sexual favours in exchange for an advantage or threatens a disadvantage to the subordinate. Such demands or threats can happen through official communication systems, instant messaging apps, or other social media communication platforms.
- **Comments/Remarks:** Sexually suggestive comments or remarks made through online communication channels, whether on group conference calls or one-on-one virtual meetings or through calls/messages/voice notes etc. Inappropriate emojis are one such example and, it could also include innocuous comments on appearances, such as "hi beautiful", or sexually explicit remarks and pornography would also constitute sexual harassment.
- **Cyberstalking:** Such forms of harassment frequently occur through online communication platforms, and social media handles such as Facebook, Twitter, Instagram, YouTube, Snapchat, WhatsApp, Telegram, WordPress, LinkedIn, Medium and Koo etc.
- **Unwelcome sexual advances:** Unwelcome gestures and propositions can continue to occur via online means of communication. This could include persistently asking someone out, flirting, insisting on video calls well after office hours, inappropriate and sexist jokes to "lighten" the mood, undefined work hours etc.

Additionally,

The following behaviours and actions in conjunction with any of those outlined above shall be construed as sexual harassment under this Policy:

- Direct and/or indirect promise of preferential treatment (and benefits) in employment.
- Direct and/or indirect threat of detrimental treatment in employment.
- Direct and/or indirect threat about the present or future employment status.
- Creation of conditions and situations that interfere with work or create an intimidating or offensive or hostile work environment.
- Humiliating treatment that is likely to affect the health and/or safety of the aggrieved person.

#### **4. Constitution of the complaints redressal committee**

An Internal Committee (IC) shall be constituted in the organisation to redress complaints of sexual harassment by women.

##### **4.1 Composition of the IC (5 Members)**

- a. **Presiding Officer** - Shall be a woman employed at a senior level in the organisation.
  - b. **Three Members** - Shall be selected from the pool of employees, and preferably committed to the cause of women.
  - c. **One Member – (External Member)** - Shall be selected from Non-Governmental Organisations or from associations committed to the cause of women; or a person having legal knowledge of the issues relating to sexual harassment.
- The Presiding Officer and every member of the IC shall hold office for a period, not exceeding three years, from the date of their nomination, as may be specified by the Management. **Annexure 1** shall be updated to reflect the current constitution of the IC.
  - No less than half of its members shall be women at all times.
  - The constitution of the IC shall be displayed on the notice board of the offices of the organisation and be made available to every employee of the organisation.
  - Under no circumstances shall the Country Director be a member of the IC at any point in time.

##### **4.2 Quorum**

- a. A quorum of a minimum of three members is required to be present for the proceedings to take place.



- b. The quorum shall include the Presiding Officer, at least two other members, one of whom should be a woman.
- c. The presence of the External Member at such meetings shall be mandatory.
- d. In the absence of the Presiding officer, an interim Presiding Officer has to be appointed internally by the IC.
- e. Minutes of the meetings are to be shared with all the IC members, including absentees.

#### **4.3 Grounds for removal of Presiding Officer or Members**

Removal of the Presiding Officer or any member of the IC may take place if they

- a. make the identity or address of the Aggrieved Person, or Respondent, or Witnesses public;
- b. have been found guilty of an offence, or if an inquiry into offence under prevailing laws is pending against them; or
- c. have been found guilty in any disciplinary proceedings by the organisation or a disciplinary proceeding is pending against them; or
- d. have so abused their position as to render their 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 a fresh nomination.

Further, any person who is a Complainant, Respondent or Witness in the inquiry proceeding shall not be part of that investigation.

Any vacancy created due to cessation of employment, resignation, death, disability or removal, as applicable, shall be filled by a fresh nomination by the organisation in accordance with the Policy.

#### **4.4 Responsibility of the IC**

- a. Being thoroughly conversant with the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013, the POSH Policy, and relevant service rules, if any, and to implement the same.
- b. Diligently investigate every formal written complaint of sexual harassment.
- c. Maintain a register to document complaints received by it and keeping such contents confidential.
- d. Take appropriate remedial measures in response to any substantiated allegations of sexual harassment.
- e. Discourage and prevent employment-related sexual harassment.
- f. Make recommendations of appropriate punishment against a proven allegation of sexual harassment.
- g. Clearly and regularly communicate the POSH and distribute other related materials amongst the employees of the organisation.

- h. Assist the organisation in planning and executing programmes for gender sensitisation.

#### **4.5 Annual Report by IC**

The IC must meet a minimum of once in the calendar year, prepare an annual report and submit the same to the Management/HR Department. The Management is required to include the number of cases filed, if any, and their disposal in the annual report of the organisation.

The IC shall monitor the timely submission of Annual Reports to the Office of the Labour Commissioner or District Officer as applicable.

### **5. Redressal Mechanism**

The Management has put in place both informal as well as formal procedures for redressal of grievances. These are outlined below:

#### **5.1 Informal Procedure**

The Aggrieved Persons can clearly explain to the Respondent that the conduct in question is unwelcome and/or offensive and/or makes them uncomfortable and/or it interferes with their work, and the Respondent should immediately cease such conduct. In case the Aggrieved Persons find it difficult or embarrassing to do this on their own, they may take the support of the Management/HR Department/senior staff in the organisation. They should endeavour to redress the grievances of the Aggrieved Person without a formal enquiry or investigation within three working days of the receipt of the complaint.

The merit of this procedure is that fewer people are involved in it. This will help maintain confidentiality, and it is also less cumbersome and time consuming. However, it is not obligatory for an Aggrieved Person to invoke the informal procedure. It is entirely up to the Aggrieved Person to invoke the formal procedure without resorting to the informal one.

#### **5.2 Formal Procedure**

The formal procedure to file a complaint is detailed below:

##### **5.2.1 Specifications in the complaint**

It is important that the Aggrieved Person keeps a written record of dates, times, details of the conduct and witnesses, if any.

Each complaint should provide the following specific information:

- Nature and description of sexual harassment
- Date and time of the incidence
- Place where the harassment occurred
- Identity of the person(s) (Respondent) involved
- Details of Witnesses, if any

- Facts, relevant proof, if available (including audio/video clips, text messages, emails etc., or any other circumstantial evidence pointing to the act of sexual harassment)
- Steps taken by the Aggrieved Person so far, if any

### 5.2.2 Filing the complaint

The Aggrieved Person can inform the IC through an internal email id [complaints.poshindia@thp.org](mailto:complaints.poshindia@thp.org) with a written complaint within a period of three months from the date of the last incident(s). The IC may extend the time limit by a maximum of three months. They may do so if they are satisfied that there were genuine circumstances that prevented the Aggrieved person from filing the complaint during the initial three-month period. They must record these reasons in writing.

Further, if any Aggrieved Person is unable to make the complaint on account of their physical incapacity, mental incapacity, death or otherwise, another person such as their relative, friends, co-worker, or heirs may make the complaint in writing to any of the members of the IC, in terms of the Act.

### 5.2.3 Conciliation

- Within 30 working days after the first meeting, the IC can take steps to settle the matter between the parties. It can do so only at the request of the Aggrieved Person, after making sure that no coercion is involved. The conciliation has to be concluded through meetings with each of the parties separately followed by joint meetings. The conciliation process must be concluded within 40 days of its initiation unless both parties are willing to extend the timeline. No monetary settlements shall be made in this process.
- The IC will record the terms of settlement arrived at through the process of conciliation and file a closure report with the Management/HR Department. Any action required to be taken by the Management/HR department will be mentioned in the closure report.
- The Aggrieved Person can withdraw from the conciliation process by stating the reasons for withdrawal to the IC.
- Once the settlement is arrived at, the IC will not make any further inquiry into the complaint. However, reasonable follow up communication shall be maintained with the Aggrieved Person by the Management/HR Department or the IC. If the terms of the settlement are not complied with, the IC shall impose disciplinary action as it deems fit.

### 5.2.4 Formal complaint resolution and inquiry process

Where the attempt at conciliation fails and the complainant chooses to proceed with the enquiry, the IC shall independently draw up a formal charge sheet containing the definite and distinct charges against the Respondent which shall include:

- a. Statement of all relevant facts.
- b. List of documents by which and/or a list of witnesses by whom the article of charge is proposed to be sustained.
- c. Other proof, including audio/video clips, text messages and emails etc.

The IC shall hand over a copy of the charge sheet, along with a copy of complaint to the person charged and give them an opportunity to submit a written explanation, if they so desire, within five days. If the Respondent doesn't submit a written statement within the time specified, the IC may proceed with the inquiry.

#### 5.2.5 Steps to be taken during the inquiry:

- a. Explanation of procedure: The IC will organise a meeting either physically or virtually with the Aggrieved Person to enquire into the matter and intimate the date, time, and place of inquiry to all relevant persons. Subsequently, at the commencement of the inquiry, the IC members shall explain to both the Aggrieved Person and the Respondent the procedure which will be followed in the inquiry.
- b. Aggrieved party's narration: The IC members shall hear the Aggrieved Person and record the complaint. The Aggrieved Person can also submit any corroborative material with documentary proof, oral or written material to substantiate the complaint.
- c. Respondent's narration: Thereafter, the Respondent shall be called for a deposition before the IC, and given an opportunity to provide an explanation about the allegations raised against the Respondent.
- d. Calling and examination of witnesses:  
If either of the parties desires any witness(es) to be called, they shall do so by communicating it in writing to the IC. The IC shall call upon these witnesses after ascertaining their relevance to the case. They are at liberty to examine and cross-examine the witnesses.
- e. Submission of documents:  
If the parties desire to tender any documents or proofs by way of evidence before the IC, they shall supply either original documents or scanned/photocopied versions which they must sign to attest that they are genuine.

- f. Powers of the IC<sup>1</sup>:  
The IC is empowered to obtain and summon from the concerned department(s) of the organisation such information in the form of written communication, witnesses, previous records, and data of the concerned/relevant employees which may be helpful for the investigation. All employees and the organisation are required to cooperate with the IC in this process. The IC will have the right to ask any of the employees, vendors, contractors, agents, suppliers, consultants, retainers, probationers, trainees and even external persons significant to the complaint, to appear before it.
- g. Confidentiality:  
Respect for all persons involved and their confidentiality shall be maintained throughout the investigation process. This includes minutes of the meetings of the IC, its findings, recommendations and decisions. Likewise, the Complainant and the persons facing an inquiry must maintain complete confidentiality regarding the matter.
- h. Venue:  
In all cases, the venue of the inquiry should be decided keeping in mind the safety and convenience of the Aggrieved Party, Respondent and Witnesses. This is particularly important in the case of women Respondents and Witnesses. The final decision related to the choice of venue shall rest with the IC.
- i. Ex-parte decision:  
The IC shall have the right to terminate the inquiry proceedings or to give an ex-parte decision on the complaint, if the Aggrieved Person or Respondent fails, without sufficient cause, to present themselves for three consecutive hearings convened by the IC, 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.
- j. Sharing the findings:  
The IC shall share a copy of the inquiry findings with the Aggrieved Person and the Respondent.

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<sup>1</sup> For the purposes of an inquiry, the IC has the same powers as vested with a Civil Court of India under the Code of Civil Procedure, 1908 in respect to the following:

- Summoning and enforcing the attendance of any person and examining them on oath
- Requiring the discovery and production of documents
- Any other matter which may be prescribed

Accordingly, as specified by the Courts of India, the Presiding Officers and Members of the IC, are also 'Judges' within the meaning of Section 19 of the Indian Penal Code, 1960. It states that — 'The word "Judge" denotes not only every person who is officially designated as a Judge, but also every person who is empowered by law to give, in any legal proceeding, civil or criminal, a definitive judgment, or a judgment which, if not appealed against, would be definitive, or a judgment which, if confirmed by some other authority, would be definitive, or who is one of a body of persons, which body of persons is empowered by law to give such a judgment.'

- k. Language and record in writing:  
The inquiry shall be conducted in the language understood by both the Aggrieved Person and the Respondent, but necessarily recorded in English. All proceedings of the IC will be recorded in writing.
- l. Duration:  
The IC shall complete the inquiry within a reasonable period, which shall not extend beyond three months.

#### 5.2.6 Interim recommendations and requirements to be met during pendency

- a. During the course of the inquiry, the IC on its own and/or at the written request of the Aggrieved Person for the period of the inquiry, may make any of the following recommendations to the Management:
- To transfer either the Aggrieved Person or the Respondent to any other workplace;
  - Grant leave to the Aggrieved Person (this would be in addition to the leave they are already entitled to);
  - Restrain the Respondent from reporting on the Aggrieved Person's work performance or confidential report and assign the same to another staff;
  - Restrain the transfer of the Aggrieved Person to any other place if they do not opt for such a transfer;
  - Issue a restraint order to warn the Respondent that any attempt on their part, or by the person(s) acting on their behalf, to contact, influence, intimidate, or exert pressure on the Complainant or witnesses may prove prejudicial to their case;
  - Transfer the Respondent until such time as the inquiry is completed to preclude the possibility of tampering with documents and/or exerting pressure on the witnesses and the Aggrieved Person.
- b. The IC shall maintain complete and accurate documentation of the complaint, the inquiry process, the findings and the recommendations. The Management shall implement the interim recommendations of the IC and send a report of the implementation to the IC.

#### 5.3 Submission of inquiry report:

An inquiry report stating the findings shall be submitted within 10 days of the end of the inquiry. The report will outline the case, the investigation process, and conclusions based on an examination of the parties, the witnesses and evidence, and a set of recommendations. The IC shall forward the inquiry report to the Management for further action. The report shall also be shared with the Complainant and Respondent.

#### 5.4 Recommendations to the Management

- a. If the complaint has been proved to not amount to sexual harassment:  
Where the IC concludes that the allegation against the Respondent has not been proved, it shall recommend to the employer that no action is required in this matter. Further, the committee should ensure that both parties understand that the case has been thoroughly investigated, that the matter is now concluded, and that neither the Respondent nor Complainant will face any repercussions or be disadvantaged within the organisation.
- b. If the complaint has been proved to have amounted to sexual harassment:  
If the IC concludes that the allegation against the Respondent has been proved, possible disciplinary action as mentioned in clause 5.6 (b) will be taken in direct proportion to the seriousness of the offence. It could range from:
- A letter of warning will be placed in the personal file for an offence that is deemed minor by the IC, such as offensive behaviour that is verbal, graphic or through gesture.
  - Immediate transfer or suspension without pay for a written complaint of harassment or if more than one complaint is lodged against a single person for a minor offence.
  - Dismissal of the Respondent will be invited if the offence is serious enough, such as emotional and physical harassment.
  - When there are complaints punishable under the Indian Penal Code, 1860, which is a criminal offence under Indian laws, the organisation shall aid the Aggrieved Person, if they so desire, to lodge the complaint with the appropriate authority.
  - Deduction from the salary or wages of the Respondent such sum as it may consider appropriate to be paid to the Aggrieved Person or to their legal heirs. In case the organisation is unable to make deductions from the Respondent's salary due to them being absent from duty or cessation of employment, it may direct the Respondent to pay such sum to the Complainant. If the Respondent fails to pay the sum referred above, the IC may forward the order for recovery of the sum as an arrear of land revenue to the concerned District Officer.
  - At no point in time shall the organisation be held liable to make such payment to the Complainant.
- c. If the allegation against the accused has been proved to be malicious or the evidence given is false or misleading:  
The IC shall recommend to the Management to take suitable action(s) against such complainants to prevent recurrence and deter others from raising complaints in bad faith and initiate appropriate disciplinary action

### **5.5 Determination of damages**

A determination regarding the damages to be paid to the Aggrieved Person will be made based on the following:

- Mental trauma, pain, suffering and emotional distress caused to the person.
- Loss of career opportunity due to an incident of sexual harassment.
- Medical expenses incurred by the person for physical and psychiatric treatment.
- Income and financial status of the Respondent; option to pay the damages in lump sum or in installments

### **5.6 Disciplinary action**

- a. If the IC determines that the Respondent is guilty, the behaviour of the Respondent will be strictly monitored by the IC or by the HR Department during the post-inquiry phase.
- b. In cases where the Respondent is found guilty of an act of sexual harassment, the Management shall take any one or more of the disciplinary actions mentioned below:
  - Seek a written apology from the Respondent
  - Direct the Respondent to undergo-a counselling session
  - Instruct the Respondent to carry out community service
  - Change the work assignment of either the Complainant or of the Respondent, or transfer one of them or/and issue a written warning. Any such action that pertains to the complainant has to be subject to her consent. All related proceedings and actions pertaining to the Respondent to be enclosed in the Respondent's permanent file
  - Issue a reprimand or censure
  - Withhold promotions/increments for a specified period
  - Terminate the services of the Respondent. (In such a case the organisation will not be obliged to pay the Respondent any remuneration in lieu of not serving the notice period for termination of the contract)
  - Issue a directive to the Respondent to pay a reasonable amount of compensation to the Aggrieved Person
  - Any other action as the Management may deem fit and proper

### **5.7 Action to be taken by the Management**

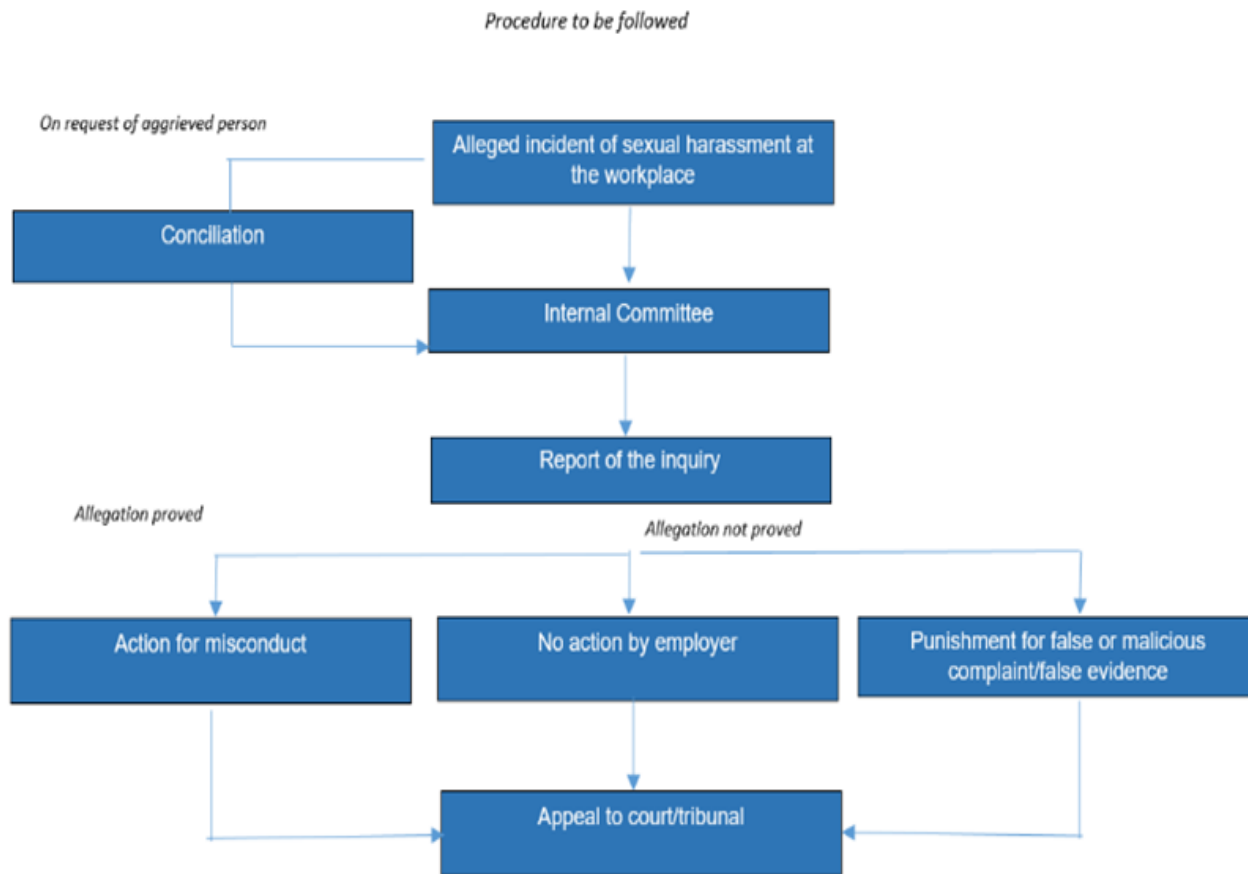
The Management is required to take action based on the above guidelines-within a period of 60 days and report its action to the Complainant, Respondent and the IC within 15 days of such action being taken.



### 5.8 Appeal

Appeals can only be filed against the recommendations or decisions of the IC. However, if the investigation is delayed or Management delays the implementation of the decision, then the concerned person can file a police complaint or file a complaint to the court/tribunal as stipulated in the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013.

### 5.9 Grievance redressal process



### 5.10 Timelines related to the inquiry process

<u>Inquiry Process</u>	<u>Time Period</u>
Submission of the Complaint	Within three months of the last incident of sexual harassment
Notice to the Respondent	Within seven days of receiving a copy of the complaint

Completion of inquiry	Within 90 days of the complaint being raised
Submission of report by the IC to employer	Within ten days of completion of the inquiry
Implementation of Recommendations	Within 60 days of receiving the Inquiry Report
Appeal	Within 90 days of the recommendations to Court/Tribunal

## 6. Protection against retaliation

Regardless of the outcome of the complaint made in good faith, the Complainant and any person providing information or any witness, will be protected from any form of retaliation. Any unwarranted pressures, retaliatory or any other type of unethical behaviour by the Respondent or any other employees against the Aggrieved Person or a witness should be reported to the IC at the earliest. Retaliation against the Aggrieved Person or witness will be treated as an act of misconduct and disciplinary action will be taken by the IC against the offender once the veracity of a complaint of retaliatory behaviour has been ascertained.

## 7. Confidentiality guidelines

a. The contents of the IC report shall be kept confidential by the organisation to the extent possible. If the same is deliberately violated, the organisation may take disciplinary action against the person who revealed such information.

b. Respect for all persons involved and confidentiality shall be maintained throughout the inquiry. Likewise, the Complainant as well as all persons who are part of the investigation shall maintain confidentiality regarding the inquiry.

c. The strictest confidentiality will be observed, restricting all information generated to the smallest possible group. It must be ensured that the process is brief and quick. Any attempt by the members of the IC or the witnesses or any other persons involved in the inquiry to discuss or disclose this information to anyone except those directly involved with the complaint will invite disciplinary action.

d. Any information relating to conciliation and inquiry proceedings, recommendations of the IC and the action taken against the Respondent shall not be published, communicated or made known to the public, press or media in any manner. Failure on the part of employees to exercise

restraint will result in the organisation levying a penalty of Rupees Five Thousand or invite action against them.

e. However, the Management/IC may disclose information regarding the justice secured by the survivor(s) if required for any mandatory organisational compliance. At all times the name, address, identity or any other particulars that may lead to the identification of the Complainant, Respondent and witnesses, shall not be disclosed

## **8. Complaints made with malicious intent**

The Policy has been designed as a tool to ensure that in the interest of justice, employees have a forum to approach in instances of sexual harassment. However, if an inquiry reveals that:

- a complaint was made with malicious intent, or
- forged or misleading documents had been produced, or
- a witness had given false evidence with the motive of maligning the, Respondent, tarnishing their image in the organisation and settling personal or professional scores, such acts will be treated as acts of misconduct and strict disciplinary action will be taken against the Complainant.

## **9. Third-party harassment**

As per the Policy, if Third Party Harassment occurs as a result of an act or omission by any third party or outsider, the organisation and Management will take necessary and reasonable steps, as per law, to assist the affected person(s) by way of support and preventive action, including helping an employee/guest who wishes to file a complaint with the local police.

This provision is particularly relevant in THP, where employees are in constant touch with third parties. The organisation will take all measures not only to prevent such misconduct, but to support its employees should such misconduct occur.

In case of a complaint by a THP India staff member against a staff member of an organisation that has its own Policy for Prevention of Sexual Harassment, a joint IC of both the organisations shall be formed to conduct an inquiry.

## **10. Miscellaneous**

### **a. Fairness to all concerned**

Investigation or inquiry into complaints of sexual harassment shall be conducted with due respect to the rights of both the Aggrieved Person and Respondent. The entire process shall be impartial and free of bias towards any party. The Respondent shall be entitled to a reasonable opportunity of being heard. The entire process shall conform to the requirements of natural justice. The Management stands committed to maintaining confidentiality to the fullest extent possible.

## **b. Criminal proceedings**

The Management shall provide assistance to Aggrieved Persons should they choose to file a complaint in relation to an offence under the Indian Penal Code or any other law in force at the time.

## **11. Duties of the Internal Committee**

The IC of the organisation shall have the following duties:

- Undertake a thorough study of the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 and the POSH Policy,
- Follow the principles of natural justice and treat the Complainant, Respondent, Witnesses and persons related to the inquiry with dignity and respect and give both the Complainant and the Respondent a fair opportunity to make their submissions.
- Investigate complaints of sexual harassment with due respect to the rights of both the Aggrieved Person and Respondent.
- Submit to the organisation an annual report comprising details of all cases and actions taken, including:
  - Number of complaints of sexual harassment received in the year;
  - The number of complaints disposed of during the year;
  - The number of cases pending for more than 90 days;
  - The number of workshops or awareness programmes conducted
  - Nature of action taken by the organisation.
- Make efforts to ensure that the Complainant and the witnesses are not further victimised or discriminated against while the complaint is pending.
- Keep the matter confidential and assist the Aggrieved Person in filing the complaint if the person is unable to do so.
- Ensure the safety of the Complainant and Witnesses during the pendency of the enquiry and till the final disposal of the complaint. If the Respondent intimidates the Complainant or Witnesses, initiate action against anyone who threatens or intimidates the Complainant, Witnesses or members of the IC.
- Assist employees who may have faced sexual harassment outside of the organisation work and work premises, in filing a complaint in the police station-
- Maintain complete and accurate documentation of the complaint, its investigation and the resolution thereof.
- Set an example of proper and appropriate workplace behaviour and ethical standards in line with the Code of Conduct.
- Assist the organisation in planning and carrying out programmes related to gender sensitisation.

## 12. Role of the Management

The underlying approach of the POSH Policy is preventive rather than prescriptive. Towards that end, the Management/HR Department of the organisation will:

- a. ensure that all its employees are made aware of, and fully understand, all the provisions of the Policy.
- b. ensure that mandatory training and awareness is imparted to all the employees of the organisation concerning the prevention of sexual harassment.
- c. ensure that the issue of sexual harassment is raised and discussed at the organisation's meetings from time to time.
- d. widely publicise that sexual harassment is a crime and will not be tolerated.
- e. ensure that an act of sexual harassment is notified as an act of Misconduct in the HR Policy and the Code of Conduct of the organisation.
- f. provide clarifications and explanations in case of any query by any Employee regarding the Policy or its provisions.
- g. inform the Head of Human Resources in the Global Office confidentially of every investigation, so that the Global Office can inform partner countries about the complaint. However, the identity of those involved in the case shall remain confidential at all times.
- h. intimate the Head of Human Resources in the Global Office at the end of each calendar year about the number of complaints received and investigations undertaken in that particular year.

12.1. The Management of the organisation recognises the importance of training/awareness programmes/workshops for its employees, managers and IC members.

- a. The objective of such training/awareness programmes/workshops is to make the employees and managers more aware of, and sensitive to the problem of sexual harassment.
- b. For the IC members, the objective of such trainings/awareness programmes/workshops would be to equip them to deal with cases or complaints of sexual harassment effectively, to enable them to take an objective and sensitive approach towards such complaints, to impress on them the need to maintain confidentiality, and to train them about the procedures to be followed on receiving such complaints.
- c. The training/awareness programmes/workshops shall also be conducted by the Management for employees, managers and the IC via online means such as through webinars, presentations and e-modules.

12.2. A copy of the Policy shall be circulated amongst all the employees. They shall sign a statement acknowledging that they have read and understood it, and will abide by the Policy (Refer to Annexure II). The Policy shall also be circulated and acknowledgment thereof shall be obtained from each employee. The policy will also be uploaded on THP India website.

- 12.3. The Management of the organisation may review or amend the Policy from time to time, so as to comply with any changes in laws.

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**Annexure - I**

**Details of the Internal Committee Members**

<b>Particulars</b>	<b>Name</b>	<b>Designation</b>
Presiding Officer	Surbhi Mahajan	Sr. Programme Officer
Member	Bharani Sundararajan	National Grants Coordinator
Member	Sukanta Mohapatra	State Lead
Member	Padmini Ananath	Sr. Programme Associate
External Member	Sanjana Gaind	Director - Advocacy and Strategic Partnerships. Women's Fund Asia

**Please note that any complaint of sexual harassment as per this policy is required to be sent to [complaints.poshindia@thp.org](mailto:complaints.poshindia@thp.org)**

## **Annexure – II**

### **Undertaking Regarding THP India’s Policy for Prevention of Sexual Harrasement at Workplace**

This is to acknowledge that I have received a copy of THP India’s Policy for Prevention of Sexual Harassment at Workplace. I hereby undertake to read, and familiarise myself with the policy and to adhere to its provisions. I further understand that any breach of its clauses on my part will be addressed as per the procedures set out in the Policy.

I accept that, THP India 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. I also understand that THP India will notify me of any changes as and when they occur.

**Name:**

**Mobile Number:**

**Email id:**

**Date:**

**Signed:**