

HOLÉMATTHI NATURE FOUNDATION

POLICY FOR PROTECTION AGAINST SEXUAL HARASSMENT AT THE

WORKPLACE



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Nature
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POLICY FOR PROTECTION AGAINST SEXUAL HARASSMENT AT THE WORKPLACE

The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 (**‘the POSH Act’**) was enacted to provide protection against sexual harassment of women at workplace and for the prevention and redressal of complaints of sexual harassment.

The POSH Act recognises that sexual harassment results in violation of the fundamental rights to equality under Articles 14 and 15 of the Constitution of India and the right to life and to live with dignity under Article 21 of the Constitution. The right to practice any profession or to carry on any occupation, trade or business is a fundamental right, which also includes a right to a safe environment free from sexual harassment.

The Holématti Nature Foundation (**‘HNF’**) supports every individual’s right to work in a professional environment that promotes equal opportunities to all and prohibits discriminatory practices and all forms of harassment, whether verbal, non-verbal or physical. HNF has a ‘zero tolerance’ policy towards harassment. HNF is implementing this policy (**‘Policy’**) to give effect to sexual harassment laws in India, including the POSH Act, for the protection of all its employees.

1. Definitions

Unless the context otherwise requires, the following terms shall have these assigned meanings:

- (a) **Aggrieved Person:** Any Employee of any age, irrespective of gender, who alleges to have been subjected to any act of Sexual Harassment by the Respondent;

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- (b) **Employee:** Any person working at any of the office/s, field station/s of HNF and includes any trustees, associates and staff, whether employed, working or consulting on a regular, temporary, ad-hoc or daily wage basis, either directly or through an agent, including a contractor, with or without the knowledge of the trustees of HNF, whether for remuneration or not, or working on a voluntary basis or otherwise, whether the terms of employment are express or implied, and includes a consultant, co-worker, probationer, trainee, apprentice, intern, volunteer, or any person by any name called;
- (c) **Internal Complaints Committee / ICC:** The Internal Complaints Committee of HNF constituted under the provisions of the POSH Act;
- (d) **Respondent:** A person, being an Employee, against whom the Aggrieved Person has made a complaint;
- (e) **Sexual Harassment:** Sexual Harassment includes any one or more of the following unwelcome acts or behaviour (whether directly or by implication) namely:
 - a. physical contact and advances;
 - b. a demand or request for sexual favours;
 - c. making sexually coloured remarks;
 - d. showing pornography; or
 - e. any other unwelcome physical, verbal or non-verbal conduct of sexual nature;

Further, the following circumstances, among other circumstances, if they occur or are present in relation to or connected with any act or behavior of Sexual Harassment may amount to Sexual Harassment:

- a. implied or explicit promise of preferential treatment in her or his employment;
- b. implied or explicit threat of detrimental treatment in her or his employment;
- c. implied or explicit threat about her or his present or future employment status;

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- d. interference with her or his work or creating an intimidating or offensive or hostile work environment for her or him; or
- e. humiliating treatment likely to affect her or his health or safety.

Some illustrations:

- a. Physical abuse including but not limited to pushing, hitting, punching, kicking, slapping, beating, etc., irrespective of whether the act leads to an injury or not;
- b. Mental abuse including but not limited to constant yelling, passing demeaning comments, calling out derogatory names, threatening to fire, etc.
- c. Sexual abuse including but not limited to groping, touching inappropriately, hugging, ask for sexual favours, forcing relationship, constantly brushing, staring / ogling, sexting, asking for late night meetings, inappropriate gestures, etc.;

(f) **Workplace:** Workplace includes

- a. the office of HNF located at 135, 14th Main, 30th Cross, Banashankari 2nd Stage, Bengaluru- 560070;
- b. any other office set up by HNF;
- c. any place visited by the Employee arising out of or during the course of employment including (a) transportation provided by HNF for undertaking such journey; (b) place of accommodation provided by HNF to the Employee, if any, to facilitate the Employee's undertaking of activities related to his / her employment during such visit; and (c) meetings or discussions conducted in person, over call or virtually when working from home.

2. Prevention of Sexual Harassment

No Employee shall be subjected to Sexual Harassment at any Workplace.

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3. Constitution of the Internal Complaints Committee

- (a) HNF shall constitute the Internal Complaints Committee, a body functioning absolutely independently from any influence of the trustees of HNF. The Internal Complaints Committee shall implement the provisions of the POSH Act as well as this Policy in HNF.
- (b) The Internal Complaints Committee shall consist of the Presiding Officer and members nominated by HNF from time to time, in accordance with the requirements prescribed under the POSH Act.
- (c) The Presiding Officer shall be a woman employed at a senior level at the Workplace from amongst the Employees at HNF.
- (d) The Internal Complaints Committee shall initially comprise the following members:

INTERNAL COMPLAINTS COMMITTEE

1.		Presiding Officer
2.		Independent External Member
3.		Member
4.		Member
5.		Member

- (e) At least one-half of the Members of the Internal Complaints Committee shall, at all points in time, be women.
- (f) The Presiding Officer and the Members of the Internal Complaints Committee shall hold office for a maximum period of three years.

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- (g) The external member(s) appointed on the Internal Complaints Committee may be paid fees or allowances for attending any meetings of the Internal Complaints Committee.
- (h) In case of any instances of the Presiding Officer or any Member of the Internal Complaints Committee contravening the provisions of the POSH Act, or being convicted of any offence, or acting against public interest, such Presiding Officer or member shall be removed from the Internal Complaints Committee and the vacancy so created or any casual vacancy shall be filled by a fresh nomination by the trustees of HNF.

4. Complaint

- (a) Any Aggrieved Person may make a complaint of Sexual Harassment at the Workplace to the Internal Complaints Committee within a period of three months from the date of incident, and in case of a series of incidents, within a period of three months from the date of the last incident.
- (b) Such Complaint must be made in writing. Where a complaint cannot be made in writing, the Presiding Officer or a Member of the Internal Complaints Committee shall render all reasonable assistance to the Aggrieved Person for making the complaint in writing.
- (c) Where the Aggrieved Person is unable to make a complaint on account of their physical incapacity, death, or for any other reason, the complaint may be filed by:
 - a. Their relative or friend;
 - b. Their co-worker;
 - c. Their legal heir;
 - d. Any person having knowledge of the incident, with the written consent of the Aggrieved Person; or
 - e. Any person prescribed by the Internal Complaints Committee to do so.

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- (d) The Internal Complaints Committee may, for reasons to be recorded in writing, extend the time limit for making Complaints if it is satisfied that the circumstances were such which prevented the Aggrieved Person from filing a complaint within the prescribed period.
- (e) The Internal Complaints Committee, may, before initiating an inquiry under this Policy and at the request of the Aggrieved Person, take steps to settle the matter between the Aggrieved Person and the Respondent through conciliation. However, no monetary settlement shall be made as a basis of conciliation.
- (f) Where such a settlement has been arrived at, the Internal Complaints Committee shall record the settlement so arrived and forward the same to the trustees of the Foundation to take action as specified in the recommendation.
- (g) The Internal Complaints Committee shall provide the copies of the settlement to the Aggrieved Person and the Respondent.
- (h) Where such a settlement is arrived at, no further inquiry shall be conducted by the Internal Complaints Committee.

5. Inquiry

- (a) For the purpose of making an inquiry under the POSH Act, the Internal Complaints Committee shall have the same powers as are vested in a civil court under the Code of Civil Procedure, 1908, including summoning witnesses and examining them on oath, production of documents, etc.
- (b) In the absence of any settlement reached between the parties, the Internal Complaints Committee shall make an inquiry into the complaint in accordance with the provisions of the POSH Act.

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- (c) In the event that the Aggrieved Person informs the Internal Complaints Committee that any term of settlement has not been complied with by the Respondent, the Internal Complaints Committee shall proceed to make an inquiry.
- (d) The Aggrieved Person shall submit to the Internal Complaints Committee, six copies of the complaint, along with supporting documents and the names and addresses of witnesses.
- (e) On receipt of the complaint, the Internal Complaints Committee shall send one of the copies received from the Aggrieved Person to the Respondent within a period of seven working days.
- (f) The Respondent shall file their reply to the complaint along with a list of documents, and names and addresses of witnesses, within a period not exceeding ten working days from the date of receipt of the documents.
- (g) The Internal Complaints Committee shall conduct the inquiry in accordance with the principles of natural justice.
- (h) The Internal Complaints Committee shall have the right to terminate the inquiry proceedings or to give an ex-parte decision on the complaint (after giving fifteen days' notice), if the complainant or the Respondent fails, without sufficient cause, to present themselves for three consecutive hearings
- (i) The parties shall not be allowed to bring in any legal practitioner to represent them in their case at any stage of the proceedings before the Internal Complaints Committee.
- (j) A minimum of three members of the Internal Complaints Committee including the Presiding Officer shall be present during any inquiry.

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- (k) During the pendency of an inquiry, on a written request made by the Aggrieved Person, the Internal Complaints Committee may recommend to the trustees of the Foundation to:
 - a. transfer the Aggrieved Person or the Respondent to another office;
 - b. grant leave to the Aggrieved Person up to a period of three months (in addition to the leave to which they would be otherwise entitled); or
 - c. grant such other relief to the Aggrieved Person as may be deemed fit.

- (l) On the recommendation of the Internal Complaints Committee, the trustees of the Foundation shall promptly implement it and report such status to the Internal Complaints Committee.

- (m) On the completion of the inquiry, the Internal Complaints Committee shall provide a written report of its findings to the trustees of the Foundation, within a period of ten days from the date of completion of the inquiry.

- (n) The inquiry report shall also be made available to the Aggrieved Person and the Respondent.

- (o) Where the Internal Complaints Committee decides that the allegation against the Respondent has not been proved, it shall recommend no action to be taken in the matter. Where the Internal Complaints Committee decides that the allegation against the Respondent has been proved, it shall recommend:
 - a. taking action against the Respondent for Sexual Harassment as a misconduct in such manner as may be Prescribed;
 - b. deducting from the compensation, salary, or wages of the Respondent such sum as it may consider appropriate to be paid to the Aggrieved Person in accordance with the provisions of the POSH Act;
 - c. demanding a written apology;
 - d. giving warnings, reprimand or censure to the Respondent;

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- e. withholding promotion, pay rise or increments;
 - f. terminating the Respondent from service;
 - g. directing the Respondent to undergo counselling; etc.
- (p) The trustees of HNF shall consider the recommendations of the Internal Complaints Committee within sixty days of its receipt and take such action as they may deem necessary. It shall send a written report to the Internal Complaints Committee of the actions taken as regards the complaint.

6. Punishment for False / Malicious Complaints

Where the Internal Complaints Committee decides that the complaint against the Respondent is false or malicious, it may recommend to the trustees of HNF to take such action as it may deem fit, as per the provisions of the POSH Act. However, a mere inability to substantiate a complaint or provide adequate proof need not be treated as a false complaint.

7. Determination of Compensation

For the purpose of determining the sums to be paid to the Aggrieved Person, the Internal Complaints Committee shall have regard to:

- (a) the mental trauma, pain, suffering and emotional distress caused to the Aggrieved Person;
- (b) the loss in the career opportunity due to the incident of Sexual Harassment;
- (c) medical expenses incurred by the Aggrieved Person for physical or psychiatric treatment;
- (d) the income and financial status of the Respondent; and
- (e) feasibility of such payment in lump sum or in instalments.

8. Prohibition of Publication of Complaint and Inquiry Proceedings

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- (a) The identity of the Aggrieved Person, the Respondent and witnesses, any information relating to conciliation or inquiry proceedings, recommendations of the Internal Complaints Committee, and the action taken by the trustees of HNF, shall under no circumstances, be published, communicated or made known to the public or the press in any manner.
- (b) However, information may be disseminated regarding the justice secured to any Aggrieved Person, without disclosing the name, identity or any other particulars that can lead to the identification of the Aggrieved Person / witnesses.
- (c) Where any person entrusted with the duty to handle or deal with the complaint, inquiry or any recommendations or action to be taken contravenes this confidentiality provision, they shall be liable for penalty to be imposed as per the provisions of the POSH Act.

9. Appeal

Any person aggrieved by the decisions of the Internal Complaints Committee or the non-implementation of such decisions may prefer an appeal to a court or tribunal in accordance with the provisions of the POSH Act, within a period of ninety days of the decision.

10. Duties of the Trustees

The trustees of HNF shall:

- (a) provide a safe working environment at the Workplace which shall include safety (including safety from the persons coming into contact at the Workplace);
- (b) notify this Policy at the Workplace and declare the names and contact details of all the members of the Internal Complaints Committee;

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- (c) organize awareness programmes at regular intervals for sensitising Employees and the Members of the Internal Complaints Committee with the provisions of the POSH Act;
- (d) conduct capacity-building and skill-building programmes for Members of the Internal Complaints Committee;
- (e) provide necessary facilities to the Internal Complaints Committee, for dealing with the complaint and conducting an inquiry;
- (f) assist in securing the attendance of the Respondent and witnesses before the Internal Complaints Committee;
- (g) make available such information to the Internal Complaints Committee as it may require;
- (h) provide assistance to the Aggrieved Person if they so choose to file a criminal case under the Indian Penal Code or any other law for the time being in force;
- (i) cause to initiate action under the Indian Penal Code or any other law for the time being in force, against the Respondent, and/or if the Aggrieved Person so desires, where the perpetrator is not an Employee, the organization at which the incident of Sexual Harassment took place or where the perpetrator is employed;
- (j) monitor the timely submission of reports by the Internal Complaints Committee.

11. Annual Reports

- (a) The Internal Complaints Committee shall, in each calendar year, prepare in accordance with the POSH Act and Rules thereto, an annual report and submit the same to the trustees of the Foundation.
- (b) The annual report which the Internal Complaints Committee shall prepare shall have the following details:
 - a. Number of complaints of Sexual Harassment received in the year;
 - b. Number of complaints disposed off during the year;

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- c. Number of cases pending for more than ninety days;
 - d. Number of workshops or awareness programs against Sexual Harassment carried out; and
 - e. Nature of action taken by the trustees of the Foundation.
- (c) The trustees of the Foundation shall include the number of cases filed, if any, and their disposal under the POSH Act in the annual report of the Foundation, or where no such report is required to be prepared, inform such number of cases, if any, to the district officer notified under the POSH Act.
