

# **SOCIETY FOR ENVIRONMENT & DEVELOPMENT**

## **ANTI-HARASSMENT POLICY**

### **I. Introduction**

It is important to ensure an organisational climate free from discrimination and harassment with a particular focus on sexual harassment. Sexual harassment of employees occurring in the workplace or in other settings in which employees may find themselves in connection with their employment is unlawful and will not be tolerated by the SED. 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 that is described as “Sexual Harassment” in this policy will not be tolerated and we have provided a procedure by which inappropriate conduct will be dealt with, if encountered among employees.

SED takes allegations of sexual harassment 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 as is necessary, including disciplinary action, will be taken.

While this policy sets forth our goals of promoting a workplace that is free of sexual harassment, the policy is not designed or intended to limit the authority of SED to discipline or take remedial action for workplace conduct which we deem unacceptable, regardless of whether that conduct satisfies the definition of sexual harassment.

### **II. Scope of the Policy**

This policy shall extend to all Staff of SRD and project partners and includes external incidents involving such staff.

### **III. Definitions**

For the purposes of this Policy

1. “Staff” shall mean any person employed by SED, whether full-time, part-time, temporary, voluntary, seconded, contracted or casual and also researchers, trainees, consultants and employees of project partners.

2. "NGOs" for the purposes of this policy means any non-governmental organisation operating on a non-profit basis and involved in work concerning gender justice.
3. "Sexual harassment" includes any unwelcome sexually determined behaviour (whether direct or by implication) such as
  - (i) physical contact and advances either physical and non -physical
  - (ii) a demand or request for sexual favours;
  - (iii) sexually coloured remarks
  - (iv) showing pornography
  - (v) creating a hostile work environment
  - (vi) any other unwelcome "sexually determined behaviour" be it physical, verbal or non-verbal conduct of a sexual nature
  - (vii) creating a "hostile work environment"

***Explanation 1:*** Unwelcome "sexually determined behaviour" shall include but not be limited to the following instances:

- (a) where submission to or rejection of sexual advances, requests or conduct is made either explicitly or implicitly a term or condition of employment or as a basis for employment decisions; or,
- (b) such advances, requests or conduct (whether direct or implied) have the purpose or effect of interfering with an individual's work performance by creating an intimidating, hostile, humiliating or sexually offensive work environment.

***Explanation 2:*** Creating a "hostile work environment" means

- (a) Creating a workplace where Sexual Harassment may go unheeded, where despite complaints no action is taken, where there is nexus between accused/aggressor & higher management, and where complainant is placed under fear, disadvantage or threat of victimization.

(b) It will also mean Retaliation which includes:

- marginalizing someone in the workplace with regard to his / her roles and responsibilities
- socially ostracizing
- intimidating someone physically, psychologically, emotionally or someone close to or related to the victim
- spreading canard

(c) And any other behavior that may commonly be construed as retaliatory

**Explanation 3:** “Sexual Harassment” in SED shall also mean :-

- (a) Direct or implied requests by any staff for sexual favours in exchange for actual or promised job benefits such as favorable reviews, salary increases, promotions, increased benefits, or continued employment constitutes sexual harassment.
- (b) Other sexually oriented conduct, whether it is intended or not, that is unwelcome and has the effect of creating a work place environment that is hostile, offensive, intimidating, or humiliating to staff may also constitute sexual harassment.

**Explanation 4:** In addition the following are some examples of conduct which if unwelcome, may constitute sexual harassment depending upon the totality of the circumstances including the severity of the conduct and its pervasiveness:

- Unwelcome sexual advances -- whether they involve physical touching or not;
- Sexual epithets, jokes, written or oral references to sexual conduct, gossip regarding one's sex life; comment on an individual's body, comment about an individual's sexual activity, deficiencies, or prowess;
- Displaying sexually suggestive objects, pictures, cartoons, displaying body parts;
- Unwelcome leering, whistling, brushing against the body, sexual gestures, suggestive or insulting comments;
- Inquiries into one's sexual experiences; and,
- Discussion of one's sexual activities.

- Abuse of authority (Quid Pro Quo) - demand by a person in authority, for sexual favours in exchange for work related benefits (e.g. a wage increase, a promotion, training opportunity, a transfer or the job itself).
- The behavior that creates an environment that is intimidating, hostile, or offensive for members of one sex, and thus interferes with a person's ability to work.

#### **IV. Preventive Action**

Consistent with the existing law under *Vishaka*, SED shall take all reasonable steps to ensure prevention of sexual harassment at work. Such steps shall include:

1. Circulation of SED's policy on sexual harassment to all persons employed by or in any way acting in connection with the work and/or functioning of SED;
2. Ensuring that sexual harassment as an issue is raised and discussed at SED's meetings from time to time.
3. Conduct or cause to carry out in-house gender training on sexual harassment and addressing complaints to *staff* FIPS as well as members of the ASH Cell.
4. Widely publicize that the SH is a crime & will not be tolerated.

#### **V. The Anti Sexual Harassment Cell (ASHC)**

1. ASHC will be constituted by the Executive Board, after an appropriate process of consultation within the Board Members.
2. ASHC needs to have a strong commitment to women's rights and gender equality. They should also understand that complaints of SH are of a sensitive nature and confidentiality of all parties concerned, especially the complainant and accused has to be respected.
3. ASHC will be responsible for taking steps to ensure that cases of Sexual Harassment in SED are brought to the notice of higher authorities.
4. ASHC is empowered to deal with informal complaints of Sexual Harassment.
5. ASHC has to inform all new staff of SH Policy.

## **VI. Procedure of Dealing with Complaints of Sexual Harassment**

1. If any staff at SED believes that he or she has been subjected to sexual harassment, such person shall have the option to file a complaint with ASHC. This may be done in writing or orally. Even if it is done verbally initially, it is always preferable to have the complaint in writing.
2. A complaint may be filed by contacting the ASHC. The ASHC will also be available to discuss any concerns staff may have and to provide information about SED's policy on sexual harassment and the complaint process.
3. Informal complaints of SH maybe made to the ASHC within the Unit or directly to the President.
4. Informal way of dealing with complaints of Sexual Harassment:
  - (i) An informal approach to resolve a complaint of sexual harassment can be through mediation between the parties involved and by providing advice and counselling on a strictly confidential basis. The procedures though less stringent than formal procedures will be conducted in the full spirit of this policy document.
  - (ii) The case will be taken up for investigation at an informal level by the ASHC in a confidential manner. The matter will be reviewed and the alleged offender will be approached with the intention of resolving the matter in a confidential manner.
  - (iii) If the incident or the case reported does constitute sexual harassment of a higher degree the member will suggest taking it up for disciplinary action or with the agreement of the complainant, the case can be taken as a formal complaint.
  - (iv) Once such complaints are dealt with, the ASHC must inform the President/Executive Director.
  - (v) The choice whether to deal with the complaint in the informal way or through the formal mechanism (whether the case constitutes sexual harassment of a higher or lower degree) should depend entirely on the complainant.

5. All formal complaints of SH have to be referred to the President/Executive Director by the ASHC.
6. The investigation into a complaint will be conducted in such a way as to maintain confidentiality to the extent practicable under the circumstances. The Enquiry Committee has to be set up within a week of receiving the complaint. The Executive Director is responsible for setting up the Committee with support from the SED Management.
7. The Committee has to investigate and submit report to ASHC within 2 weeks. The Executive Director will have to decide on recommendations within a week of receiving report from the Enquiry Committee.

#### **VII. Process of Inquiry:**

1. Upon receiving a formal complaint, the Committee shall ask the complainant to prepare a detailed statement of incidents if written complaint is sketchy. A statement of allegations will be drawn up by the Committee and sent to the accused.
2. The accused will be asked to prepare a response to the statement of allegations and submit to the Committee within the given time.
3. The statements and other evidence obtained in the inquiry process will be considered confidential materials.
4. An officer in the organization could be designated to provide advice and assistance to each party if requested by either of them. Similarly, the complainant and the accused, will have the right to be represented or accompanied by a member of staff of SED, a friend or a colleague.
5. The Committee will organize verbal hearings with the complainant and the accused.
6. Statement of Complainant will be recorded first in the presence of the accused. The accused may cross question the complaint if there is a need to do so in the presence of the Enquiry Committee.

7. The Committee will take testimonies of other relevant persons and review the evidence whenever necessary. Care should be taken to avoid any retaliation against the witnesses by giving necessary protection.
8. The Committee will take its decision after carefully reviewing the circumstances, evidence and relevant statements in all fairness.
9. If the accused, being provided fair opportunity to participate in the inquiry and defend him/herself fails to participate in the inquiry, the Committee may conduct the inquiry ex parte.
10. The Committee will ensure confidentiality during the inquiry process.
11. In the course of investigating any complaint of sexual harassment the principles of natural justice are adhered to namely:
  - (i) Both parties shall be given reasonable opportunity to be heard along with witnesses and to produce any other relevant documents;
  - (ii) Upon completion of the investigation, both parties, will be informed of the results of that investigation.
  - (iii) Documents which form part of the official record shall also be given to the complainant if need be.
12. The Executive Director shall be empowered to do all things necessary to ensure a fair hearing of the complaint including all things necessary to ensure that victims or witnesses are neither victimised nor discriminated against while dealing with a complaint of sexual harassment. In this regard the Executive Director shall also have discretion to make appropriate interim recommendations vis-à-vis an accused person pending the outcome of a complaint including suspension, transfer, leave, change of office etc. The complainants should have the option to seek transfer of the perpetrator or seek his/her own transfer.
13. In the event, the Executive Director/ President determines that sexual harassment has occurred, it will make appropriate recommendations as to necessary action to be instituted

to remove the offensive conduct and, where appropriate, to institute disciplinary action. The complainant's views may be taken into consideration for this purpose.

14. Given that SED views any finding of sexual harassment a serious violation of human rights, if it is determined that inappropriate conduct has been committed by a staff, appropriate action will follow under the circumstances. Such action may range from counseling to termination from employment, and may include such other forms of disciplinary action the Executive Director deems appropriate under the circumstances. If the aggressor is guilty of serious sexual harassment or has repeatedly (second time) committed acts of SH then he /she must be dismissed. In appropriate cases he/she may also be required to pay monetary compensation.
15. Sexual harassment by line managers or by colleague senior to the victim, then such acts will be considered to be very serious and will attract higher penalties.

### **VIII. Third Party Harassment**

Where SH occurs as a result of an act or omission by any third party or outsider, SED will take all steps necessary and reasonable to assist the affected person in terms of support and preventive action.

### **IX. Management Obligations**

1. Management of SED shall provide all necessary assistance for the purpose of ensuring full, effective and prompt implementation of this policy. It shall further be bound by the decisions of the ASH Policy and shall implement the same expeditiously.
2. The support to be provided to ASH Policy includes:
  - (i) Secretarial and administrative support for training and other preventive actions.
  - (ii) Helping to set up Enquiry Committee
  - (iii) Secretarial support during SH enquiries
  - (iv) Adequate financial resources for all activities



3. The responsibility for preventive activities (regarding SH) rests with the Management of SED.
4. The responsibility of taking prompt action on ASHC recommendations lies with the Executive Director of SED. However, if the Executive Director has a difference of opinion he/she may ask the Enquiry Committee to review its decision. Action on Enquiry Committee recommendations should be taken within a week of the recommendation being made.
5. SED is expected to provide adequate protection to Enquiry Committee members in case of threats and any retaliation. Support and protection must also be provided (by Management) if matters go to Court. Management should in all cases defend the Enquiry Committee & the complainant.
6. In the event the conduct complained of amounts to a specific offence under the Indian Penal Code or under any other law in existence, the Enquiry Committee, subject to the wishes of the complainant, shall take appropriate action in making a complaint with the appropriate authority. The SED management will have to provide all manner of support required in such instances.
7. The SED Management will actively assist and do all that is necessary to ensure the safety of a complainant in the office premises or otherwise in respect to any duties/activities performed in connection with her work, which take place outside office premises.
8. The SED Management has to ensure that the Enquiry Committee retain their autonomy and may work unhindered.
9. The proceedings under this policy shall not be stalled or postponed merely because the complainant is proceeding against the accused under any other provision of law.
10. The provisions of this policy shall not restrict the powers of the Management or the complainant to proceed against the alleged offender for any other misconduct or other legal remedies.