

KELPHR'S POLICY ON PREVENTION OF SEXUAL HARASSMENT AT WORKPLACE

1. INTRODUCTION

This is the policy of KelpHR for prevention of sexual harassment at the workplace.

All employees are expected to uphold the highest standards of ethical conduct at the workplace and in all their interactions with business stakeholders. This means that employees have a responsibility to:

- Treat each other with dignity and respect;
- Follow the letter and spirit of law;
- Refrain from any unwelcome behaviour that has sexual connotation (of sexual nature);
- Refrain from creating hostile atmosphere at workplace via sexual harassment; and
- Report sexual harassment experienced and/or witnessed to appropriate authorities and abide by the complaint handling procedure of the Organisation.

This policy has been framed in accordance with the provisions of “The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013” and rules framed thereunder (hereinafter “**the Act**”). Accordingly, while the policy covers all the key aspects of the Act, for any further clarification reference shall always be made to the Act and the provisions of the Act shall apply.

If any aspect relating to sexual harassment not explicitly covered in this policy is provided for by the law, then the law will be applicable. In case of any conflict between the policy and the law, the law will prevail.

This policy provides protection against sexual harassment of women at workplace and the prevention and redressal of complaints of sexual harassment and matters related to it.

2. SCOPE & RESPONSIBILITY

This Policy extends to all employees of the Organisation and is deemed to be incorporated in the service conditions of all employees of the Organisation in India.

Though under the Act, the protection has been provided only to women, the Organisation's policy extends the protection against sexual harassment to all genders. The process of inquiry remains the same.

It is to be noted that since protection under law is for women (including transwomen), the execution of order/ action/recommendation in complaints from women, will be done under The Sexual Harassment at Workplace (Prevention, Prohibition and Redressal) Act. Meanwhile the execution of order/ action/ recommendation in complaints from any other gender will be done as under misconduct policy.

This Policy comes into effect immediately. Individual managers are responsible for ensuring that this policy is applied within their own area.

The issuer of this policy is HR Department. HR Department has the responsibility for ensuring the maintenance, regular review and update of the policy. Any queries on the application or interpretation of this policy must be discussed with HR Department.

Further, any complaints received under this policy will be handled by the Internal Committee of the respective location, as per the guidelines provided.

3. DEFINITIONS

Sexual harassment: May occur not only where a person uses sexual behaviour to control, influence or affect the career, salary or job of another person, but also between co-workers. It may also occur between an employee and someone that employee deals within the course of his/her work who is not employed by the Organisation.

“Sexual Harassment” includes any one or more of the following unwelcome acts or behaviour (whether directly or by implication), but not limited to:

1. Any unwelcome sexually determined behaviour, or pattern of conduct, that would cause discomfort and/or humiliate a person at whom the behaviour or conduct was directed namely:
 1. Unwelcome sexual advances involving verbal, non-verbal, or physical conduct, whether implicit or explicit;
 2. Physical contact and advances including (but not limited to) touching, stalking, sounds which have explicit and /or implicit sexual connotation/overtones, molestation;
 3. Teasing, Voyeurism, innuendos and taunts with implicit sexual connotation, physical confinement and /or touching against one’s will;
 4. Demand or request for sexual favours;
 5. Sexually coloured remarks or remarks of a sexual nature about a person's clothing or body;
 6. Display of pictures, signs etc. with sexual nature/ connotation/ overtones in the work area and work-related areas;
 7. Showing pornography, gestures, making or posting vulgar / indecent / sexual pranks, teasing, jokes, demeaning or offensive pictures, cartoons or other materials through email, SMS, MMS, instant messaging, social media, etc;
 8. Repeatedly asking to socialize during off-duty hours or continued expressions of sexual interest against a person’s wishes;
 9. Giving gifts or leaving objects that are sexually suggestive;
 10. Eve teasing, innuendos and taunts, physical confinement against one’s will or any such act likely to intrude upon one’s privacy;
 11. Persistent watching, following, contacting of a person; and
 12. Any other unwelcome physical, verbal or non-verbal conduct of sexual nature.

An alleged act of sexual harassment committed during or outside of office hours falls under the purview of this policy. Further, it is important to note that whether harassment has occurred or not does not depend on the intention of the people but on the experience of the Aggrieved person.

Aggrieved Person: In relation to a workplace, any person (woman, man or transgender) of any age, whether employed or not, who alleges to have been subjected to any act of sexual harassment by the respondent.

Complainant: Any aggrieved person who makes a complaint alleging sexual harassment under this policy.

Respondent: A person against whom a complaint of sexual harassment has been made by the Aggrieved person under this policy. The Respondent needs to be an employee of the Organisation.

Employee: A person employed at the 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, or 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 called by any other such name.

Internal Committee (known as IC): The committee constituted in the Organisation in terms of this policy tasked with the prevention and redressal of sexual harassment at the workplace.

Special Educator: A Special Educator means a person trained in communication with people with special needs in a way that addresses their individual differences and needs.

Workplace:

- Premises, locations, establishments, enterprises, institutions, offices, branches or units established subsidiaries which are controlled by the Organisation.
- Places visited by the Employee arising out of or during the course of employment including official events, accommodation and transportation provided by the employer for undertaking a journey.
- Virtual platforms used for remote work.

Employer: A person responsible for management, supervision and control of the workplace. The Employer will be responsible for the purpose of implementation and execution of this policy and IC recommendations.

4. ORGANISATION POLICY STATEMENT

KelpHR prohibits any form of sexual harassment. The Organisation holds a Zero Tolerance Policy and undertakes the responsibility of preventing and prohibiting all such actions. To execute its policy, it has constituted an IC to address all complaints of sexual harassment.

5. RESPONSIBILITY OF EMPLOYEES

It is the responsibility of all employees of KelpHR to respect the rights of others and to never encourage harassment. It can be done by:

- a) Refusing to participate in any activity which constitutes harassment
- b) Supporting the person to reject unwelcome behaviour
- c) Acting as a witness if the person being harassed decides to lodge a complaint
- d) It is also responsibility of employees to cooperate with the IC if and when called upon.

6. WHO CAN COMPLAIN?

Complain can be filed by an aggrieved person in writing in format provided by the Organisation (in Appendix 1) or otherwise, as per the requirements as given under. The Act allows the following to file a complaint:

- If the Aggrieved person is unable to make a complaint on account of her/his/their **physical incapacity**, a complaint may be filed by:
 - their relative or friend; or
 - their co-worker; or
 - an officer of the National Commission for Women or State Women's Commission; or
 - any person who has knowledge of the incident, with the written consent of the Aggrieved person
- If the Aggrieved person is unable to make a complaint on account of her/his/their **mental incapacity**, a complaint may be filed by:
 - their relative or friend; or
 - a special educator; or
 - a qualified psychiatrist or psychologist; or
 - the guardian or authority under whose care they are receiving treatment or care; or
 - any person who has knowledge of the incident jointly with the Aggrieved person's relative or friend or a special educator or qualified psychiatrist or psychologist, or guardian or authority under whose care they are receiving treatment or care
- In case of **Complainant's death**: Any person with knowledge of incident with written consent of her/his/their legal heir
- In case complainant is **unable to file** the complaint for some other reason: By any person who has knowledge of the incident with her/his/their written consent.

7. ESSENTIALS OF A COMPLAINT

- Name of the aggrieved, work, designation
- In case complainant is not able to file the complaint then the relationship with the complainant and the consent form along with the reason for incapacity of the complainant;
- Date of the incident(s)/last incident;
- Name of the alleged harasser, designation, working relationship with the complainant;
- Details of the incident;
- Documents or evidence in support; and
- Remedy sought.

It is always advised to give your complaint in written. A format for the same is available as Appendix (1) to this policy. When you make your complaint verbally, the IC shall transcribe the same in written. As a complainant you should sign at the complaint submitted.

8. WHO TO COMPLAIN TO?

The complaint for sexual harassment shall be done to the **Internal Committee (IC)** of KelpHR. The complaint can also be made to the External member of the committee. The details of the members are as below:

| Name | Designation | Phone | Email Id |
|---------------------|-------------------|-------------|--|
| Deepa Padmanaban | Presiding Officer | 72999 31311 | deepa.rp@kelphr.com |
| Ankita Maini | Member | 95001 29638 | ankita@kelphr.com |
| Manju Manocha | Member | 96198 07771 | manju@kelphr.com |
| Rajashree Sivaraman | Member | 95001 29675 | rajashree@kelphr.com |
| Vinay Kumar Mishra | External Member | 83107 15170 | ushacompliance@gmail.com |

9. INTERNAL COMMITTEE

To prevent instances of sexual harassment and to receive and effectively deal with complaints pertaining to the same, an Internal Committee (IC) has been constituted for each administrative unit / office of the Organisation. The detail of the committee is notified to all applicable persons of the location (workplace).

Constitution: The IC at each location shall comprise of:

1. Presiding Officer: A woman employed at a senior level in the organization or workplace;
2. At least 2 members from amongst employees, committed to the cause of women or who have had experience of social work or have legal knowledge;
3. One external member from amongst non-governmental organizations or associations committed to the cause of women or a person familiar with the issues relating to sexual harassment; and
4. At least one half of the total members nominated being women.

Powers: The IC has the powers of a Civil Court (as set out under Code of Civil Procedure, 1908):

- Examining on oath;
- Obtaining and production of documents;
- Summoning and enforcing attendance of parties and witnesses.

1. May terminate proceedings if complainant fails, without sufficient cause, to be present for 3 consecutive hearings. The IC should provide 15 days prior notice in writing to complainant.

2. May give ex-parte order if respondent fails, without sufficient cause, to be present for 3 consecutive hearings. The IC should provide 15 days prior notice in writing to the respondent.

Responsibilities: The IC will be responsible for:

- a. Receiving complaints of sexual harassment at the workplace;
- b. Initiating and conducting inquiry as per the established procedure;
- c. Submitting findings and recommendations of inquiries;
- d. Coordinating with the employer in implementing appropriate steps for prevention and prohibition of sexual harassment;
- e. Maintaining strict confidentiality throughout the process as per established guidelines;

- f. Submitting annual reports in the prescribed format;
- g. Collaborate with the HR/relevant department to ensure that enough training and communication is done on a regular basis;
- h. Propagate the values and culture of the organisation with respect to the gender diversity and acceptance;
- i. Walk the Talk - Ensure that one practices respect and equality in all respects at the workplace.

10. REDRESSAL MECHANISM

There are two ways of redressal available as per law:

Informal Resolution procedure through conciliation

- Once the complaint is received, before initiating the inquiry, the committee may take steps to conciliate the complaint between the complainant and the respondent. This is only if requested by the Aggrieved person.
- No monetary settlement can be made as a basis of conciliation.
- In case a settlement is arrived at, the committee records & reports the same to the employer for taking appropriate action.
- It is mandatory to ensure that both parties have consented to the conciliation process. In some cases, such as those in which the respondent is alleging that the complaint is malicious, they may wish to proceed directly with the inquiry process.

Formal Resolution procedure through formal inquiry

The committee will initiate inquiry in the following cases:

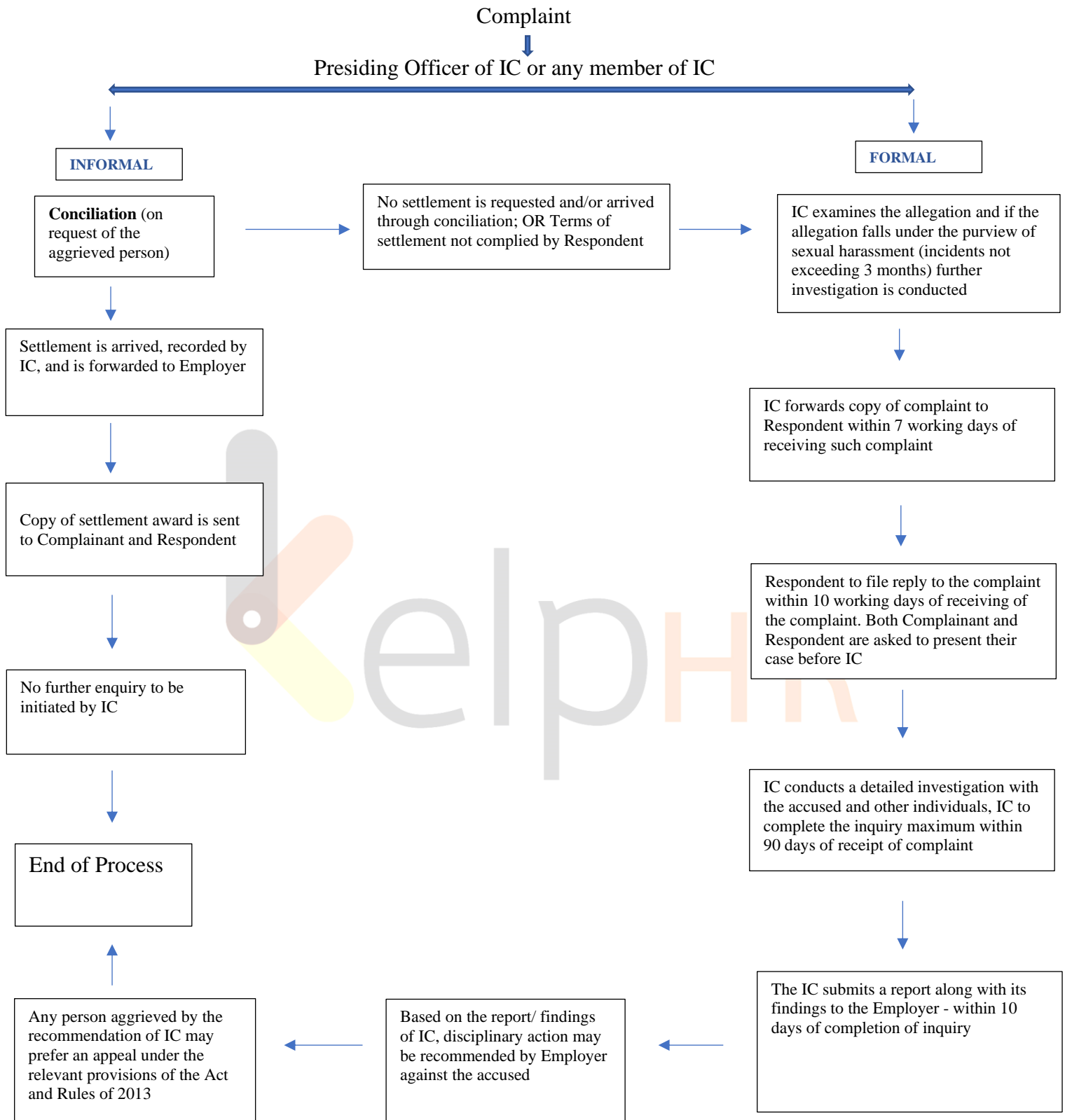
- No conciliation is requested by Aggrieved person;
- Conciliation has not resulted in any settlement;
- Complainant informs the committee that any term or condition of the settlement arrived through conciliation, has not been complied with by respondent.

In compliance with the Act, any complaint under this policy, if not settled through conciliation, shall be followed by a formal redressal mechanism as described in this Policy.

Lodging a Complaint

- An aggrieved person may make, in writing, a complaint of sexual harassment at workplace to the Internal Committee.
- The complaint must be made within a period of 3 months from the date of incident/ last incident. The Internal Committee can extend the timeline by another 3 months for reasons recorded in writing, if it is satisfied that these reasons prevented the lodging of the complaint within the period.
- Provided that where such a complaint cannot be made in writing, the Presiding Officer or any Member of the Internal Complaint Committee shall render all reasonable assistance to the Aggrieved Person for making the complaint in writing.
- The complaint shall be submitted by the complainant (or others as permitted by law) to the IC in writing or shall be submitted to the IC electronically at ic@kelpHR.com or to email address of any of the IC member. The complaint can also be physically submitted to any IC member.

11. REDRESSAL OF SEXUAL HARASSMENT



12. INTERIM RELIEF

During the pendency of the inquiry the Complainant is entitled to request the IC, in writing, for an interim relief. The IC shall consider and recommend suitable relief as provided by law.

13. RECOMMENDATION IF FOUND GUILTY

If the respondent is found guilty of sexual harassment, possible recommendations by IC may include:

- Written apology
- Warning
- Community service/ Counselling
- Reprimand or Censure
- Withholding promotion
- Withholding pay rise/ increments or promotion
- Suspension/ Termination.

14. MALICIOUS COMPLAINT

Where the committee arrives at the conclusion that the allegation against the respondent is malicious or the aggrieved person or any other person making the complaint has made the complaint knowing it to be false or the aggrieved person or any other person making the complaint has produced any forged or misleading document, it may recommend to the employer to take action against the woman or the person making the complaint.

The recommendation against a malicious complaint can be same as provided in law for when the complaint is found substantiated.

While deciding malicious intent, the committee should consider that mere inability to substantiate a complaint need not mean malicious intent. Malicious intent must be clearly established through a separate inquiry.

15. CONFIDENTIALITY

The identity and addresses of the complainant, respondent, witnesses, any information relating to the conciliation or inquiry proceedings, recommendations made by the IC/ LCC and the action taken by the employer or District officer, as the case may be, shall not be published, communicated or made known to public, press or media in any manner.

Any person contravening the confidentiality clause is subject to disciplinary action, including termination, and fine of Rs. 5000/- or above depending upon the intensity and impact of the breach.

However, if the confidential information needs to be disclosed by order of any court, governmental agency, or regulatory authority or summons or document request in pending litigation due to an appeal, the same shall not be considered a breach of Confidentiality. It is to be noted that the disclosure shall only be to the extent lawful and necessary.

16. APPEAL

Any party not satisfied or further aggrieved by the implementation or non-implementation of recommendations made, may appeal to the appellate authority in accordance with the Act. The appeal shall be made within a period of ninety days of the recommendations. The appeal can be made to the relevant court with appropriate jurisdiction.



Appendix 1

Template of Formal Complaint to ICC

Section 1: Details of the Aggrieved Individual / Victim

| | |
|----------------------------|--|
| Name | |
| Designation | |
| Division/ Unit/ Department | |
| Contact Number | |
| Address (office) | |

If Applicable- Details of Complainant who is filing the form on behalf of the aggrieved individual/ victim

| | |
|---|---|
| Name | |
| Relationship with Aggrieved Individual (Victim) | |
| Designation (if Complainant is an employee) | |
| Division/ Unit/ Department (if Complainant is an employee) | |
| Contact number | |
| Address (office/ administrative unit where the complainant works) | |
| Reason for Aggrieved Individual is unable to file the complaint | <ul style="list-style-type: none"> <input type="radio"/> Physical incapacity <input type="radio"/> Mental Incapacity <input type="radio"/> Death <input type="radio"/> Any other reason _____ |

Section 2: Details of the Alleged Harasser

| | |
|---|--|
| Name | |
| Designation | |
| Division/ Unit/ Department | |
| Contact Number | |
| Address (place of work of the alleged harasser) | |

Section 3: Details of the incident

| | |
|--|--|
| Description of the incident | |
| Other details (if the incident was repeated/ any previous incident) | |
| Date and time of the incident/s | |
| Details of witness/witnesses | |
| Details of any documents available (Example: Messages, emails, letters etc) | |

| | |
|--|--|
| Details of any person/s contacted by aggrieved individual after the incident | |
| Any other relevant information/ comments | |

Section 4: Additional Information



Section 5: Attestation

Name of the Aggrieved Individual:

Signature:

Name of the complainant (If applicable):

Signature:

Note: signature of complainant/ aggrieved person should be on every page of the complaint if made in writing)

REVISION HISTORY

| Release Date | Initiator | Version No. | Details of Revision | Reviewer | Approver |
|--------------------------|-------------------|--------------------|--|-----------------|-----------------|
| 27-September-2019 | Shalini Sukumaran | 1.0 | PoSH Policy Launched | Viji Hari | Viji Hari |
| 6-June-2023 | Deepa Padmanaban | 1.1 | IC members reconstitution, Inclusion of Complaint Template | Meenakshi VNS | Smita Kapoor |

