



Policy on Prevention of Sexual Harassment

Note from the Chairperson

Aseema Charitable Trust is committed to providing high quality and value based education to children from marginalized communities. Aseema has drafted a policy on prevention of sexual harassment. The said policy has been drafted first time for the organization as a whole.

The detailed Policy on Prevention of Sexual Harassment has been attached as Annexure A.

The Board is hereby requested to approve the said policy.

Chairperson

Ms. DilburParakh

Originating Group – Operations

Annexure A

POLICY ON PREVENTION OF SEXUAL HARASSMENT

Ownership	Operations
Forum where approved	Board
Effective Date	July 13, 2019
Next Review date	Annual or as and when required

1. Objective:

- i. To provide women with a safe work environment free from sexual harassment, within the premises of the Aseema Charitable Trust (“Workplace”).
- ii. To stipulate and pursue a policy to protect women against sexual harassment at the Workplace.
- iii. To set up a mechanism for acting upon complaints of sexual harassment of women at the Workplace.

Note: This document enunciates Aseema’s policy of zero tolerance towards sexual harassment of women at the Workplace in broad and general terms, with a view to bring awareness and provide a redressal of grievances. It is not intended to be exhaustive, and is a supplement to the Sexual Harassment of Women at the Workplace (Prevention, Prohibition and Redressal) Act 2013 and the Rules made thereunder.

2. Definitions and Interpretation:

1. “Act” means the Sexual Harassment of Women at the Workplace (Prevention, Prohibition and Redressal) Act 2013;
2. “Aggrieved Woman” means a woman of any age whether employed or not who alleges to have been subjected to any act of Sexual Harassment at the Workplace by the Respondent;
3. “Employee” means a person employed at the Workplace for any work on regular, temporary, ad hoc, or daily wage basis, either directly or indirectly 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, contract worker, probationer, trainee, apprentice or called by any other such name.

4. Employer has the meaning given to it in Section of the Act and includes any person responsible for the management, supervision and control of the workplace
5. “Internal Complaints Committee” means the Committee established under section 3.4 of the Act;
6. “Respondent” means any person including an employee against whom an Aggrieved Woman has made a complaint of Sexual harassment at the Workplace;
7. “Sexual harassment” includes any one or more of the following unwelcome sexual acts or behaviour (whether directly or by implication) namely
 - (a) physical contact or advances; or
 - (b) a demand or request for sexual favours; or
 - (c) making sexually coloured remarks; or
 - (d) showing pornography; or
 - (e) any other unwelcome physical, verbal, or non-verbal conduct of sexual nature; or
 - (f) any of the following circumstances, among other circumstances, if it occurs or is present in relation to or connected with any act or behavior of sexual harassment may amount to sexual harassment:-
 - i. implied or explicit promise of preferential treatment in her employment; or
 - ii. implied or explicit threat of detrimental treatment in her employment; or
 - iii. implied or explicit threat about her present or future employment status; or
 - iv. interference with her work or creating an intimidating or offensive or hostile work environment for her; or
 - v. Humiliating treatment likely to affect her health or safety.

8. “Workplace “ has the meaning given to it in Section 1 of the Act, and shall also include any location where Aseema Charitable Trust has officially organized or participated in events such as Exhibitions, Games, Sports, seminars, Training, Conferences, Picnics,

3. Interpretation:

Words used but not defined in this Policy shall have the same meaning as in the Act.

4. Internal Complaints Committee (ICC)

- 4.1 There shall be a 4 member Internal Complaints Committee (IC) of Aseema consisting of a Presiding Officer, who will be a woman (employed at senior level) and three other members. Out of the 3 other members again one will be a women and one will be an external.
- 4.2 The presiding officer and every member of the ICC shall hold office for such period, not exceeding three years from the date of their nomination as may be specified by the employer.
- 4.3 The ICC will serve as the highest point of escalation as regards complaints of Sexual harassment at the Workplace.
- 4.4 Procedures regarding complaints of Sexual harassment are listed in Clause 5 hereunder.
- 4.5 The names addresses and contact details of the members of the ICC will be available at the office of Aseema.
- 4.6 Other provisions w.r.t ICC will be as stipulated in the Sexual Harassment of Women at Workplace Act.

5. Complaints Process

- 5.1 Any Aggrieved Woman may make a complaint in writing to the ICC of any act of sexual harassment committed by the Respondent against her within a period of three (3) months from the date of the incident and in case of a series of incidents, within a period of three (3) months from the date of the last incident.

- 5.2 If the Aggrieved Woman cannot make the complaint in writing for any reason then the Presiding Officer or any member of the ICC shall render the Aggrieved Woman all reasonable assistance for making the complaint in writing.
- 5.3 If the Aggrieved Woman is not able to file the complaint within the period specified in clause 5.1 then the ICC may, if it is satisfied with the circumstances which had prevented the Aggrieved Woman from filing the complaint within the said period, extend the time limit not exceeding three (3) months and record the reasons in writing for such extension.
- 5.4 The Aggrieved Woman at the time of filing the complaint shall submit six (6) copies of the complaint along with supporting documents and the names and addresses of witnesses (if any) to the ICC.
- 5.5 The ICC member who receives the complaint will make / cause to make a record of the same in the complaint register.

6. Inquiry procedure to be followed by the ICC

- 6.1 The ICC may, before initiating any inquiry procedure under clause 6.3, and at the request of the Aggrieved Woman, take steps to settle the matter between her and the Respondent through conciliation. Monetary settlement will not be made the basis for the conciliation.
- 6.2 If a settlement is arrived at through conciliation then the ICC shall record the settlement and forward the same to the Employer to take action as specified in the ICC's recommendation. No further inquiry shall be conducted in regard to the complaint in such a case and the matter will be treated as "closed". A copy of the settlement shall be provided to the Aggrieved Woman and the Respondent.
- 6.3 The ICC shall, subject to Clause 6.1, initiate the enquiry procedure, upon receipt of the complaint as per Clause 4.
 - 6.3.1 The ICC shall send a copy of the complaint received from the Aggrieved Woman to the Respondent within seven (7) working days of the receipt of the complaint and the Respondent shall file a reply with the ICC to the complaint along with his documents and names and addresses of witnesses (if any) within

a period of ten (10) working days from the date of receipt of the complaint and documents accompanying the complaint.

6.3.2 The ICC shall make an inquiry into the complaint of Sexual harassment in accordance with the principles of natural justice.

6.3.3 The ICC shall have the right to terminate the inquiry proceedings or proceed to decide the complaint ex parte if the Aggrieved Woman or the Respondent respectively fails, without sufficient cause, to present herself or himself for three (3) consecutive hearings convened by the Presiding Officer. The termination or the ex parte decision may not be passed by the ICC without giving a fifteen (15) days advance notice in writing to the party concerned.

6.3.4 The parties concerned shall not be allowed to bring in any legal practitioner to represent them in their case at any stage of the proceedings before the ICC.

6.3.5 The ICC shall conduct the enquiry in the presence of minimum three (3) members of the ICC which includes the Presiding Officer.

6.3.6 The ICC may during the pendency of the inquiry, on a written request made by the Aggrieved Woman, recommend to the Employer to:-

- (a) Restrain the Respondent from reporting on the work performance of the Aggrieved Woman or writing her confidential report, and assign the same to another officer; or
- (b) Restrain the Respondent from supervising any academic activity of the Aggrieved Woman; or
- (c) Transfer the Aggrieved Woman or the Respondent to any other Workplace; or
- (d) Grant leave to the Aggrieved Woman up to a maximum period of three (3) months (which shall be in addition to the leave she would otherwise be entitled to).

6.3.7. The Employer shall implement the recommendations given if any under Clause 6.3.6 and send the report of such implementation to the ICC.

6.4 All information received in the course of the inquiry, contents of the complaint, identity and addresses of the Aggrieved Woman, Respondent and witnesses, any

information relating to conciliation and inquiry proceedings, recommendations of the ICC and the action taken by the Employer under the provisions of the Act shall not be published, communicated, or made known to the public, press, media, in any manner, other than the information regarding the justice secured to any victim of Sexual Harassment under this Policy without disclosing the name, address, identity or any other particulars calculated to lead to the identification of the Aggrieved Woman and witnesses.

- 6.5 If any person who is entrusted with the duty to handle or deal with the complaint, inquiry or any recommendations or action to be taken under the provisions of this Policy discloses any such information as mentioned in the above section 6.4 then that person shall be liable for penalty in accordance with the provisions of the service rules or where no such service rules exist, in such manner as may be prescribed under the Act. Aseema shall also be liable to recover a sum of five thousand rupees as penalty from such person.
- 6.6 Internal Complaints Committee for the purpose of making an enquiry shall have the same powers as are vested in a civil court under the Code of Civil Procedure, 1908 (5 of 1908) when trying a suit in respect of the following matters:-
 - 6.6.1 summoning and enforcing the attendance of any person and examining him on oath
 - 6.6.2 requiring the discovery and production of documents; and
 - 6.6.3 any other matter which may be prescribed

7 Submission of Findings of the ICC

7.1 On the completion of an inquiry, the Internal Complaints Committee shall provide a written Enquiry Report of its findings to the Employer, within a period of ten (10) days from the date of completion of the enquiry and such report should also be provided to the Complainant/Aggrieved Woman and the Respondent.

7.2 The Enquiry Report shall specify the details of the charge(s) against the Respondent, the statements made and evidence presented in the enquiry and a

discussion of the reasons upon which the findings are arrived at by the Internal Complaints Committee.

7.3 If the Internal Complaints Committee finds no merit in the complaint, or it arrives at the conclusion that the complaint has not been proved, it shall recommend to the Employer that no action is required to be taken in the matter.

7.4 If the ICC arrives at the conclusion that the complaint has been proved, it shall recommend to the Employer:-

7.4.1 To take action for Sexual Harassment as misconduct in accordance with the provisions of the applicable service rules and in the absence of service rules, in such manner as may be prescribed under the Act (which may include taking a written apology, warning, reprimand or censure, withholding of promotion, withholding of pay rise or increment, terminating the service of the Respondent, or undergoing a counseling session or carrying out community service).

7.4.2 To deduct, notwithstanding anything in the service rules, from the salary or wages of the Respondent, or direct him to pay, a compensation amount determined by considering the following factors:

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

7.5 If the Respondent fails to pay the sum specified by the ICC as per the above Section (7.4.2) where he is no longer employed with Aseema then ICC may forward the order for recovery of the sum under section 13(3) of the Act to the concerned district officer (as defined in the Act).

7.6 If the Internal Complaints Committee arrives at a conclusion that the allegation against the Respondent is malicious or the Aggrieved Woman or the witness on her behalf has made the complaint knowing it to be false or the Aggrieved or witness on her behalf has produced any forged or misleading document, it may recommend to the Employer to take action against the Aggrieved Woman or the witness or the witness on her behalf in accordance with the provisions of the applicable service rules and if no service rules are available then in such manner as may be prescribed under the Act. Without limiting the foregoing, it shall be open to the Internal Complaints Committee to recommend that a written apology be procured, a warning, reprimand or censure may be given, promotion, pay rise, increments may be withheld, Aggrieved Woman's service may be terminated, or that she must undergo counseling sessions.

7.7 Malicious intent on part of the Aggrieved Woman or the witness on her behalf can be established only after an enquiry. Mere inability to substantiate a complaint or provide adequate proof need not attract action under section 7.6 against the Aggrieved Woman or the witness on her behalf.

8 Acting upon the ICC's Findings, Appeal

8.1 The Implementation of the recommendation given in the Enquiry Report by the ICC shall be carried out by the Employer within 60 days from the date of receipt of the Enquiry Report.

8.2 Any person aggrieved by the ICC's recommendations under section 7 or by the non-implementation of its recommendations, may prefer an Appeal to any court or tribunal of competent jurisdiction in the manner as may be prescribed under the Act, within a period of 90 days from the date of the recommendations.

9 Confidentiality

The identity and address of the aggrieved person, respondent and witnesses must not be published or disclosed to the public or media.

10 Awareness and training

A brief shall be given to all existing employees regarding the features of this Policy and to new employees during their initial induction. Notice showing the name of the Internal Complaints Committee members shall be displayed at every establishment at a conspicuous place.

11 Review of the Policy

The policy on sexual harassment will be reviewed annually or as and when required.