

VMMC & Safdarjung Hospital, Ministry of Health & Family Welfare, Government of India, New Delhi.



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icy on Prevention and Redressal of Sex	cual Harassment at
Internal Policy on Prevention and Redressal of Sexual Harassment at Workplace	
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1.0 INTRODUCTION

Safdarjung Hospital was founded in 1942 during the Second World War as a Base Hospital for the allied forces. It was taken over by the Govt. of India in 1954 under the Ministry of Health. It has grown over the years into one of the largest, tertiary, level multi-disciplinary healthcare institutions in this part of the World. Based on the needs and developments in Medical Care, the hospital has been regularly upgrading its facilities from diagnostic and therapeutic aspects in all the specialties. The hospital which started with only 204 beds now has 1531 authorized beds. The hospital provides medical care to millions of citizens not only of Delhi and the neighbouring states but also to people of neighbouring countries.

As an employer, Safdarjung Hospital is committed to creating a healthy and safe work environment that enables employees to work free from unwelcome, offensive and discriminatory behaviour. To facilitate the hospital's mission of "Service Before Self" the aim of the hospital is to enable all the staff to deliver their best at work without fear of prejudice, gender bias and sexual harassment. The hospital recognizes consequences of sexual harassment and that sexual harassment can subject individuals to fear, stress and anxiety. It acknowledges the strains that such harassment, places on work and family life of an individual. Sexual harassment at the workplace is a form of discrimination. Protection against sexual harassment and right to work with dignity are universally recognized human rights by international conventions and instruments. Therefore, in order to deal with sexual harassment at workplace the hospital has set out Prevention and Redressal of Sexual Harassment Policy.

This policy is in consonance and line with the Sexual Harassment of women at workplace (Prevention, Prohibition & Redressal) Act, 2013. Consequently, the complaint mechanism and reliefs as per this Policy are primarily focused on women. The policy aims to prevent/prohibit, redress any incident of sexual harassment and to enforce strong disciplinary action in face of any such occurrence. It defines sexual harassment and provides a framework to deal with complaints of sexual harassment at the workplace or related to the workplace. Any form of sexual harassment whether overt or covert is therefore unacceptable and regarded as misconduct as per this Policy.

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It explicitly prohibits sexual harassment at workplace or off site, either during or in connection with activities related to work.

The hospital will take action consistent with its disciplinary and grievance procedures against any employee found to have breached this Policy. The hospital will also take steps to comply with any specific domestic laws relating to this issue. The hospital is committed to ensure that sexual harassment instances and incidents are reported without fear of reprisal or retaliation. The hospital will investigate instances / and or complaints of sexual harassment promptly and discreetly. The hospital will initiate disciplinary action as per the stipulations provided in this Policy.

2.0 OBJECTIVES

- a) Provide hospital environment free from fear, reprisal, coercion, discrimination, and harassment of any sexual nature.
- b) Stop any sexual harassment at workplace through Prevention, Resolution and Deterrence of acts of sexual harassment.
- c) Enable all those working, associated, and visiting the hospital campus to raise their concerns and make complaints without any fear.
- d) Define sexual harassment and provide a clearly stated codified redressal for any sexual harassment occurring at workplace.
- e) Conduct fair investigation and reach reasonable decision in a timely manner.
- f) Provide procedure for resolution, settlement, or prosecution of complaints of sexual harassment.

3.0 SCOPE

The Policy applies to all those employed and associated with the hospital. They can be regular, temporary, ad hoc employees. They include contract workers, consultants, retainers, probationers,

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trainees, apprentices, patients (OPD or admitted), or called by any other such name engaged by the hospital. The terms of employment could be expressed or implied. This Policy also applies to all vendors, contractors, customers, agents, distributors of alternate channels and suppliers who do business with the hospital and/ or visit the employees of hospital.

4.0 IMPORTANT DEFINITIONS

- a) *Aggrieved woman:* Any woman (employed, temporary, contractual and visiting the Hospital) who alleges to have been subjected to any act of sexual harassment by the respondent.
- b) *Respondent*: A person against whom a complaint of sexual harassment has been made by aggrieved woman.
- c) *Workplace*: Hospital, college, nursing home; Includes all offices, branches and spokes of the Hospital, all office related activities performed at any other site away from office premises, any social business, or other functions where the conduct or comments may have adverse impact on the workplace or workplace relations. It also include any place visited by the employee arising out of or during the course of employment including transportation provided by the Hospital or availed of for hospital work, for undertaking such journey.
- d) *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, weather for remuneration or not, or working on a voluntary coworker, a contract worker, probationer, trainee, apprentice or by any other such name.
- e) *Employer*: A person responsible for management, supervision, and control of the workplace.

5.0 DEFINITION OF SEXUAL HARRASSMENT (as defined under section 2(N) of the act) includes one or more of the following:

✓ Physical contact or advances (eg. pushing, grabbing, jostling, touching the body and /
or attempts to do so).

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- ✓ Demands and requests for sexual favours (eg. unwanted sexual attention, forcing to spend time together).
- Sexually coloured remarks (eg. verbal sexual innuendos such as jokes, suggestions, or hints about sexual behaviour, comments about physical appearance, offensive comments abusive language).
- Showing pornography (eg. Display, giving or sending of pornography in the form of pictures, books, magazines, postcards, photos, animation, sound recording, film, video, and video games done personally and/ or via documents, or by telephone, cell-phone messages, web site communication, or emails).
- Any other physical, verbal and non-verbal behaviour of sexual in nature (eg. Non-verbal communication such as staring, gestures of sexual nature, following the person, stalking, persistent visiting, telephoning, sending of cell-phone messages, or other invasions of personal privacy, spreading rumours about sexuality, gender and / or character of a person).

In addition to above definition, following circumstances among other circumstances, if it occurs or is present in relation to or connected with any act or behavior of sexual harassment, would also amount to sexual harassment.

- a) Direct and / or indirect promise of preferential (special) treatment in employment.
- b) Direct and / or indirect threat of detrimental (harmful / damaging) treatment in employment.
- c) Direct and /or direct threat about present or future employment status.
- d) Creation of conditions and situations that interfere with work or creation of an intimidating or offensive work environment.
- e) Humiliating treatment likely to affect health and / or safety of the aggrieved person.

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6.0 ROLES AND RESPONSIBILITY:

6.1 Responsibility of individual:

It is the responsibility of all 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 behavior :(c) Acting as a witness if the person being harassed decides to lodge a complaint. All the encouraged to advise others of behavior that is unwelcome. often, some behaviors are not intentional. While this does not make it acceptable, it does give the person behaving inappropriately, the opportunity to modify or stop their offensive behavior.

- 6.2 Duties and Responsibility of the Employer (As laid down under section 19 of the Act) include:
 - a) Providing a safe working environment at the workplace which shall include safety from the persons coming into contact at their respective workplace.
 - b) To display at any conscious place in the workplace, the penal consequences of sexual harassments: and the other consisting, the internal complaints committee (ICC) under Sub-Section (1) of section 4 of the Act:
 - c) To organize workshops and awareness programmes at regular intervals for sensitizing the employees with the provisions of the Act:
 - d) To provide necessary facilities to the Internal complaint committee, for dealing with the complaints and conducting an enquiry
 - e) To provide assistance to the woman if she so choose to file a complaint in relation to the offence under the Indian penal code or any other law for the time being in force.
 - f) To monitor the timely submission of reports by the committee.
- 6.3 **Responsibility of officers**: All officers at Safdarjung Hospital must ensure that nobody is subjected to harassment and there is an equal treatment. They must also ensure that all employees understand that harassment will not be tolerated: that complaint will be taken

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seriously and that the complainant, respondent/ or witnesses are not to be victimized in any way.

7.0 INTERNAL COMPLAINT COMMITTEE (ICC)

Internal Complaints Committee (As per the provision of section 4 of the Act)_To prevent instances of sexual harassment and to receive and effectively deal with complaints pertaining to such cases, Internal Complaint Committee shall be constituted at Safdarjung Hospital.

7.1 The ICC shall consist of the following members to be nominated by the employer, namely:

- (a) A **Presiding Officer** (Chairperson): who shall be a woman employed at a senior level at workplace from amongst the employees, who shall hold the office for such period, not exceeding three years, from the date of their nomination.
- (b) Not less than **two members** from amongst employees preferably committed to the cause of women or who have had experience in social work or have legal knowledge.
- (c) One member from amongst non- governmental organization or associations committed to the cause of women or a person familiar with the issue relating to sexual harassment, who shall be paid such fees or allowances for holding the proceedings of the ICC, by the employer, as may be prescribed.
- (d) At least one half of the total members so nominated shall be women.

The Chairperson and every member of the ICC shall hold the office for a period, not exceeding three years, from the date of their appointment.

7.2 The ICC is responsible for:

- a) Receiving complaints of sexual harassment at the workplace.
- b) Initiating and conducting inquiry as per the established procedure
- c) Submitting reports of its findings and recommendations
- d) Follow up with the employer in implementing appropriate action

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- e) Maintaining strict confidentiality throughout the process as per established guidelines. And
- f) Submitting annual reports in the prescribed format

7.3 Do's and Don'ts for ICC

DO'S

- 1. Create an enabling meeting environment.
- 2. Use body language that communicates complete attention to the parties.
- 3. Treat the complainant with respect.
- 4. Discard pre-determined ideas.
- 5. Determine the harm.

DON'TS

- 1. Get aggressive.
- 2. Insist on a graphic description of the sexual harassment.
- 3. Interrupt.
- 4. Discuss the complaint in the presence of the complainant or the respondent.

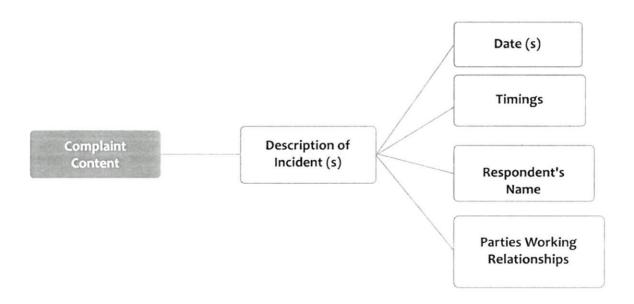
8.0 COMPLAINT REDRESSAL PROCESS

- A) The complainant needs to submit a detailed complaint, in writing, along with any documentary evidence available or names of witnesses, to the chairperson or any member of the committee at the workplace or MS of Safdarjung Hospital (who will then forward the complaint to ICC)
- B) The complaint must be lodged within 3 months from the date of incident/ last incident. The committee can extend the timeline by another 3 months for reason recorded in writing.

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- If satisfied that these reasons prevented the complainant from lodging a complaint with in said period.
- C) 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 women for making the complaint in writing.
- D) If the aggrieved woman is unable to lodge the complaint in account of her incapacity, the following may do so on her behalf, with her written consent.
 - Legal heir, relative or friend
 - Co worker
 - Any person having the knowledge of the incident
- E) If the initial complaint is made to a person other than a committee member, upon receiving such a complaint, it will be the responsibility of the complaint receiver to report the same to the chairperson or committee immediately.

What should the complaint contain?



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The written complaint should contain a description of each incident(s). It should include relevant dates, timings and locations; name of the respondent(s); and the working relationship between the parties. A person designated to manage the workplace sexual harassment complaint is required to provide assistance in writing of the complaint if the complainant seeks it for any reason.

Meet and Talk to the Complainant to Explore Options for Formal and Informal Resolution

The complainant needs to be informed about the ensuing process and the informal (through conciliation) or formal options available for the redress

9.0 RESOLUTION PROCEDURE THROUGH CONCILIATION

- A) 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 woman.
- B) It is made clear to all parties that conciliation in itself doesn't necessarily mean acceptance of complaint by the, respondent, it is practical mechanism through which issues are resolved or misunderstanding cleared.
- C) In case a settlement is arrived at, the committee records the same to the employer for taking appropriate action. Resolution through conciliation happens within 2 weeks of receipt of complaint
- D) The committee provides copies of the settlement to complainant and respondent. Once the action is implemented, no further inquiry is conducted.

10. RESOLUTION PROCEDURE THROUGH FORMAL INQUIRY

A) Conducting inquiry

The committee initiates inquiry in the following cases:

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- 1) No conciliation is requested by aggrieved woman
- 2) Conciliation has not resulted in any settlements
- 3) Complainant informs the committee that any term or condition of the settlement arrived through conciliation, has not been complied with by respondent

The committee proceeds to make an inquiry into the complaint within a period of 1 week of its receipt of the original complaint/ closure of conciliation/ repeat complaint.

B) Manner of inquiry into complaint

- 1) Complainant should submit the complaint along with supporting documents and the names of the witnesses.
- 2) Upon receipt of the complaint, send a copy of the complaint to respondent within 7 working days.
- 3) Respondent replies with all supporting documents within 10 working days of receiving the copy of the complaint
- 4) No legal practitioner can represent any party at any stage of the inquiry procedure.
- 5) The committee makes inquiry into the compliant in accordance with the principles of natural justice,
- 6) In conducting the inquiry, a minimum of 3 committee members including the presiding officer or the chairperson shall be present.

C). Interim relief

During pendency of the inquiry on written request made by the complainant, the committee may recommend to the employer to:

- 1) Transfer the complainant (if so requested) or the respondent to any other workplace
- 2) Grant leave to the aggrieved woman of maximum 3 months in addition to the leave she would be otherwise entitled.
- 3) Prevent the respondent from assessing complainants work performance.
- 4) Grant such other reliefs as may be appropriate.

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Once the recommendations of interim relief are implemented, the employer will inform the committee regarding the same.

11. INQUIRY PROCEDDURE

- 1) All proceedings of the inquiry are documented. The committee interviews the complainant and respondent separately and impartially.
- 2) Committee states exactly what the allegations is and who has made the allegations. The respondent is given full opportunity to respond and provide any evidence etc. detailed notes of the meetings are prepared which may be shared with the respondent and complainant upon request. Any witnesses produced by the respondents are also interviewed and statements are taken.
- 3) If the complainant or respondents desires to cross examine any witnesses, the committee facilities the same and records the statements
- 4) In case complainant or respondent seeks to ask questions to the other party, they may give their questions to the committee which asks them and records the statements of the other party.
- 5) Any such inquiry is completed within 90 days from the date on which the inquiry is commenced and report is submitted to the employer within 10 days of completion of inquiry (section 11(4) and section 13(1) the inquiry procedure ensures absolute fairness to all parties.

Considerations while preparing inquiry report

- A) While preparing the findings/ recommendations following are considered:
 - Whether the language used (written or spoken), visual material or physical behavior was of sexual or derogatory nature.
 - 2) Whether the allegations or events follow logically and reasonably from the evidence
 - 3) Credibility of complainant, respondent, witnesses and evidence

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- 4) Other similar facts, evidence for e.g. if there have been any previous accounts of harassment pertaining to the respondent
- 5) Both parties have been given an opportunity of being heard.
- 6) A copy of the proceedings were made available to both parties enabling them to make representations against the findings.
- B) The detailed mechanism of the complaint and the action to be taken by the ICC are laid down under the sections 10 and 11 of the Act. Further the procedure to be followed while conducting **Inquiry into a complaint have been laid down under sections 12 to 18 of the Act**

12. FINAL REPORT

The Complaints Committee will prepare a final report that contains the following elements:

- A description of the different aspects of the complaint;
- A description of the process followed:
- A description of the background information and documents that support or refute each aspect of the complaint;
- An analysis of the information obtained;
- Findings as stated above;
- Recommendations.

An inquiry must be completed within 90 days and a final report submitted to the Medical Superintendent within ten days thereafter. Such report will also be made available to the concerned parties. The Medical Superintendent is obliged to act on the recommendations within 60 days. Any person not satisfied with the findings or recommendations of the Complaints Committee or non-implementation of the recommendations, may appeal in an appropriate court or tribunal, as prescribed under the Service Rules.

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13. ACTION TO BE TAKEN AFTER ENQUIRY

Section 13 of the Act envisages that on the completion of the inquiry under Act, the ICC shall provide a report of its findings to the employer within a period of 10 days from the date of completion of the inquiry and such reports be made available to the concerned parties also. The findings and recommendations are reached from the facts established and is recorded accurately.

- i. Complaint Unsubstantiated (section 13 (2) of the Act): where the ICC arrives at the conclusion that the allegations against the respondent have not been proved, it shall recommend to the employer that no action is required to be taken in the matter, further. The committee ensures that both parties understand that the matter has been fully investigated, that the matter is now concluded and neither will be disadvantaged within the workplace
- ii. Complaint Substantiated (section 13 (3) and 15 of the Act): where the committee arrives at a conclusion that the allegations against the respondent has been proved, it shall recommend to the employer to take necessary action for sexual harassment, as a misconduct, in accordance with the provisions of the service rules applicable or as per the provisions laid down under the Act.
- Malicious Allegations (section 14 of the Act): where the committee arrives at the conclusion that the allegations against the respondent is malicious or the aggrieved woman or any other person making the complaint has made the complaint knowing it to be false or the aggrieved woman 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 who has made the complaint, in accordance with the provision of the service rules applicable to her or him or where no such service rules exit, in such manner as may be prescribed. The action recommended should be similar to the ones proposed for the respondent in case of sustained complaints.

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While deciding malicious intent, the committee should consider that mere inability to substantiate a complaint or provide adequate proof need not mean malicious intent and will not attract action of any kind against the complainant.

14. CONFIDENTIALITY (Section 16 and 17 of the Act of the Act)

- a) Section 16 of the Act stipulates that, the contents of the complaint made under Section 9, the indentify and addressed 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 and media in any manner.
- b) Any person contravening the confidentiality clauses is subject to disciplinary action as prescribed in the Act.

15. APPEAL (Section 18 of the act)

Any person aggrieved from the recommendations made by the ICC or non-implementations of such recommendations, may prefer an appeal to the court or tribunal in accordance with the provisions of the service rules applicable to the said person, without prejudice to provisions contained in any other law for the time being in force, the person aggrieved may prefer an appeal in such manner as may be prescribed, within a period of **90 days** of the recommendations

16. ANNAUAL REPORT (Section 21 to 23 of the Act)

As per the provision laid down under section 21 and 22 of the Act and rule 14 of the 'Sexual harassment of women at workplace (prevention, prohibition and redressel) rule .2013 ", the ICC shall in each calendar year prepare an annual report, giving the following details and submit the

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same to ministry of Electronics and information Technology for onward submission to the department of personal and training.:

- 1. Number of complaints of sexual harassments received in the year.
- 2. Number of complaints disposed off during the year.
- 3. Number of case pending for more than 90 days.
- 4. Number of action taken by the employer or district officer.

17. SAVINGS

In case of any discrepancy in policy, the provisions of relevant Act / Rules shall prevail.

Note: This document is valid for one year from the date of issue. The sexual harassment Policy is subject to modifications periodically as per changing times and needs of the organization and/or change in law.

19. REFERENCES

- The Gazette of India. The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013. Ministry of Law and Justice, Government of India. No18, 23 April 2013.
- Handbook on Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013, Ministry of Women and Child Development, Government of India. November 2015.

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20. APPENDICES AND FORMS

*Annexure A: ICC Checklist

*Annexure B: Amendment sheet

*Annexure C: Training log

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Annexure A

1) Complaints Committee's Checklist

- Review the written complaints and response to complaints
- Review the applicable policy, the Act/Rules, Vishaka Guidelines and other relevant laws
- Develop a plan
- Meet with the complainant
- Meet with the respondent
- Meet with the witnesses
- Record statements and have them dated and signed
- Review and adapt the plan, as needed
- Proceed with further interviews, as needed
- Analyze all the facts to develop reasoning
- Arrive at the findings
- Give recommendations
- Prepare the report
- Submit the file to the organization or District Officer for implementation of the recommendations and for safe keeping.

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Annexure B

AMENDMENT SHEET

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Sr	Page	Clause	Date of	Amendment	Reasons	Signature of	Signature of
No.	No.	No.	Amendment	Made		Chairperson,	Medical
						ICC	Superintendent
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Annexure C

VMMC & Safdarjung Hospital, New Delhi TRAINING LOG (Contents, Deviation and Amendment)

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Chairperson, ICC VMMC & Safdarjung Hospital, New Delhi

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