



## NATIONAL INSTITUTE OF DISASTER MANAGEMENT (NIDM)

### ***POLICY ON PREVENTION OF SEXUAL HARASSMENT (POSH) OF WOMEN AT WORKPLACE IN NIDM***

#### **1.0 POLICY:**

- 1.1** NIDM is a premier institute in the Ministry of Home Affairs at a national level for Disaster Risk Reduction in the country. It upholds the principle of equal employment opportunities to all and is committed to creating a healthy and safe working environment that enables all its employees to work without any fear or harassment based on race, caste, religion, colour, ancestry, marital status, gender, sexual orientation, age, nationality, ethnic origin or disability.
- 1.2** This policy takes complete cognizance of the latest legislation passed by the Government of India, *"The Sexual Harassment at Workplace (Prevention, Prohibition and Redressal) Act, 2013*, and its rules notification published on 9<sup>th</sup> December 2013. The act protects against sexual harassment of women at the workplace and for the prevention and redressal of complaints of sexual harassment and the matters connected therewith or incidental thereto." Sexual harassment at the workplace or other than the workplace, if involving an employee or employees of the Institute is a grave offence and therefore punishable.
- 1.3** All employees of NIDM are expected to uphold the highest standards of ethical conduct at the workplace which means that the employees have a responsibility to:
  - Treat each other with dignity and respect,
  - Refrain from any unwelcome behaviour that has a sexual connotation,
  - Refrain from creating a hostile atmosphere at the workplace via sexual harassment,
  - Report sexual harassment experienced or witnessed to appropriate authorities, and;
  - Abide by the complaint handling procedure of the Institute.

#### **2.0 SCOPE:**

- 2.1** This policy extends to all employees of the NIDM.
- 2.2** Very often situations that start off innocently end up in inappropriate and unprofessional behaviours. It is important to remember that workplace sexual harassment is sexual and unwelcome and the experience is subjective. It is the impact and not the intent that matters and it almost always occurs in a matrix of power. A woman may experience a single instance of sexual harassment or a series of incidents over some time. It is important also to remember that each case is unique and should be examined in its context and according to the surrounding circumstances as a whole.

Sexual harassment at the workplace includes any of the following but is not limited to:

- Unwelcome sexual advances involving verbal, non-verbal, or physical conduct of a sexual nature implicit or explicit, physical contact and advances such as touching, stalking, molestation, sounds which have explicit and/or implicit sexual connotation/overtones,
- Demand or request for sexual favours,
- Sexually coloured remarks, including but not limited to vulgar/indecent jokes, letters, phone calls, text messages, e-mails, gestures, etc,
- Showing pornography,
- Repeatedly touching the body/bodies of woman/women employees and later apologizing to them to lend an element of confusion to the matter,
- Display of pictures, signs, etc. with sexual nature/connotation/overtones in the work area and work-related areas,
- Verbal or non-verbal communication that offends the individual's sensibilities and affects her/his performance and has sexual connotation/overtone/nature, and;
- Teasing, voyeurism, innuendos and taunts, physical confinement and/or touching against one's will and likely to intrude upon one's privacy.

**2.3** The following **circumstances**, among others, if occur or are present with or connected with any act or behaviour of sexual harassment may amount to sexual harassment:

- Implied or explicit **promise of preferential treatment** in the employment, Implied or explicit **threat or detrimental treatment** in the employment, Implied or explicit **threat about the present or future** employment status,
- **Interference** with the work or creating an intimidating or offensive or hostile work environment, and;
- **Humiliating treatment** is likely to affect the health or safety of the female employee.

## **2.4 DEFINITIONS:**

### **a. *Aggrieved Woman***

The Act recognizes the right of every woman to a safe and secure workplace environment irrespective of her age or employment/work status. Hence, the right of all women working or visiting any workplace whether in the capacity of regular, temporary, ad hoc, or daily wages basis is protected under the Act.

It includes all women whether engaged directly (permanent on deputation or contractual) or through an agent including a contractor, with or without the knowledge of the principal employer. They may be working for remuneration, on a voluntary basis, or otherwise. Their terms of employment can be expressed or implied. Further, she could be a co-worker, a contract worker, a resource person, a probationer, a trainee, an apprentice, an intern, or called by any other such name.

An aggrieved woman, about a workplace, is a woman, of any age, whether an employee or not, who alleges to have been subjected to any act of Sexual Harassment.

**b. Complainant**

A complainant is an aggrieved woman (in case the aggrieved woman is unable to make a complaint on account of her physical or mental incapacity or death or otherwise) who makes a complaint about sexual harassment at the workplace under this policy.

**c. Workplace**

The workplace is defined as “any place visited by the employee arising out of or during employment, including transportation provided by the employer for undertaking such a journey.” This includes women employees on official tours.

**d. Employee**

Employee means a person employed at a workplace for any work 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 principal employer, whether for remuneration or not, or working voluntarily 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.

**e. Employer**

Employer in NIDM would mean the Executive Director of NIDM.

**f. Respondent**

Respondent means the person against whom the complainant has made a complaint.

**3.0 COMPLAINT REDRESSAL COMMITTEE/ INTERNAL COMPLAINTS COMMITTEE (ICC):**

As per the guidelines given by the law, NIDM has appointed Internal Complaints Committee (ICC) with the following composition:

- **Presiding Officer, ICC** - Dr Ajinder Walia
- **Member Secretary** - Shri Shekhar Chaturvedi
- **Internal Member** - Dr Sushma Guleria
- **Internal Member** - Ms Gita Sharma
- **Internal Member** - Ms Jaya
- **External member** - Ms Namita Khare

**3.1** The complaints Committee/s is required to be trained in both skill and capacity to carry out a fair and informed inquiry into a complaint of workplace sexual harassment. An absence of such training will lead to unequal and unfair results, which can negatively impact employers, employees, complainants as well and respondents.

**3.2** To effectively address workplace sexual harassment complaints, a Complaints Committee must first be aware of its key responsibilities, some of which are

highlighted below:

- Be thoroughly prepared,
- Know the Act, Policy, and/or relevant Service Rules Gather and record all relevant information,
- Determine the main issues in the complaint,
- Prepare relevant interview questions,
- Conduct necessary interviews,
- Analyze the information gathered;
- Prepare the report with findings/recommendations.

**3.3** Dealing with workplace sexual harassment complaints is often complex. Hence Complaints Committee/s must possess critical skills/capacity to effectively carry out their role. ICC should have skills to synthesize information i.e., relevant documents, the law, and interviews. They should also be able to communicate effectively, write clearly, listen actively, and conduct interviews. They should be competent at showing empathy, being impartial, and being thorough. They should be able to identify sexual harassment and its impact.

#### **4.0 REDRESSAL PROCESS:**

**4.1** A Complainant can make, in writing, a complaint of Sexual Harassment to the Internal Complaints Committee (ICC), within one month from the date of the incident and in case of a series of incidents, within one month from the date of the last incident. The ICC may, for the reasons to be recorded in writing, extend the time limit not exceeding three months, if it is satisfied that the circumstances were such which prevented the complainant from filing a complaint within the said period.

**4.2** If the aggrieved individual is unable to make a complaint on account of his/her physical/mental incapacity, a complaint may be filed through the following:

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

**4.4** When it comes to redressing workplace sexual harassment, the employee/worker has a right to expect a trained, skilled, and competent Complaints Committee, information confidentiality, assurance of non-retaliation, a time-bound process counselling, or other enabling support where needed. The Committee will maintain a record of the complaints received by it and keep the contents confidential if it is so desired, except to use the same for discreet investigation. |

**4.5** The complainant has a right to:

- An empathetic attitude from the Complaints Committee so that she can state her

grievance in a fearless environment,

- A copy of the statement along with all the evidence and a list of witnesses submitted by the respondent,
- Keeping her identity confidential throughout the process,
- Support, in lodging FIR in case she chooses to lodge criminal proceedings In case of fear of intimidation from the respondent, her statement can be recorded in the absence of the respondent;
- Right to appeal, in case, not satisfied with the recommendations/findings of the Complaints Committee.

**4.6** The respondent has a right to:

- A patient hearing to present his/her case in a non-biased manner,
- A copy of the statement along with all the evidence and a list of witnesses submitted by the complainant,
- Keeping his/her identity confidential throughout the process;
- Right to appeal in case not satisfied with the recommendations/findings of the Complaints Committee.

**4.7** The Committee will send a copy of the complaint to the complainant who has to respond to the complaint within ten days.

**4.8** Unless the investigation is completed the ICC can undertake interim measures and recommend that the complainant is transferred from the department/section/division of the respondent immediately or is sent on leave.

**4.9** At the first meeting, the Committee members shall hear the Complaint and record her allegations. The Complainant can also submit any corroborative material with documentary proof, oral or written material, etc. to substantiate her complaint. Thereafter, the person against whom the complaint is made may be called for deposition before the Committee and an opportunity will be given to him/her to give an explanation, whereafter, an “Inquiry” shall be conducted and concluded.

**4.10** In the event, the complaint does not fall under the purview of Sexual Harassment or the complaint does not mean an offence of Sexual Harassment, the same shall be dropped after recording the reasons thereof.

**4.11** In case the complaint is found to be false, the Complainant shall, if deemed fit, be liable for appropriate disciplinary action by the Institute.

## **5.0 INVESTIGATIVE PROCESS:**

**5.1** The Committee shall immediately proceed with the Inquiry and communicate the same to the complainant and the respondent.

**5.2** The Committee shall prepare and hand over the Statement of Allegation to the person against whom the complaint is made and allow him/her to submit a written explanation if she/he so desires within ten days of receipt of the same.

- 5.3** The Complainant shall be provided with a copy of the written explanation submitted by the person against whom the complaint is made.
- 5.4** If the Complainant or the person against whom a complaint is made desires any witness (es) to be called, they shall communicate in writing to the Committee the names of witness(es) that they propose to call.
- 5.5** If the complainant or the person against whom a complaint is made desires to tender any document by way of evidence before the Committee, she/he shall provide the same.
- 5.6** The Committee shall call upon all the witnesses mentioned by both the parties.
- 5.7** The witnesses can make their statements in the absence of complainant and respondent in order to avoid their physical presence putting pressure on the witness.
- 5.8** The committee shall provide every reasonable opportunity to the complainant and to the person against whom the complaint is made, to put forward and defend their respective case.
- 5.9** The Committee shall complete the “Inquiry” within a reasonable period but not beyond 90 days and communicate its findings and recommendations for any action to the ED, NIDM within ten days from the date of completion of the enquiry, and such report shall be made available to the concerned parties. The report of the Committee shall be treated as an enquiry report on the basis of which appropriate punishment can be awarded to the erring employee.
- 5.10** ED, NIDM has to implement the recommendation of the ICC within 60 days of receipt of the report.
- 5.11** If not satisfied by the recommendations or non-implementation of such recommendations, the complainant and the respondent can appeal to a tribunal/court within 90 days.

## **6.0 INQUIRY PROCESS:**

- 6.1** On receipt of the complaint, the ICC shall judge it in the context of workplace that the sexual harassment complaint is to be met with under the Act, such as Service Rules, Workplace Policy, Vishaka Guidelines and related law. Clarity can be sought in the complaint and any additional information needed from the complainant. The complainant will be notified in writing to acknowledge receipt.
- 6.2** The complainant needs to be informed about the ensuing process and the informal or formal options available for redressal.
- 6.3** If the complainant chooses to adopt the informal process to resolve her complaint/experience of workplace sexual harassment, then it is the responsibility of ICC to explore enabling ways to address the complaint. This can include counseling, educating, orienting, or warning the respondent to promptly stop the unwelcome behavior or appointing a neutral person to act as a conciliator

between the parties to resolve the complaint through conciliation. However, before recommending conciliation, the Committee must assess the severity of the situation and if necessary, advise and enable the complainant to opt for the formal route. At no point, the Complaints Committee will advise the complainant to resolve the matter directly with the respondent. Where such an informal process is successful, such resolution is to be recorded by the conciliator and forwarded to the ICC who in turn will forward the same to the employer for further action based on the resolution. Employers are responsible for taking steps to ensure that the complainant is not subject to any backlash.

- 6.4 If the complainant opts for formal redress, or the nature of the complaint is serious which calls for formal redress, then the ICC shall respond to the complaint. ICC members must be free of any conflict of interest with either the concerned parties or with the outcome. It should be ensured that the independent external member has sound knowledge, skill, and experience in dealing with such complaints.
- 6.5 As per the procedure, within five days of receiving a complaint, the ICC will inform the respondent in writing that a complaint has been received. The respondent will have an opportunity to respond to the complaint in writing within ten days.
- 6.6 The confidential file will be prepared by ICC by collecting all relevant documents.
- 6.7 The plan will be developed by ICC based on defining the issue, whether any violation has occurred or not, the need for special logistics /venue for interviews, order of questioning the witnesses, and areas of questioning.
- 6.8 While a complaint is pending inquiry, a complainant can make a written request for her transfer or the transfer of the respondent, or leave (up to 3 months). She can also request the ICC to restrain the respondent from reporting on her work performance writing her confidential report or supervising her academic activities. Even in the absence of such a request, the ICC must take corrective action. It is essential to take these actions to prevent potential ongoing sexual harassment.

## **7.0 OTHER POINTS TO BE CONSIDERED:**

- 7.1 Since the Institute is located at the marginal end of the city, it will be the responsibility of the employer to ensure that no woman employee faces any kind of untoward incident while travelling back from the workplace at odd hours on account of being asked to stay late after office hours by the employer.
- 7.2 The Committee shall submit an Annual Report to NIDM for the calendar year indicating the number of cases received and investigated, the number of cases disposed of, and number of cases pending.
- 7.3 In case the Committee finds the degree of offence coverable under the Indian Penal Code, then this fact shall be mentioned in its report and appropriate action shall be initiated by the NIDM for making a police complaint.

