

Avanti Fellows'

Policy on Prevention of Sexual Harassment at Workplace ("Policy")

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1. Purpose

Avanti Fellows' ("**Trust**" or "**we**") is an equal opportunity employer, committed to providing a healthy, harassment free and congenial working environment that is conducive to professional growth and encourages equality of opportunity irrespective of race, caste, religion, color, ancestry, marital status, gender, sexual orientation, age, nationality, ethnic origin or disability or social class of the employees.

The Trust strives to maintain a work environment free of sexual harassment, intimidation, threats, coercion or discrimination. We endeavour to ensure that every employee is treated with dignity and respect and afforded an equitable treatment. Accordingly, this Policy has been framed, in line with the provisions of the "**Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013**" of India (hereinafter referred to as the "**Act¹**") and existing rules framed thereunder namely the "**Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Rules, 2013**" (hereinafter referred to as the "**Rules²**"). While the Policy covers all the key aspects of the Act, for any further clarification, a reference can be made to the Act and the Rules.

The Trust's success is based on its people. We treat each other with respect and dignity and expect everyone to promote a sense of personal responsibility. We recruit competent and motivated people who respect our values, provide equal opportunities for their development and advancement, protect their privacy and do not tolerate any form of harassment or discrimination.

We have zero-tolerance for sexual harassment. Accordingly, any act of sexual harassment or related retaliation is totally unacceptable. This Policy, therefore, intends to prohibit such occurrences and also details procedures to follow when an individual believes that a violation of the Policy has taken place in accordance with applicable provisions of law.

2. Scope

This Policy extends to all employees as well as consultants and contractual workers of the Trust, including those employed on regular, temporary, ad-hoc or daily wage basis, whether for remuneration or not, or working on a voluntary basis or otherwise, trainees and apprentices ("**Employees**"). This Policy also extends to those who are not employees of the Trust, such as clients, customers, visitors, vendors or suppliers, service partners or called by any other such name ("**Third Party** or **Third Parties**") but are subjected to sexual harassment at the workplace of the Trust by an Employee.

¹ <http://wcd.nic.in/sites/default/files/Sexual-Harassment-at-Workplace-Act.pdf>

² <http://wcd.nic.in/sites/default/files/Sexual-Harassment-at-Workplace-Rules.pdf>

This Policy covers instances of sexual harassment at the offices of the Trust, including any conduct involving Employees outside the office, if such conduct has been exhibited by the Employees in relation to their work and duties of the Trust. Therefore, this would include office cabs, business and official trips, off-site, training programs, hotels provided by the Trust as a part of official duties, team gatherings, official travel etc.

All employees shall ensure that they themselves and where applicable, their team members, including new entrants, are aware of the Policy and strictly adhere to it. This Policy bestows the responsibility on every Employee to maintain a non-hostile and a conducive working environment free of any kind of sexual harassment. All Employees should respect the dignity and privacy of each other.

This policy does not prevent any aggrieved person from taking recourse to the law of the land.

Sexual harassment as addressed in this policy is gender agnostic.

3. Definitions

- a) **“Aggrieved Individual”** means in relation to a workplace, a person, of any age, whether employed or not, who alleges to have been subject to any act of sexual harassment by the Respondent and includes contractual, temporary employees and visitors.
- b) **“Complainant”** is any aggrieved individual (including a representative as more fully described under Rule 6 of the said Rules, if the aggrieved individual is unable to make a complaint on account of his/ her physical or mental incapacity or death or otherwise) who makes a complaint alleging Sexual Harassment under this Policy.
- c) **“Employee”** means 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 by any other such name.
- d) **“Employer”** means a person who is responsible for management, supervision and control of the workplace including appointment/ removal/ termination of employees.
- e) **“Internal Committee”** means and include an Internal Committee (hereinafter referred to as the (“IC”).
- f) **“Member”** means a member of the IC.

- g) **“Presiding Officer”** means the presiding officer of the IC and shall be a woman employed at a senior level at the workplace amongst the employees.
- h) **“Respondent”** means a person against whom a complaint of alleged sexual harassment has been made under this Policy.
- i) **“Parties”** means collectively the Complainant and the Respondent.
- j) **“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 a Trust employee and someone that employee deals within the course of his/her work who is not employed by the Trust.
- (a) Sexual Harassment includes any one or more of the following unwelcome acts of behavior (whether directly or by implication):
- (i) Physical contact and advances;
 - (ii) Demand or request for sexual favours;
 - (iii) Sexually coloured remarks or remarks of a sexual nature about a person's clothing or body;
 - (iv) Showing pornography, making or posting sexual pranks, sexual teasing, sexual jokes, sexually demeaning or offensive pictures, cartoons or other materials through email, SMS, MMS etc.;
 - (v) Repeatedly asking to socialize during off-duty hours or continued expressions of sexual interest against a person's wishes;
 - (vi) Giving gifts or leaving objects that are sexually suggestive;
 - (vii) Eve teasing, sexual innuendos and taunts, physical confinement against one's will or any such act likely to intrude upon one's privacy;
 - (viii) Persistent watching, following, contacting of a person; and
 - (ix) Any other unwelcome physical, verbal or non-verbal conduct of sexual nature.
- (b) The following circumstances if it occurs or is present in relation to any sexually determined act or behaviour amount to sexual harassment:
- (i) Implied or explicit promise of preferential treatment in employment;
 - (ii) Implied or explicit threat of detrimental treatment in employment;
 - (iii) Implied or explicit threat about the present or future employment status;
 - (iv) Interference with the person's work or creating an intimidating or offensive or hostile work environment; or
 - (v) Humiliating treatment likely to affect her health or safety.

(c) Sexual Harassment includes any one or more of the following unwelcome acts of behavior **in case of working from home ("WFH"):**

- (i) Sending lewd messages;
- (ii) Making unnecessary advances;
- (iii) Pressurizing someone vis-à-vis content e.g. asking someone to prepare content that they are uncomfortable with.

The reasonable person standard is used to determine whether or not the conduct was offensive and what a reasonable person would have done. Further, it is important to note that the determination of whether harassment has occurred or not is based not on the intention of the Respondent, but on the impact experienced by the aggrieved person.

k) **"Workplace"** means establishments, enterprises, institutions, offices, branches, premises, locations or units established, owned, controlled by the Trust or places visited by the Employee out of or during the course of employment including accommodation, transportation provided by the Trust for undertaking such journey and WFH.

4. Roles and Responsibilities

- a) Responsibilities of an individual: It is the responsibility of all to respect the rights of others and to never encourage harassment. It can be done by:
- (i) Raising objection to behavior that is considered unwelcome;
 - (ii) Refusing to participate in any activity which constitutes harassment;
 - (iii) Supporting the person to reject unwelcome behaviour;
 - (iv) Acting as an impartial and honest witness, if the person being harassed decides to lodge a complaint.

All are encouraged to inform others of behaviour that is unwelcome. At times, some behaviours may not be intentional. While this does not make it acceptable, it does give the person behaving inappropriately, an opportunity to modify or stop their offensive behaviour.

- b) Responsibilities of the employer: The employer at the Trust must ensure that nobody is subject to harassment and there is equal treatment. They must also ensure that all employees understand that harassment will not be tolerated, complaints will be taken seriously and the Complainant, Respondent/s, or witnesses are not victimized in any way.

5. Redressal Mechanism

This is a gender-neutral Policy and any Employee or a Third Party can initiate a complaint of sexual harassment at workplace against an Employee. e.g. the Trust's partners or vendors, employees of the Trust's service partners can also initiate a complaint of sexual harassment at workplace, against an Employee, if such Employee has indulged in a misconduct amounting to sexual harassment at the workplace with respect to such Third Party.

a) The Internal Committee ("IC")

Pursuant to the relevant provisions of the PoSH Act, an IC has been constituted to prevent sexual harassment and to receive and effectively deal with complaints pertaining to the same.

The Internal Committee is intended to be an independent, objective and unbiased fact-finding body set up to investigate any complaints of sexual harassment at workplace in a fair, reasonable and time-bound manner in a neutral environment. It will broadly be governed by the following principles in conducting its proceedings:

- (i) The IC shall give reasonable opportunity to the Complainant and the Respondent, for putting forward and defending their respective cases and ensure that the Complainant and the Respondent have full opportunity to present their claims, witnesses and evidence, if any, which may establish or substantiate their claims.
- (ii) The Complainant, his/ her witnesses and the Respondent and/ or any other person that the IC meets with or interacts with, for the purpose of inquiry into any complaint of sexual harassment at workplace, shall be bound by strict confidentiality obligations; such parties shall not be permitted to discuss the proceedings of the IC with any third person. Any failure to comply with this obligation shall attract strict disciplinary action against such person, where the wrongdoer is an Employee.
- (iii) The IC shall complete the enquiry and make a report of its findings on the complaint and its recommendations to the Employer in accordance with this Policy. The report of the IC shall include appropriate recommendations, clearing stating the reasons for such recommendations in the report.

b) Lodging a complaint

- (i) The Complainant needs to submit a detailed complaint with all the available details (such as date, time, place of the alleged incident or incidents, any witnesses present at the time of incident etc.), along with documentary evidence, if any, to any of the committee members at the workplace. Anonymous or pseudonymous complaints will not be investigated.
- (ii) The complaint of sexual harassment must be filed within a period of three (03) months from the date of incident and in case of more than one incident, within a period of three (03) months from the date of last incident. Complaints arising of incidents more than three (03) months old shall not be accepted.
- (iii) However, the Internal Committee may, for reasons to be recorded in writing, extend such time limit of filing complaint up to further three (03) months, if it is satisfied that bonafide circumstances prevented the Complainant from filing a complaint within the time limit mentioned above.

- (iv) Where the Complainant is unable to make the complaint on account of her/ his physical or mental incapacity or death or otherwise, his/ her representative, as more fully described under Rule 6 of the said Rules, may make a complaint.
- (v) If the initial complaint is made to a person other than an IC member, upon receiving such a complaint, it will be the responsibility of the complaint receiver to report the same to the IC immediately.

c) Redressal Process

Conciliation:

- (i) Before the IC initiates an inquiry, the Complainant may request the IC in writing to take steps to resolve the matter through conciliation, provided no monetary settlement shall be made as a basis of conciliation.
- (ii) Where settlement has been arrived at between the Complainant and the Respondent, the IC will record the settlement that arrived and forward the same to the Complainant, the Respondent and the employer.
- (iii) Where a settlement is arrived at in accordance with this provision of the Policy, no further inquiry shall be conducted by the IC.

Inquiry:

- (i) It is not obligatory for a Complainant to invoke the conciliatory procedure. The Complainant may invoke the procedure for enquiry without resorting to the conciliatory procedure.
- (ii) Thus, in a case where a settlement is not chosen by the Complainant or could not be arrived at through conciliation (mentioned above), the IC will conduct an inquiry into the complaint. Additionally, an inquiry may also be initiated if the Complainant informs the IC that any terms of settlement have not been complied with by the Respondent.
- (iii) The IC shall, within seven (07) working days of receiving the complaint, forward one copy thereof to the Respondent for obtaining a response.
- (iv) The Respondent shall, within ten (10) working days of receiving the complaint, file his/ her reply to the complaint along with a list of supporting documents, names and addresses of witnesses.

- (v) The IC shall consider the reply from the Respondent and initiate an inquiry. Neither the Complainant nor the Respondent shall be allowed to bring any legal practitioner to represent them at any stage of the proceedings before the IC. IC shall hear both the Complainant and the Respondent on date(s) intimated to them in advance and the principles of natural justice will be followed accordingly.
- (vi) The investigation may include interviewing the allegedly harassed Employee or the Third Party, the allegedly harassing Employee, any witnesses, as well as considering any other potentially relevant information.
- (vii) In the event of failure to attend personal hearing before IC by the Complainant or the Respondent on three consecutive dates (intimated in advance), the IC shall terminate the inquiry proceedings or give an ex-parte decision. However, the IC shall serve a notice in writing to the party/ parties fifteen (15) days in advance, before such termination or the ex-parte order.
- (viii) The inquiry process shall be completed maximum within the period of 90 (ninety) days from the date of receipt of the complaint.
- (ix) The IC shall, within 10 (ten) days from the date of completion of inquiry, provide a report of its findings to Employer with the necessary recommendations and a copy of such report shall also be forthwith made available to the Complainant and Respondent.

Interim Relief:

During pendency of the inquiry, on a written request made by the Complainant, the IC may recommend to the Employer to grant Interim relief to the Complainant as provided here in after.

- (i) Transfer the Complainant or the Respondent to any other workplace;
- (ii) Grant leave to the Complainant of maximum 3 months, in addition to the leave he/ she would be otherwise entitled; or
- (iii) Restrain the Respondent from reporting on the work performance of the Complainant, in accordance with the PoSH Rules, 2013.

d) Disciplinary Action:

Where the result of the investigation/ enquiry holds the Respondent guilty of an act of sexual harassment at the workplace, the Trust shall take appropriate disciplinary action against such an Employee.

The disciplinary action may include:

- (i) Verbal warning and counseling;
- (ii) Written warning letter;
- (iii) Withholding of increment and/ or promotion and/ or other benefits (if any);
- (iv) Reduction in grade and/or demotion;
- (v) Revocation of allowances, deduction of salary etc.;
- (vi) Termination of service; and/ or
- (vii) Any other action deemed fit by the Internal Committee.

Penal Consequences

If the Respondent is found guilty of a serious act of sexual harassment at workplace, such act may also attract stringent penal consequences as per the Indian Penal Code, 1860.

Implementation of Recommendations of the Internal Committee

The Employer shall implement the recommended action(s) contained in the report of the IC within sixty (60) days of the submission of the report by the IC.

6. Protection to Complainant/ Respondent

The Trust is committed to ensuring that no Employee who brings forward a harassment concern is subject to any form of reprisal. Any retaliation will be subject to disciplinary action. Complainant/ Respondent or the witnesses shall not be victimized or discriminated against, while dealing with the complaints of sexual harassment as per this Policy.

This Policy however shall not be used to bring frivolous or malicious complaint (e.g. by falsely leveling an allegation knowing it to be untrue and/ or producing any forged or misleading document) against any employee. If it comes to the attention of the IC that a complaint has been made in bad faith by the Complainant (where such Complainant is an Employee), suitable disciplinary action shall be taken against such an Employee for bringing about the malicious complaint.

This Policy also ensures that the career interests of both the parties i.e. the Complainant and the Respondent Employee will not be adversely affected merely on account of receipt of the complaint made to the IC.

7. Confidentiality

The identity of the Complainant, Respondent, witnesses, statements and other evidence obtained in the course of the inquiry process, recommendations of the IC and actions taken by the employer are considered as confidential material, and are not published or made known to the press, public or media.

Any person contravening the confidentiality clauses is subject to disciplinary action as prescribed in the Act.

8. Appeal

Any party aggrieved by the recommendations of the IC or non-implementation of such recommendations, may appeal to the appellate authority in accordance with the Act and rules, within a period of ninety (90) days of the recommendations.

9. Modification and Amendment of the Policy

The Trust reserves the right to modify and/ or review and/ or amend and/ or replace the provisions of the Policy from time to time, with a view to comply with the applicable legal requirements/ internal policies to the extent deemed necessary by the Trust from time to time. Any such changes or modifications may be notified by the Trust to its Employees in due course.

10. Law

This Policy shall be governed by and construed in accordance with the laws of India.

Warm regards,

Vandana Goyal
Chief Executive Officer
Avanti Fellows