PRAYAS, INTIATIVES IN HEALTH, ENERGY, LEARNING and PARENTHOOD.

OPERATIONAL GUIDELINES FOR FORMATION AND FUNCTIONING OF INTERNAL COMPLAINTS COMMITTEE (I.C.C.)

In light of the Act of Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 which came into force on 9th December 2013, Prayas, Initiatives in Health, Energy, Learning and Parenthood has formed the Anti-Sexual harassment committee as per the act to deal with such issue/s.

This document consists of operational guidelines for this committee.

Sexual harassment in a work environment violates not only the human rights of the victim but also the fundamental values of the organization, including the value it places on high standards of personal and professional integrity and responsibility. It is therefore a legal as well as moral responsibility for the organization to ensure that a gender friendly environment is nurtured at the work place, that the employees do not face any kind of sexual harassment, and in the instance of sexual harassment; there exists a redress mechanism to support the concerned employee.

Definitions

1. Sexual Harassment :- It includes any one or more of the following unwelcome acts:
   - Physical Contact and advances
   - Demand or request for sexual favors
   - Making sexually coloured remarks

. Showing Pornography

. Any other unwelcome physical, verbal or non - verbal conduct of sexual nature

2. Workplace :- It includes

i) Any department/ group of the organization ;

ii) Any place visited by employee of the organization during the course of employment including transportation;

Structure and functioning of the I. C. C.:

	There will be minimum four Members as follows
Members	• Presiding Officer: Shall be a woman employed at senior level at Workplace from amongst the employees. • Two members from amongst the employees - experienced in social work or have legal knowledge, • One Member from NGO working for cause of woman / person Familiar with the issues relating to sexual Harassment.
Purpose	This committee will be formed with the purpose of creating a healthy and safe work environment among men and women staff members of the organization.
Role of ICC	It will have two fold role: • Preventive and Proactive role in creating awareness for prevention of Sexual Harassment and proactive role for creating healthy environment in the organization. • Addressing complaints of sexual harassment - in case of such complaint take immediate cognizance and adopt appropriate measures.
Meetings	The committee should meet at least once in six months and take initiative to create awareness and organize programs regularly.
Reporting	ICC to submit the annual report to the employer and district officer as the case may be on following details; • Number of complaints received in the year • Number of complaints disposed off during the year • Nature of action taken by the employer

	Number of cases pending for more than 90 days • Number of workshops or awareness programs held against sexual harassment

Responsibilities of the Board of trustees of the organization

In order to play preventive and proactive role, the trustees shall take up various initiatives at the organization level such as;

- Provide safe working environment at the workplace which shall include safety from the persons coming into contact at the workplace.
- Display at any conspicuous place in the workplace the penal provisions for sexual harassment and its consequences and the order constituting Internal Complaints Committee (ICC).
- Organize workshops and awareness programmes at regular intervals for sensitizing the employees with the provisions of the Act and orientation programmes for the members of Internal Complaints Committee in the manner prescribed.
- Provide necessary facilities to Internal Complaints Committee dealing with complaint and conducting inquiry.
- Make available such information to ICC as the complaint is made under section 9 of this Act.
- Provide assistance to woman if she chooses to file a complaint in relation to the offence under Indian Penal Code or any law in force.
- Cause to initiate action under Indian Penal Code or any other Law in force, against the perpetrator, or if the aggrieved woman so wishes where the one who commits the crime is not an employee in the workplace at which the incident of sexual Harassment took place.
- Treat sexual harassment as misconduct under the service rules and initiate action for such misconduct.
- Monitor the reports of Internal Complaints Committee.

Receiving a Complaint

1. Any Aggrieved woman may make in writing a complaint of Sexual Harassment to Internal Complaints Committee within **three** months from the date of occurrence. If there is series of such occurrence then, the complaint should be made within **three** months from the date of last occurrence.
2. If she can't make complaint; the member of ICC has to render all reasonable assistance for woman to make the complaint in writing.

   Further they may extend the time limit to **three** months if it is satisfied that the circumstances prevented the aggrieved woman from complaining.
3. If she is unable to make the complaint due to her physical or mental incapacity or death then her legal heirs can make the complaint.

Enquiry into Complaint

1. When respondent is an employee, committee shall proceed to make inquiry into complaint in accordance with the service rules applicable and if no such rules exist then the ICC can forward the complaint to police within **seven** days from registering under section 509 of Indian Penal Code.
2. If aggrieved woman informs the ICC that no solution arises as under section 10 of this Act, dealing with Conciliation, committee shall proceed to make inquiry or forward to police.
3. Conciliation: Before initiating an enquiry, the ICC, at the request of aggrieved woman, may take steps to settle the matter between her and the respondent through conciliation: A) provided that no monetary settlement shall be made as a basis of conciliation. B) Where a settlement has been arrived, the ICC shall record the settlement so arrived and forward the same to the employer to take action as specified in the recommendation.
4. When both the parties are employees then during course of inquiry they shall be given an opportunity of being heard and copy of findings to be given to both parties.
5. The ICC shall have same powers as vested in Civil Court such as

i) Summoning and enforcing the attendance of any person and examining him/her on oath.

ii) Requiring the discovery of production of documents

iii) Any other matter prescribed

6. Inquiry to be completed within **ninety** days from the date of the complaint.

Action on Inquiry

a) **Action during Pendency**:

- During pendency of an inquiry the ICC may recommend to
  - i) Transfer aggrieved woman or respondent to any other workplace.
  - ii) Grant leave to such aggrieved woman up to a period of **three** months.
  - iii) Grant such other relief to the aggrieved woman as may be prescribed.
- The Leave granted to aggrieved woman under Section 12 of this Act shall be in addition to the leave she is entitled to otherwise.

b) **Inquiry Report**:

i) On completion of Inquiry under this Act the ICC shall provide a report of findings to the board of trustees within **ten** days from date of completion of inquiry and also be made available to the parties.

ii) Where ICC arrives at a conclusion that allegation against the respondent has not been proved; it shall recommend to the board of trustees.

iii) If ICC arrives at a conclusion that allegations are proved; it shall recommend the BOT of the organization ;

- To take the action against respondent for sexual harassment as misconduct in accordance with the provisions of service rules applicable.

- To deduct, regardless of service rules applicable, from salary or wages of the respondent such sum as it may consider appropriate to be paid

to the aggrieved woman or to her legal heirs in accordance to provisions of Section 15.

If Employer is unable to make deductions from salary due to respondent being absent from duty or cessation of employment it may direct the respondent to pay.

c) Committee can recommend any action/s to the employer as the case may be, including a written apology, warning, reprimand or censure, withholding of promotion, withholding of pay rise, termination of services or undergoing counseling session or carrying out community service

d) BOT of Prayas has to act within **sixty** days. They shall implement the recommendations and send the same report to the ICC.

e) Where the respondent fails to pay the sum ordered then the Internal Committee may forward the order for proper procedure.

f) The Contents of the complaint so made under Section 9 of this Act as to the address of the aggrieved woman, respondent, witnesses or any information relating inquiry proceedings, recommendations of Internal Committee and action taken on these recommendations will not be communicated or make known to the public, press and media in any manner. Where any person authorized to deal with the complaint contravenes this; s/he will have to undergo penalty according to provisions of service rules so applicable to that person.

FALSE OR MALICIOUS COMPLAINT

If the Internal Complaints Committee arrives at the conclusion that allegations against the respondent is malicious or the aggrieved woman or any other person made the complaint knowing it to be false or documents so provided are false or misleading then ICC may recommend the organization to take action against such woman or who has made the false complaint according to service rules applicable to him /her.

Also Internal Complaints Committee arrives at the conclusion during the inquiry that any witness has given false or malicious statement then ICC may