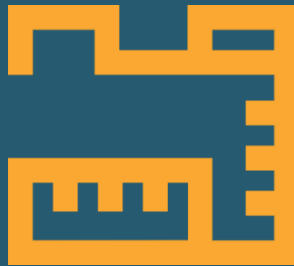




# PREVENTION OF SEXUAL HARASSMENT AT WORKPLACE

Policy No: CUB/22 - 23/005

Version 1.1



[www.cubastion.com](http://www.cubastion.com)

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# 1. INTRODUCTION

Cubastion Consulting Private Limited (hereinafter referred to as "Company/Cubastion") is committed to maintaining a work environment where each individual feels respected and safe. This includes a work environment free of all type of harassment. Our Company is also committed to promote a work environment that is conducive to the professional growth of its employees and encourages equality of opportunity. We also strive to guarantee a safe and welcoming environment to all those who visit our office in any capacity, such as customers, vendors etc. Discrimination and harassment of any type is strictly prohibited. We wish to promote and maintain this culture to ensure that associates of the Company do not engage in practices that are abusive in any form or manner whatsoever. In response to the law, the Company has introduced a Sexual Harassment Policy (hereinafter referred to as Policy). This Policy is separate from and in addition to policies relating to anti - harassment or any such other policy.

This policy has been framed in accordance with the provisions of "The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013" and rules framed thereunder (hereinafter "the Act"). Accordingly, while the policy covers all the key aspects of the Act, for any further clarification reference shall always be made to the Act and the provisions of the Act shall prevail.

The 'Policy on Prevention of Sexual Harassment of women at workplace: Guidelines for Cubastion Consulting Private Limited' intends to provide protection against sexual harassment of women at workplace and the prevention and redressal of complaints of sexual harassment and matters related to it. All complaints will be treated seriously and fairly. Any instance of sexual harassment will be treated as misconduct and will be dealt with appropriately. Cubastion will not tolerate any form of sexual harassment and is committed to take all necessary steps to ensure that its employees are not subject to any form of sexual harassment either by fellow employees or by persons in the management of the Company.

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

# 2. DEFINITIONS

1. **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 Cubastion Consulting Private Limited

employee and someone that employee deals with in the course of his/her work who is not employed by the Company.

"Sexual Harassment" includes any one or more of the following unwelcome acts or behaviour (whether directly or by implication):

- a. Any unwelcome sexually determined behaviour, or pattern of conduct, that would cause discomfort and/or humiliate a person at whom the behaviour or conduct was directed namely:
    - i. Inappropriate Physical contact and advances;
    - ii. Demand or request for sexual favors;
    - 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, 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;
    - ix. When a manager/supervisor or a person of authority gives or withholds a work-related benefit in exchange for sexual favors. Typically, the harasser requires sexual favors from the victim, either rewarding or punishing the victim in some way; and
    - x. 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.
2. **"Workplace"** means establishments, enterprises, institutions, offices, branches, premises, locations or units established, owned, controlled by the Company or places visited by the employees out of or during the course of employment including

accommodation, transportation provided by the employer for undertaking such journey.

3. **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, 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.
4. **Employer:** A person responsible for management, supervision and control of the workplace.
5. **Complainant:** The Complainant refers to the individual filing the complaint, including but not limited to anyone associated with the Company in a full-time/part-time capacity as a permanent or temporary employee, contractor, client, partner, consultant, vendor, intern volunteer or visitor
6. **Respondent:** A person against whom a complaint of sexual harassment has been made by the complainant. Thus, referring to anyone associated with the Company in a full-time/part-time capacity as a permanent or temporary employee, contractor, consultant, vendor, or intern volunteer.
7. **Internal Committee:** The Company has instituted an Internal Committee (hereinafter referred to as Committee), for redressal of sexual harassment complaints and for ensuring unbiased and time bound resolution of complaints.

### 3. SCOPE

This policy applies to all employees of the Company including all subsidiaries, if any and affiliated companies at their workplace or at client sites extends to all employees including individuals coming to the workplace for employment or for any other purpose whatsoever including but not limited to visitors, vendors, contractual resources and applies to any alleged act of sexual harassment against persons at workplace where the incident has occurred during office hours.

The Company will not tolerate sexual harassment, if engaged in by clients or by suppliers or any other business associates.

## 4. ROLES & RESPONSIBILITIES

1. Responsibilities of Individual/Employee's:	2. Responsibilities of Reporting Manager:
<p>It is the responsibility of all to respect the rights of others and to never encourage harassment. It can be done by:</p> <ol style="list-style-type: none"><li>Refusing to participate in any activity which constitutes harassment,</li><li>Supporting the person to reject unwelcome behaviour.</li><li>Acting as a witness if the person being harassed decides to lodge a complaint</li></ol> <p>All are encouraged to advise others of behaviour that is unwelcome. Often, some behaviours 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 behaviour.</p>	<p>All reporting manager of each department at Cubastion 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; that complaints will be taken seriously; and that the complainant, respondent/s, or witnesses are not victimized in any way.</p>

## 5. INTERNAL COMMITTEE

Internal committee means and include an Internal Complaints Committee (hereinafter referred to as the "ICC") which is being constituted to prevent instances of sexual harassment and to receive and effectively deal with complaints pertaining to the same.

### 5.1. Responsibilities, Roles & Powers of Internal Complaints Committee

The **committee** is responsible for:

- Receiving complaints of sexual harassment at the workplace;
- Investigating every formal written complaint of sexual harassment;

3. Taking appropriate remedial measures to respond to any substantiated allegations of sexual harassment;
4. Discouraging and preventing employment-related sexual harassment;
5. Review the complainant's complaint in a fair and objective manner;
6. Initiating and conducting inquiry as per the established procedure.
7. Help the complainant and the respondent find a way of solving the problem;
8. Determine the facts of the case with the individuals concerned and the witnesses, if any, and prepare a report with the findings;
9. Submitting findings and recommendations of inquiries;
10. Coordinating with the employer in implementing appropriate action;
11. Maintaining strict confidentiality throughout the process as per established guidelines;
12. Submitting annual reports in the prescribed format;
13. Be bound in the principle of natural justice and be unbiased in their evaluation etc.

## 5.2. Composition of Internal Complaints Committee

- A. To prevent instances of sexual harassment and to receive and effectively deal with complaints pertaining to the same, an "Internal Complaints Committee" is constituted at each location. The detail of the committee is notified to all covered persons at the location (workplace).

The committee at each location comprises of:

- i. **Presiding Officer:** Woman employee at a senior level at workplace from amongst the employees;
- ii. **Member:** At least one senior employee (irrespective of any Gender) committed to the cause of women or who have had experience of social work or have legal knowledge;
- iii. **Member:** Head or any senior member of Human Resource Department;
- iv. **External Member:** Member from amongst non-governmental organizations or associations committed to the cause of women or a person familiar with the issues relating to sexual harassment

Current nominated members of the committees are given in Annexure A.

- B. The names of the Committee members are listed on notice board of the Company at all times.
- C. It is to be noted that at least one half of the total members nominated shall always be women.
- D. The Presiding Officer reserves the right to nominate or replace members of appropriate seniority and rank in the committee to conduct such enquiries to ensure equal

representation of the gender as that of the complainant or for any other valid reason. However, the Presiding Officer and every Member of the Committee shall hold office for a period of not exceeding three years, from the date of their nomination.

- E. The Presiding Officer shall take into consideration the following grounds at the time of any inclusion or removal of Committee Members:
- i. contravention of the Policy or the legal provisions of the act; or
  - ii. has been convicted for an offence or an inquiry into an offence under any law for the time being in force in pending against him; or
  - iii. has been found guilty in any disciplinary proceedings or a disciplinary proceeding is pending against him; or
  - iv. has so abused his positions as to render his continuance in office prejudicial to the public interest
- F. The committee members, HR representatives and reporting managers will be provided necessary training inputs to handle such issues effectively and with the required sensitivity and concern.

## **6. COMPLAINT MECHANISM FOR HARASSMENT**

Each complaint of Sexual Harassment shall be dealt with utmost confidentiality and urgency by an Internal Complaint Committee (ICC). The mechanism to file complaint is as follows:

### **6.1. Filing of a Complaint**

- a. Any complainant may make, in writing at posh@cubastion.com (email ID) or to any member of the Internal Complaint Committee, a complaint of sexual harassment at workplace to any member of the Committee within a period of 3 (three) months from the date of incident/last incident;
- b. The Committee can extend the timeline by another 3 (three) months for reasons recorded in writing, if satisfied that these reasons prevented the lodging of the complaint within the period;
- c. 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 Complainant is unable to lodge the complaint in account of his/her incapacity, the following may do so on her behalf, with her written consent:



1. Legal heir, relative or friend
  2. Co-worker
  3. 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 committee immediately.

## **6.2. Receipt of a Complaint**

The following points are kept in mind by the receiver of the complaint:

- a. Complaint are listened to and the complainant informed that the Company takes the concerns seriously. Complainant is informed that these concerns will be reported to the appropriate committee and follow up will be done speedily.
- b. Situation are not be pre-judged. Written notes are taken while listening to the person. Complainant can bring another person to the meeting if they wish. When taking accurate notes, complainant(s) own words, where possible, is used. Clear description of the incident in simple and direct terms is prepared and details are confirmed with the complainant.
- c. All notes are kept strictly confidential. Complainant's agreement is taken to allow proceeding with the matter, which involves a formal investigation.
- d. The complainant is advised that although the process is confidential, the respondent needs to be informed and any witnesses and persons directly involved in the complaint process will also learn of the complainant's identity.
- e. Care is taken to prevent any disadvantage to or victimization of either the complainant or the respondent.

## **6.3. Redressal Process by way of 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 complainant.
- b. It is made clear to all parties that conciliation in itself doesn't necessarily mean acceptance of complaint by the respondent. It is a practical mechanism through which issues are resolved or misunderstandings cleared.
- c. In case a settlement is arrived at, the committee records & reports 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 & respondent and forward the same to the Employer. Once the action is implemented, no further inquiry is conducted.

## **6.4.Redressal Process through formal Inquiry**

### **6.4.1. Conducting Inquiry**

- a. The Committee will ask the Complainant to prepare a detailed statement of incidents/allegations. The Complainant shall submit 1 (One) copy of the complaint along with supporting documents and the names and addresses of the witnesses. The copies of the complaint may also be submitted by Legal heir, relative or friend, Co-worker or any person having the knowledge of the incident with the signatures of the Complainant.
- b. The statement of allegations will be shared with the respondent within seven (7) working days. The respondent will be asked to prepare a response to the statement of allegations, along with the list of documents and names and addresses of the witnesses and submit to the Committee within a period not exceeding ten (10) working days.
- c. The statements and other evidence obtained in the inquiry process will be considered confidential.
- d. The Committee will organize verbal hearings with the complainant and the respondent, in accordance with the principle of natural justice.
- e. During the course of inquiry, the Committee shall make a copy of the findings available to both the Parties enabling them to make representations against the findings before the Committee.
- f. The Committee will take testimonies of other relevant persons and review the evidence wherever necessary. The committee should ensure that sufficient care is taken to avoid any retaliation against the witnesses. During the inquiry process, the complainant and the respondent shall refrain from any form of threat, intimidation or influencing of witnesses.
- g. The committee will conduct inquiry in accordance with the practices of natural justice, i.e. the Complainant will be offered to the respondent for cross-examination and vice versa.
- h. The Committee will be empowered to do all things necessary to ensure a fair hearing of the complaint including all things necessary to ensure that victims or witnesses are neither victimized nor discriminated against while dealing with a complaint of sexual harassment. In this regard, the Committee will also have the discretion to make appropriate interim recommendations in relation to a respondent person (pending the outcome of a complaint) including suspension, transfer, leave, change of work location etc.

- i. The Committee will ensure confidentiality during the inquiry process and will ensure that in the course of investigating a complaint:
- j. Both parties will be given reasonable opportunity to be heard along with witnesses and to produce any other relevant documents;
- k. Upon completion of the investigation, both parties will be informed of the results of the investigation.
- l. For the purpose of making an inquiry, the Committee shall have the same powers as are vested in the civil court under Code of Civil Procedure, 1908.
- m. The parties to the complaint shall not be allowed to bring in any legal practitioner to represent them in their case at any stage of the proceedings before the Committee.
- n. The Committee will arrive at a decision after carefully and fairly reviewing the circumstances, evidence and relevant statements.
- o. In conducting the inquiry, a minimum of three members of the Committee including the Presiding Officer, shall be present for the hearing or participate through audio calls.
- p. The committee shall complete the enquiry within ninety (90) days from the receipt of written complaint.

#### **6.4.2. Interim Relief**

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

- 1. Transfer the complainant or the respondent to any other workplace; or
- 2. Grant leave to the aggrieved person of maximum 3 months, in addition to the leave he/she would be otherwise entitled; or
- 3. Prevent the respondent from assessing complainant's work performance; or
- 4. Grant such other relief as may be appropriate.

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

#### **6.4.3. Termination of Inquiry**

The Committee shall have the right to terminate the inquiry proceedings or to give ex-parte decision on the complaint, if the Complainant or respondent fails, without sufficient cause, to present herself or himself for three consecutive hearing convened by the Presiding officer, provided seven (7) days advance notice is provided to the party concerned, provided that such termination or ex-parte order may not be passed without giving a notice in writing, seven (7) days in advance, to the party concerned.

#### **6.4.4. Considerations while preparing inquiry report**

While preparing the findings/recommendations, following are considered:

1. Whether the language used (written or spoken), visual material or physical behaviour 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;
4. Other similar facts, evidence, for e.g. if there have been any previous accounts of harassment pertaining to the respondent.

#### **6.4.5. Inquiry Report**

On the completion of an inquiry, the Committee shall provide a report of its findings to the employer within a period of ten (10) days from the date of completion of the inquiry and such report be made available to the concerned parties.

### **6.5. Action to be taken after inquiry**

#### **6.5.1. Complaint Unsubstantiated**

Where the committee arrives at the conclusion that the allegation against the respondent has not been proved, it recommends to the employer that no action is required to be taken in this 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 company.

#### **6.5.2. Complaint Substantiated**

Where the committee arrives at the conclusion that the allegation against the respondent has been proved, it recommends to the employer to take necessary action for sexual harassment as misconduct, in accordance with the applicable service rules and policies, and this may include:

- a. Deduction from salary or wages of the respondent of such sum as may be decided by the Committee as a Compensation to the Complainant;
- b. Termination of the Respondent;
- c. Suspension for a period as may be decided by the Committee;
- d. Transfer of Respondent to another workplace;
- e. Adverse performance evaluation;
- f. Apology to be tendered by respondent;
- g. Written warning;
- h. Reprimand or censure;

- i. Counselling
- j. Withholding promotion and/or increments;
- k. Or any other action that the Committee may deem fit.

If the Internal Complaints Committee arrives at the conclusion that the allegation against the respondent has been proved, or if such complaint is proved to be false or malicious, it shall recommend to take action for sexual harassment as a misconduct, as per the following punishment matrix

PENALTY MATRIX	DISCIPLINARY ACTION
Minor	Warning, Reprimand, Written apology to the Complainant
Moderate	Withholding of promotions / increments, Rescinding of bonus, Carrying out community service, Transfer from present location
Stringent	Compensation or deduction from the salary / wages of the respondent or issue direction for payment; such sum as it may consider appropriate to be paid to the aggrieved person or to their legal heirs, as it may determine, Suspension, Termination / dismissal from employment, Legal action under the Criminal Code

The Company shall act upon the recommendation of the Committee with sixty (60) days of receipt of the report of the Committee.

### 6.5.3. Determination of Compensation

For the purpose of determining the Compensation to be paid to the Complainant, the Committee shall have to regard the following:

- a. the mental trauma, pain, suffering and emotional distress caused to the Aggrieved Associate;
- b. the loss in the career opportunity due to the incident of sexual harassment; medical expenses incurred by the victim for physical or psychiatric treatment;
- c. the income and financial status of the respondent; and
- d. Feasibility of such payment in lump sum or in instalments.

## **7.MALICIOUS ALLEGATIONS**

Where the committee arrives at the conclusion that the allegation against the respondent is malicious or the complainant or any other person making the complaint has made the complaint knowing it to be false or the complainant 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 complainant or the person making the complaint.

The action recommended should be like the ones proposed for the respondent in case of substantiated complaints.

While deciding malicious intent, the committee should consider that mere inability to substantiate a complaint need not mean malicious intent. Malicious intent must be clearly established through a separate inquiry.

## **8.CONFIDENTIALITY**

The contents of the complaint made under the Policy, identity and addresses of the Complainant, respondent and witnesses, any information relating to conciliation and inquiry proceedings, recommendations of the Committee and the action taken by the Company shall not be published, communicated or made known to the public, press and media in any manner.

Provided that information may be disseminated regarding the justice secured to any victim of sexual harassment without disclosing the name, address, identity or any other particulars calculated to lead to the identification of the Complainant, respondent and witnesses.

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

## **9.APPEAL**

Any party not satisfied or further aggrieved by the implementation or non-implementation of recommendations made, may appeal to the appellate authority in accordance with the Act and rules, within 90 days of the recommendations being communicated.

## **10. REPORTING**

The Committee shall prepare and submit an annual report to the Company having following details:

- a. number of complaints of sexual harassment received in the year;
- b. number of complaints disposed off during the year;
- c. number of cases pending for more than ninety days;
- d. number of workshops or awareness programme against sexual harassment carried out;
- e. Nature of action taken by the employer.

## 11. POLICY IMPLEMENTATION AND REVIEW

The policy will be implemented and reviewed by the HR department. The Company reserves the right to amend, abrogate, modify, rescind / reinstate the entire policy or any part of it at any time.

### **SECTIONS OF THE INDIAN PENAL CODE (IPC) – SEXUAL HARASSMENT AND PUNISHMENT FOR SEXUAL HARASSMENT**

Under the Indian Penal Code, the newly introduced Section (Section 354A) which deals with Sexual Harassment has made this a 'cognizable offense' i.e. a person charged with Sexual Harassment may be arrested without a warrant.

- 1) A man committing any of the following acts:
  - (i) physical contact and advances involving unwelcome and explicit sexual overtures;  
or
  - (ii) a demand or request for sexual favours; or
  - (iii) showing pornography against the will of a complainant; or
  - (iv) making sexually coloured remarks,shall be guilty of the offence of sexual harassment.
- 2) Any man who commits the offence specified in clause (i) or clause (ii) or clause (iii) above, shall be punished with rigorous imprisonment for a term which may extend to three years, or with fine, or with both.
- 3) Any man who commits the offence specified in clause (iv) above shall be punished with imprisonment of either description (i.e. either simple or rigorous) for a term which may extend to one year, or with fine, or with both.

In addition to Section 354A set out above, acts of Sexual Harassment may also constitute other offences under IPC including Section 354 (assault or criminal force to woman with intent to outrage her modesty), Section 354C (Voyeurism), Section 354D (Stalking), Section 375 and 376 (Rape) and Section 509 (word, gesture or act intended to insult the modesty of a woman) of the IPC.

## 12. DISCLAIMER

### Company's Absolute Right to Alter or Abolish the Policy

Cubastion's Management reserves the right in its absolute discretion to abolish the policy or to alter the terms and conditions. Such discretion may be exercised at any time, before; during or after the policy year is completed (without any prior notice).

## 13. DOCUMENT VERSION HISTORY

VERSION	DATE	AUTHOR	DESCRIPTION	OWNER	APPROVER
V1.0	20220823	Manish Bhakoo	Initial Release	Legal	Director
V1.1	20240920	Rohit Kumar	Members Update	HR	CPO



**ANNEXURE – A****INTERNAL COMPLAINTS COMMITTEE MEMBERS**

SL NO.	NAME	DESIGNATION	EMAIL ID	CONTACT NO.
1.	Ms. Nayantara Mukerjee	Presiding Officer	<a href="mailto:nayantara.mukerjee@cubastion.com">nayantara.mukerjee@cubastion.com</a>	8584057587
2.	Mr. Umesh Sharma	Member	<a href="mailto:umesh.sharma@cubastion.com">umesh.sharma@cubastion.com</a>	9971977001
3.	Mr. Aseem Juneja	Member	<a href="mailto:aseem.juneja@cubastion.com">aseem.juneja@cubastion.com</a>	9717574412
4.	Ms. Asha Verma	External Member	<a href="mailto:asha19april@gmail.com">asha19april@gmail.com</a>	9818774135

This brings us to the end of this document. For any further assistance or clarification, please contact **HR Department** or email us at [hr@cubastion.com](mailto:hr@cubastion.com).

# **F**requently **A**sked **Q**uestions

**Q1:** Coming Soon

**A1:** Coming Soon

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Frequently

Asked

Questions