

Prevention Of Sexual Harassment Policy

POLICY :

- Openspace Services Pvt Ltd is an equal employment opportunity company and is committed to creating a healthy working environment that enables employees to work without fear of prejudice, gender bias and sexual harassment. The Company also believes that all employees of the Company have the right to be treated with dignity. Sexual harassment at the work place or other than work place if involving employees is a grave offence and is, therefore, punishable.
- Employers in India have to comply with the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 (Act).
- The Act is based on the guidelines laid down by the Supreme Court of India in the case of Vishaka & Others vs. State of Rajasthan & Others (Vishaka Guidelines)
- The Central Government has also notified the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Rules, 2013 (Rules) on 9 December 2013.

SCOPE AND EFFECTIVE DATE

- POSH extends to all employees of Openspace Services Pvt Ltd and is deemed to be incorporated in the service conditions of all Openspace Services Pvt Ltd employees and comes into effect immediately from the date of signing of the POSH.
- The Act or Rules or this POSH is applicable for the whole of India and in case of discrepancy between the Act/Rules and this POSH, the provisions as applicable in the Act/Rules shall prevail/apply.

DEFINITIONS

The definitions provided below are indicative only and in case of any discrepancy / contrary interpretation the definitions as provided in the Act read with (i) the Rules and (ii) the Vishaka Guidelines shall prevail.

“Aggrieved woman” means:

Any woman in relation to a workplace, of any age whether employed or not who alleges to have been subjected to any act of sexual harassment by the respondent, who is any person against whom a complaint has been made.

Prevention Of Sexual Harassment Policy

This definition extends the responsibility of the employer not just to its women employees but also to any woman who is present in the workplace for which the employer is responsible. The definition of respondent also does not require that the respondent be an employee;

In relation to a dwelling place or house, a woman of any age who is employed in such a dwelling place or house.

"Appropriate Government" means

In relation to a workplace which is established owned controlled or wholly or substantially financed by funds provided directly or indirectly

By the Central Government or the Union territory

By the State Government; administration, the Central Government;

In relation to any workplace not covered above and falling within its territory, the State Government.

- “District Officer” means an officer of the appropriate Government which may include a District Magistrate or Additional District Magistrate or the Collector or Deputy Collector for respective District to exercise power or discharge function under the Act.
- “Employee” include persons engaged either directly or indirectly by Openspace Services Pvt Ltd, whether for remuneration or not and includes voluntary workers, probationers, trainees and contract workers.
- “Employer” means Openspace Services Pvt Ltd and include the head or persons responsible for management, supervision or control of the workplace or the person discharging contractual obligations with respect to his or her employees.
- “Sexual harassment” would essentially have the meaning defined under the Vishaka Guidelines and include but not be limited to the following:
- Unwelcome acts or sexual advances or behaviour (whether directly or by implication), requests or demand for sexual favours, either explicitly or implicitly, in return for employment, promotion, examination or evaluation of a person towards any company activity;

Prevention Of Sexual Harassment Policy

- Unwelcome sexual advances involving verbal, non-verbal, or physical conduct such as sexually coloured remarks, jokes, letters, phone calls, e-mail, gestures, showing of pornography, lurid stares, physical contact or advances or molestation, stalking, sounds, display of pictures, signs, verbal or non-verbal communication which offends the individuals sensibilities and affect her/his performance;
- Eve teasing, innuendos and taunts, physical confinement against one's will and likely to intrude upon one's privacy;
- Act or conduct by a person in authority which creates the environment at workplace hostile or intimidating to a person belonging to the other sex;
- Conduct of such an act at work place or outside in relation to an employee of Openspace Services Pvt Ltd, or vice versa during the course of employment; and any unwelcome gesture by an employee having sexual overtones.
- “ Workplace ” includes not only the premises of the employer but also locations where any women employees have to visit on work including the mode of transport provided by the employer to undertake the journey. This definition extends the workplace and increases the obligation of the employer to prevent sexual harassment in such spaces.

INTERNAL COMPLAINTS COMMITTEE AND TERM

Openspace Services Pvt Ltd has an Internal Complaints Committee (herein referred to as “IC”) comprising of 5 members out of which 4 shall be woman and 1 male members.

IC Member Name	Designation	Contact Number	Email ID
Kevin Mathew	Member	9172785630	kevin@openspaceservices.com
Vaibhav Kala	External Member	9819882328	vaibhavpkala@gmail.com
Ravindra Mistry	Member	9004144905	ravindra@openspaceservices.com
Vidya Ladda	Member	9987492319	vidya.ladda@openspaceservices.com
Vineeta Shah	Member	9867735493	vineeta@openspaceservices.com

At any point of time there should always be one (1) senior woman employee as the Chairman. The two (2) members elected by Openspace Services Pvt Ltd to become a part of the IC must be committed to the cause of women or have experience in social work or have legal knowledge. A minimum of one (1) member of the IC should be an individual from a NGO or associations committed to the cause of women or other person familiar with issues relating to sexual harassment.

Prevention Of Sexual Harassment Policy

Any members of the IC can hold office for a period of 3 years from the date of appointment.

CONCILIATION PROCEEDINGS

The IC may, before initiating an inquiry, at the request of the aggrieved woman, initiate conciliation proceedings to settle the complaint with the respondent. If the conciliation is successful, a record of the settlement has to be forwarded to the employer and copies provided to the parties. Thereafter, no further inquiry will be conducted by the IC.

However, no monetary settlement can be the basis of the conciliation.

COMPLAINT MECHANISM

The following are the broad time line for the proceedings and settlement of complaints by the IC:

Step	Action	Time Period
Step 1	Aggrieved woman to file a complaint in writing and send the same to the IC in the address provided in this POSH. In the event the aggrieved woman is unable to make a complaint on account of her physical or mental incapacity or death or otherwise, her legal heir or such other person as may be prescribed may make a complaint.	Complaints should be provided by the aggrieved woman to IC within 90 days from the date of the incident.
Step 2	IC shall initiate action and complete inquiry.	Inquiry should be completed by IC within 90 days from the receipt of the complaint.
Step 3	IC shall submit its report of findings and recommendations to the employer implementation [Report] (a copy of the report has to be provided to the aggrieved woman and the respondent).	Report should be provided to the foreemployer within 10 days of the completion of the inquiry.
Step 4	Employer to implement the Report of the IC.	Employer to implement Report within 60 days of the receipt of the Report.
Step 5	Aggrieved woman / respondent may file an appeal to any competent court or tribunal against the Report or non implementation of the Report of the IC.	Aggrieved woman / respondent may file an appeal as per applicable provisions of law

Prevention Of Sexual Harassment Policy

The Rules require that the inquiry be conducted in accordance with the principles of natural justice and set out in detail and the manner in which the IC shall conduct its proceedings, which include:

Time lines within which the respondent must be served with the complaint and the period of time within which the respondent has to file a reply.

Details of persons other than the aggrieved woman who may make the complaint due to death or incapacity of the aggrieved woman.

Mandating the presence of a minimum of three members of the IC including the Chairperson, to be present in conducting the inquiry.

Empowering the IC to give an ex-parte decision or terminate the inquiry proceedings, if the complainant or the respondent fails to present themselves for three consecutive hearings without sufficient cause. However no ex-parte order can be passed without giving prior written notice of fifteen days to the concerned party.

Restricting legal practitioners from representing parties in the IC proceedings.

INTERIM RELIEF

As interim relief pending the inquiry, the IC may at the request of the aggrieved woman, award the aggrieved woman, additional leave of up to three (3) months, restrain the respondent from reporting on the work performance of the aggrieved woman, transfer the respondent, allow the aggrieved woman to be transferred to another workplace or grant any other appropriate relief as the IC may deem fit and proper.

REPORT OF THE IC

The IC may recommend in its Report to the employer that the respondent be punished for misconduct under the service rules and may also recommend actions which range from a written apology and warnings to withholding of promotions or pay rise, to termination of employment or undergoing counselling sessions / community service, deduction of sums from the salary of the respondent or payment of the same by the respondent to the complainant as compensation.

Prevention Of Sexual Harassment Policy

MALICIOUS COMPLAINTS AND FALSE EVIDENCE

This ASHP and the Act along with its Rules authorizes the IC to recommend in its Report to the employer appropriate penalties, for a malicious complaint or a complaint that was made by the aggrieved woman knowing it to be false or if it arrives at a conclusion that any witness has given false or misleading evidence. It has been clarified that a mere inability to substantiate a complaint or provide adequate proof need not attract penalty.

PENALTIES

An employer who fails to comply with the provisions of the Act can be punished with a fine that may extend to Rs. 50,000. Repeat violations can lead to doubling of the penalty of Openspace Services Pvt Ltd and cancellation of licenses or other registrations that have been granted to the employer by the Government for carrying on business.

REPORTING REQUIREMENT

Under the Act, the IC is required to submit an annual report to the District Officer containing details such as the number of complaints received, disposed off, pending for more than 90 days, number of workshops conducted by the employer, etc.

CONFIDENTIALITY

The Act makes it mandatory that the identity of the aggrieved woman, respondents and witnesses and any information relating to the proceedings shall not be published, communicated or made known to the public or media. The employer shall be entitled to recover Rs.5,000/- as penalty from any person breaching the obligation to maintain confidentiality about the IC proceedings.

RESPECTIVE ROLES OF COMMITTEE

IC shall:

Recommend to the employer action which shall include transfer or any of the other appropriate disciplinary action;

Analyse and place a Report on all complaints at the end of the year for submission to the employer and the District Officer.

Prevention Of Sexual Harassment Policy

OPENSOURCE SERVICES PVT LTD SHALL:

Provide all necessary assistance for the purpose of ensuring full, effective and speedy implementation of this ASHP;

Take all steps necessary and reasonable to assist the affected person in terms of support and preventive action where sexual harassment occurs as a result of an act or omission by any third party or outsider;

Initiate appropriate action for making a Police Complaint if IC find the degree of offence coverable under the Indian Penal Code and the facts may be mentioned in the Report.

Make available a copy of this ASHP in its website www.Openspace Services Pvt Ltd.in for the benefit of all its employees.

Provide awareness in the employee by regular meeting and sensitization programme to prevent and prohibit the sexual harassment in the organization.

CONTACT ADDRESS

In case of registering any complaint or for any questions/query on this ASHP/IC please email on info@openspaceservices.com of Openspace Services Pvt Ltd and can also send complaints on the following addresses:

POSH COMMITTEE

Address: Openspace Services Pvt. Ltd.,
611, Techno IT Park, Near Eskay Resort, Link Road, Borivali West, Mumbai - 400092.