

PREVENTION OF SEXUAL HARRASSMENT AT WORKPLACE

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PREVENTION OF SEXUAL HARASSMENT AT WORKPLACE

Ideasson Technology Solutions herein referred as company is committed in creating an atmosphere in which all Ideasson members can work together in an atmosphere free from sexual harassment. On 13th August 1997, the Supreme Court in its Judgment in the case of Visakha Vs. State of Rajasthan issued certain guidelines pertaining to sexual harassment. Pursuant to these guidelines respective State governments have issued a circular calling upon the Organizations to implement these guidelines. Towards this implementation the present policy has been formulated.

It shall be binding not only on all the Ideasson Technology Solutions employees but also on third party harassment on Company premises. Sexual harassment as generally understood is of two kinds: Hostile environment and quid pro quo. Hostile work environment includes pornography in public places, foul language, etc. This may not be directed at any woman employee in particular, but the effect on the women is one of discomfort. Second, quid pro quo i.e. "in exchange" for favours such as promotions, employment perks, etc.

1. SHORT TITLE, EXTENT AND COMMENCEMENT

This Policy will be called the Policy concerning sexual harassment in Ideasson Technology Solutions. It extends to all the Ideasson Technology Solutions Members.

This policy will come into effect immediately on the date of issuance of this circular.

2. DEFINITIONS

"Sexual Harassment", as is provided in the Supreme Court Judgment, includes any unwelcome sexually determined behaviour, direct or by implication, and includes physical contact and advances, a demand or request for sexual favours, sexually coloured remarks, showing pornography, any other unwelcome physical, verbal or non verbal conduct of a sexual nature.

Explanation: "Sexual Harassment" shall include, but will not be confined to the following:

- a) When submission to unwelcome sexual advances, requests for sexual favours, and verbal or physical conduct of a sexual nature are made, either explicitly or implicitly, a term or condition of instruction, employment, participation or evaluation of a person's engagement in company activity.
- b) When unwelcome sexual advances and verbal, non-verbal, or physical conduct such as loaded comments, remarks or jokes, letters, phone calls or e-mail, gestures, showing of pornography, lurid stares, physical contact or molestation, stalking, sounds or display of a derogatory nature have the purpose or effect of interfering with an individual's performance or of creating an intimidating, hostile or offensive company environment;
- c) When any form of sexual assault is committed where a person uses, the body or any part of it or any object as an extension of the body in relation to another person without the latter's consent or against that person's will, and
- d) When any such conduct as defined in (i) and (ii) above is committed by a third party or outsider in relation to a member of the company's community, or vice versa on the premises of the company.
 - i. "Employee" means any Ideasson Technology Solutions Employees to which this policy is applicable including any temporary, part time, honorary, employee by whatever name called and would include employees employed on a casual or project basis and also employed through a contractor.
 - ii. "Ideasson Technology Solutions" Members includes any person who is in the roles of the company including the trainees.
 - iii. "Premise" shall mean and include all the offices of Ideasson Technology Solutions.
 - iv. "Company" means Ideasson Technology Solutions.
 - v. "Management" means the managing or governing body by whatever name called, registered under the Company's Act, 1956, under whose management the company is functioning.
 - vi. "Management Council" means all the heads of departments / functions.

3. APPLICATION OF THE POLICY

The provisions of this Policy will apply to all the employees of Ideasson Technology Solutions.

Scope of the policy

This Policy will be applicable to all allegations of sexual harassment by an Ideasson Technology Solutions Member against an Ideasson Technology Solutions Member, by an employee against another employee, in either case, irrespective of whether sexual harassment is alleged to have taken place within or outside the company premises.

4. CONSTITUTION OF THE COMPANY CELL TO PREVENT AND DEAL WITH SEXUAL HARASSMENT

The Company Cell shall consist of

- a) Head of the company as the Ex Officio Chairperson;
- b) Head of the Human Resource Department of the company;
- c) 5 employees of the company, at least three of whom will be women, to be nominated by the Head of the company and Head of the Human Resource department;
- d) All Functional Heads
- e) A member from NGO to be nominated by the company Cell.

Preventive Steps

Must be undertaken by employers or other responsible authorities in public or private sectors as follows:

- a) Express prohibition of sexual harassment should be notified and circulated.
- b) Prohibition of sexual harassment should be included in the rules and regulations of government and public sector bodies.
- c) Private employers should include prohibition of sexual harassment in the standing orders under the Industrial Employment (Standing Orders) Act, 1946 / Company's Code of Conduct.
- d) Appropriate work conditions should be provided for work, leisure, health, and hygiene to further ensure that there is no hostile environment towards women at workplaces and no woman employee should have reasonable grounds to believe that she is disadvantaged in connection with her employment.

5. DISQUALIFICATION OF CHAIRPERSON AND MEMBERS

A person shall be disqualified for being appointed, elected, nominated or designated as, or for being continued as a member of the company cell if there is any complaint concerning sexual harassment pending against him or if he is found guilty of sexual harassment.

6. VACANCY OF A MEMBER OWING TO ABSENCE WITHOUT PERMISSION

If a member elected or nominated or designated to the company cell remains absent without permission of the company cell from three consecutive meetings, her/ his office shall thereupon become vacant.

7. RESIGNATION OF MEMBER

A member of the company cell not being a member ex officio may resign his/ her office at any time by tendering his/ her resignation in writing to the Ex Officio Chairperson, and such person shall be deemed to have vacated his/ her office as soon as the Chairperson has received the resignation.

8. MEETINGS OF THE COMPANY CELL

- a) The company cell shall meet at least once every year.
- b) No such meetings shall be called within holidays or vacations or outside regular company hours.
- c) The quorum for any meeting of the company cell will be 50% of its members. If the quorum is not present at any meeting it shall be adjourned for not more than 7 working days and if at the subsequent meeting a quorum is still not present the meeting shall proceed with those who are present and the proceedings of such a meeting will not be challenged on the ground of absence of quorum.

9. POWERS AND DUTIES OF THE COMPANY CELL

The powers and duties of the company cell shall be as follows, namely:

- a) To ensure implementation of this Policy in the company;
- b) To ensure and supervise the proper constitution and functioning of the Complaints Committees;
- c) To act as the Appellate Body in respect of certain complaints as provided subsequently in this policy.

10. CONSTITUTION OF THE COMPLAINTS COMMITTEE

- a) The Complaints Committee shall consist of:
 - i. Head of Human Resource department of the Company;
 - ii. 5 employees of the company, at least three of whom should be woman;
- b) At least 50% of the members of the Complaints Committee shall be women;
- c) The term of office of the committee shall be 3 years;
- d) The quorum for any meeting of the Complaints Committee will be 50% of its members. If the quorum is not present at any meeting it shall be adjourned for not more than 7 working days and if at the subsequent meeting a quorum is still not present the meeting shall proceed with those who are present and the proceedings of such a meeting will not be challenged on the ground of absence of quorum;
- e) The names of persons who are on the Committee, from time to time, along with their contact places will be displayed at all times in a prominent manner on a conspicuous part of the main Notice Board of the Company.

11. DISQUALIFICATION OF CHAIRPERSON AND MEMBERS

A person shall be disqualified for being appointed, elected, nominated or designated as, or for being continued as a member of the Complaints Committee if there is any complaint concerning sexual harassment pending against him or if he is found guilty of sexual harassment.

12. VACANCY OF A MEMBER OWING TO ABSENCE WITHOUT PERMISSION

If a member elected or nominated or designated to the Complaints Committee remains absent without permission of the Committee from three consecutive meetings, her/ his office shall thereupon become vacant.

13. RESIGNATION OF MEMBER

A member of the Complaints Committee not being a member ex officio may resign his/ her office at any time by tendering his/ her resignation in writing to the Ex Officio Chairperson, and such person shall be deemed to have vacated his/ her office as soon as the Chairperson has received the resignation.

14. MEETINGS OF THE COMPLAINTS COMMITTEE

- a) Apart from meetings of the Complaints Committee on receipt of complaint, the Complaints Committee shall meet at least twice every year and three months shall not intervene between two successive meetings.
- b) The bi annual meetings as provided in sub clause (i) above shall not be called within holidays or vacations or outside regular company hours.
- c) The Chairperson of the Complaints Committee may at any time, and shall upon the written request of not less than one third of the total number of members of the Complaints Committee call a special meeting of the Complaints Committee on a date not later than 15 days after the receipt of such request by the Chairperson.

15. POWERS AND DUTIES OF THE COMPLAINTS COMMITTEE

The powers and duties of the Complaints Committee shall be as follows, namely:

- a) to implement the present policy concerning sexual harassment in Ideassion Technology Solutions;
- b) to process individual grievances concerning sexual harassment and to take suitable action in the manner and mode more particularly provided hereafter
- c) to exercise such other powers and perform such other duties as may be conferred or imposed on it by or under this Policy;
- d) to do all such acts and things as may be necessary to carry out the objects of this Policy.

16. PUNISHMENT FOR SEXUAL HARASSMENT

Any employee found guilty of sexual harassment shall be liable to be punished.

17. PENALTIES

An employee guilty of sexual harassment shall be liable for any of the following penalties:

- a) Warning, reprimand or censure;
- b) Withholding of an increment for a period not exceeding one year;
- c) Reduction in rank;
- d) Termination of service

In addition to these penalties the employee concerned may also be fined up to Rs. 5,000/-, which amount the Management for achieving the aims and objectives of this policy will use.

Provided however, that in addition to all these penalties the employee can also be required to give a written apology to the victim and upon his failure to do so his punishment can be enhanced.

18. CLASSIFICATION OF PENALTIES

The penalties shall be classified as minor and major penalties as under:

(A) Minor penalties-

- a) reprimand,
- b) warning,
- c) censure,
- d) withholding of an increment not exceeding one year
- e) suspension from the Organization for a period up to one month.

(B) Major penalties-

- a) Withholding of increment for more than 1 year;
- b) Reduction in rank;
- c) Termination of service

In case a minor penalty has been imposed on the accused on an earlier occasion, on a second conviction, he shall be imposed with a major penalty irrespective of the gravity of the second offence.

19. GRIEVANCE PROCEDURE

- a) Any woman employee will have a right to lodge a complaint concerning sexual harassment against a male employee or an outsider with any of the members of the Complaints Committee.
- b) Such a complaint may be oral or in writing.
- c) If the Complaint is oral, the committee member to whom the complaint is made shall reduce the same in writing in detail.
- d) The Complainant will be afforded full confidentiality at this stage.
- e) Immediately upon receipt of the Complaint, and within not more than 2 working days, the member of the Committee to whom the Complaint is made shall communicate the same to the Chairperson of the Complaints Committee. However, if the Complainant so desires, her name shall be kept confidential and will not be divulged even to the Complaints Committee.
- f) Within a period of 5 working days from the date of such communication, the Chairperson shall convene a meeting of the Complaints Committee.
- g) At this meeting, the Complaints Committee shall nominate three persons from amongst themselves (known as the Enquiry Committee) for proceeding with the Complaint.
- h) At least two of these persons so nominated will be women.
- i) No person against whom a Complaint is made shall be part of the Enquiry Committee.

20. PROCEDURE FOR INITIATING ACTION

- a) Within 5 working days of the Enquiry Committee being set up, the said Committee will convene a meeting of which advance intimation will be given to the Complainant.

- b) At this meeting, the Complainant will be entitled to remain present personally or through a representative.
- c) At the first meeting of the Enquiry Committee, the Complainant or her representative shall be heard and the Enquiry Committee shall decide whether the Complaint requires to be proceeded with. The Complaint will be dropped only if the Complaint on the face of it, does not disclose an offence of sexual harassment.
- d) In case the Enquiry Committee decides to proceed with the Complaint, the wishes of the Complainant concerning the issue shall be taken into account and if the Complainant so wishes the accused will be called to a meeting of the Enquiry Committee, heard and if necessary, warned about his behavior and the matter concluded with a recording to that effect made in the Complaints Register of the Complaints Committee.
- e) If the Complainant however, wishes to proceed ahead with the Complaint beyond a mere warning to the accused, the same will be proceed with in the manner prescribed subsequently in this policy.

21. PROCEDURE FOR IMPOSING MINOR PUNISHMENT

In case the Enquiry Committee decides to impose a minor punishment, the accused shall be given in writing an opportunity to explain within one week why he should not be for good and sufficient reasons be punished for the act of sexual harassment on his part. The nature and quantum of punishment if any to be imposed on him shall be decided after considering the explanation, if any given by the accused.

22. PROCEDURE FOR IMPOSING MAJOR PUNISHMENT

If an accused is alleged to be guilty of sexual harassment and if there is reason to believe that in the event of the guilt being proved against him, he is liable for imposition of any major penalty the Enquiry Committee shall, first decide whether to place the accused employee under suspension. If the accused employee is to be placed under suspension the provisions of suspension and subsistence allowance as prescribed under the Statutes for other misconduct will apply.

- a) If a person is charged with physical molestation or rape on the company premise, he shall be immediately placed under suspension pending the completion of the investigation and enquiry. In all other cases, the Enquiry Committee shall within 3 days decide whether the charged person shall be placed under suspension or not and in either event it shall communicate its decision and the reasons for the decision to the Management that shall then implement the decision forthwith.
- b) Within 3 days of the first meeting of the Enquiry Committee, it shall communicate to the accused by hand delivery duly acknowledged or by registered post acknowledgement due the allegations and demand from him a written explanation within 7 days from the date of receipt of the statement of allegations.
- c) If Enquiry Committee finds the explanation of the accused not satisfactory or if no explanation is given by the accused, the Enquiry Committee will decide to hold an enquiry against the accused.
- d) The Convener of the Enquiry Committee will be either the Head of the company or Head of Human Resource department.
- e) The meetings of the Enquiry Committee will be held during the office hours in the company premises but not during holidays.

23. PROCEDURE FOR ENQUIRY

The Enquiry Committee shall prepare a charge sheet containing specific charges and shall hand over the same together with the statement of allegation and the explanation of the accused to the Complainants well as to the accused by hand delivery duly acknowledged or by registered post acknowledgement due, within 3 days of the Enquiry Committee having decided to conduct the enquiry

- a) Within 10 days after the accused receives the copies of the charge sheet and the statement of allegations:
 - i. If accused desires to tender any written explanation to the charge-sheet, he shall submit the same to the convener of the Enquiry Committee in person or send it to her by registered post acknowledgement due;
 - ii. If the Complainant or the accused desire to examine any witnesses they shall communicate in writing to the Convener the names of witnesses whom they propose to so examine;
 - iii. If the Complainant desires to tender any documents by way of evidence before the Enquiry Committee, it shall supply true copies of such documents to the accused. Similarly if the accused desires to tender any documents in evidence before the Enquiry Committee he shall supply true copies of such documents to the complainant.

- b) Within 3 days after the expiry of period of 10 days specified in clause (a), the Enquiry Committee shall meet to proceed with the enquiry and give 7 days notice by hand delivery duly acknowledged or by registered post acknowledgement due to the Complainant and the accused to appear for producing evidence, examining witnesses, etc., if any. The Enquiry Committee shall see that every reasonable opportunity is extended to the Complainant and to the accused, for putting forward and defending their case.
- c) The Complainant shall have the right to lead evidence and the right to cross examine witnesses examined on behalf of the employee.
- d) The accused shall have the right to be heard in person and lead evidence. He shall also have the right to cross-examine witnesses examined on behalf of the Complainant.
- e) Sufficient opportunities shall be given to examine all witnesses notified by both the parties.
- f) All the proceedings of the Enquiry Committee will be recorded and both the parties in token of authenticity thereof shall endorse the same together with the statement of witnesses. The Convener shall endorse the refusal to endorse the same by either party.
- g) The enquiry shall ordinarily be completed within a period of 90 days from the date on which the Show Cause Notice is given to the accused.
- h) The Complainant and the accused will be responsible to see those nominees and the witnesses if any are present during the enquiry. However, if the Enquiry Committee is convinced about the absence of either of the parties to the disputes or any of the members of the Enquiry Committee on any valid ground the Enquiry Committee shall adjourn that particular meeting of the Committee. The meeting so adjourned shall be conducted even in the absence of the person concerned if he or she fails to remain present for the said adjourned meeting.
- i) The Convener of the Enquiry Committee shall forward to the Complainant and the accused as the case may be a summary of the proceedings and copies of statements of witnesses, if any, by hand delivery duly acknowledged, or by registered post acknowledgement due, within four days of the completion of the above steps and allow them a time of seven days to offer further explanation, if any.
- j) The Complainant or the accused, as the case may be shall submit their further explanation to the Convener of the Enquiry Committee within a period of seven days from the date of receipt of the summary of proceedings etc., either personally or by registered post acknowledgement due.
- k) On receipt of such further explanation or if no such further explanation is offered within the aforesaid time, the Enquiry Committee shall complete the enquiry and communicate its findings on the charges against the accused and its decision on the basis of its finding to the Management for specific action to be taken against the accused within 10 days after the date fixed for receipt of further explanation. It shall also forward a copy of the same by hand delivery duly acknowledged or by registered post acknowledgement due to the Complainant and to the accused. A copy of the findings shall also be forwarded to the Complaints Committee. The findings of the Enquiry Committee shall be binding on the Complaints Committee. Thereafter the decision of the Enquiry Committee shall be implemented by the Management which shall issue necessary orders within 7 days of the date of receipt of decision of the Enquiry Committee, by hand delivery duly acknowledged or by registered post acknowledgement due. The Management shall also endorse a copy of its order to the Complainant and to the Complaints Committee.
- l) The Enquiry Committee may consider as relevant any earlier complaints against the person charged. However, the Complainant's past sexual history will not be probed into or enquired during the proceedings before any of the committees.

24. PROVISIONS FOR APPEAL

- a) In the event of the Complaints Committee or the Enquiry Committee not taking action on a complaint or in the event of the Complainant being dissatisfied with the action taken by any of the aforesaid committees the Complainant shall have the right to appeal to the company's apex body.
- b) A meeting of the company's apex body shall be convened within 10 days of the receipt of such grievance.
- c) The company's apex body shall go into the grievance of the Complainant and after hearing the Complainant, if it is satisfied that the matter needs to be further enquired into, it shall take the following steps:
- d) In the event of there being an incomplete or no enquiry by the Enquiry Committee, the company's apex body shall appoint from within itself a three-member Enquiry committee which shall follow the same procedure, carry out the same functions and have the same powers as the Enquiry Committee;
- e) In the event of the Complainant being dissatisfied by the decision of the Enquiry Committee after a concluded enquiry, the Enquiry Committee shall act as an Appellate Body with all powers of the Appellate Court under the Code of Civil Procedure.

25. PROTECTION AGAINST VICTIMISATION

- a) In the event of the complainant being a Subordinate and the accused being the Boss, during the pendency of the investigation and enquiry and even after such an enquiry if the Boss is found to be guilty, the accused will not act as an appraiser for evaluating the performance of the Subordinate.
- b) In the event of the Complainant and the accused both being employees, during the pendency of the investigation and enquiry and even after such an enquiry if the accused is found to be guilty, the accused shall not write the Confidential Reports of the complainant, if he is otherwise so authorized.
- c) If the Accused is an outsider, during the pendency of the investigation and enquiry and even thereafter, if he is found to be guilty, the accused shall not be allowed to enter the company premises except for the purpose of attending the present enquiry.

26. OBLIGATION OF THE MANAGEMENT

Management of the Company shall provide all necessary assistance for the purpose of ensuring full, effective and speedy implementation of this policy. It shall be bound by the decisions of the various committees as set out in this scheme and shall implement such decisions in an expeditious manner.

27. THIRD PARTY HARASSEMENT

In case of third-party sexual harassment the Company Complaints Committee will actively assist and provide all its resources to the Complainant in pursuing the complaint and ensure her safety at least in the Company premises.

28. SAVINGS

- a) The provisions of this Policy shall apply notwithstanding any contrary Statute, law, Circular or Ordinance.
- b) The proceedings under this policy shall not be stalled or postponed merely because the complainant is proceeding against the accused under any other provision of civil or criminal law.
- c) The provisions of this Policy shall not restrict the powers of the Management or the Complainant to proceed against the alleged offender for any other misconduct or pursue the criminal or civil remedies.