

# Policy for prevention of Sexual Harassment at workplace



Mann Deshi  
Foundation

## Mann Deshi Foundation

(Administrative version)

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## **POLICY FOR PREVENTION OF SEXUAL HARASSMENT AT THE WORKPLACE**

### **1.1 Objective**

Mann Deshi Foundation is committed to creating a healthy working environment that enables employees to work without fear of prejudice, gender bias and sexual harassment. Mann Deshi Foundation believes that all employees have the right to be treated with dignity. Sexual harassment at the workplace is a grave offence and Mann Deshi Foundation has zero tolerance for it. Any sexual harassment shall be considered gross misconduct and Mann Deshi Foundation will take strict action.

Mann Deshi Foundation has prepared this policy for the Prevention of Sexual Harassment at the Workplace ("**Policy**") in line with 'The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act & Rules 2013' ("**Law**").

### **1.2 Scope**

- A. This Policy extends to all employees of the Mann Deshi Foundation and is deemed to be incorporated in the service conditions of all employees and comes into effect immediately.
- B. Compliance with this Policy is a mandatory for each employee's employment. All employees are urged to take ownership for maintaining a sexual harassment-free environment, to understand which behaviour can be problematic, and to know how to seek help if faced with sexual harassment.
- C. "Employee" shall mean any person employed by the Mann Deshi Foundation for any work on a regular, temporary, or ad hoc basis either directly or through an agent, including contractors, consultants, trainees, apprentices, probationers or called by any other such names. All trustees and volunteers of Mann Deshi are also expected to abide by this policy.
- D. "Complainant" shall mean a person of any age whether employed or not, who makes a complaint of alleged sexual harassment.
- E. "Respondent" shall mean a person who is an employee of Mann Deshi Foundation against whom the complainant has made a complaint of sexual harassment.
- F. The provision of this policy also applies to the conduct of an employee outside the workplace, Mann Deshi Foundation guesthouse, any Foundation work/construction site or even events organized by the Foundation.

### **1.3 Definition of Sexual Harassment**

“Sexual Harassment” includes any one or more of the following:

Any unwelcome sexually oriented act or behavior (whether directly or by implication) from persons of the same or opposite gender including but not limited to sexual advances, physical and /or verbal or non-verbal conduct, such as loaded comments, sexually coloured remarks or jokes, letters, phone calls, SMS or emails, gestures, exhibition of pornography, lurid stares, physical contact, stalking, sounds or display of a derogatory nature, that has the purpose and /or effect of interfering with work or performance or of creating an intimidating, hostile or offensive employment, or living environment.

It also refers to eve teasing, taunts, a demand or request for sexual favours, showing pornography, physical contact and advances, physical confinement or any behavior of a sexual nature against a person’s will; intimidating a person belonging to the same or opposite sex, unwelcome physical, verbal or non-verbal conduct of sexual nature or any unwelcome gesture having sexual overtones.

Any of the following circumstances, among other circumstances, if it occurs or is present in relation to or connected with any act or behavior of sexual harassment may amount to sexual harassment:

- Implied or explicit promise of preferential treatment in the employment
- Actual preferential treatment or detrimental treatment related to sexual demands
- Implied or explicit threat or detrimental treatment in the employment
- Implied or explicit threat about the present or future employment status
- Interference with the work or creating an intimidating or offensive or hostile work environment
- Humiliating treatment likely to affect health or safety

### **1.4 Constitution of the Internal Committee (IC)**

Mann Deshi Foundation has constituted an Internal Committee (“**IC**”) for receiving and redressing complaints related to sexual harassment at the workplace from Complainants. At all times, the IC shall comprise the following:

- i. A senior level woman Employee shall be appointed as Presiding Officer of the IC (“Presiding Officer”).
- ii. The IC shall have at least one external member from amongst non-governmental organisation or associations committed to the cause of women or a person familiar with the issues relating to sexual harassment;

- iii. Not less than two members of the IC shall be employees who are preferably committed to the cause of women or who have had experience in social work or have legal knowledge;
- iv. At least half of the ICs members shall be women.

The following also needs to be kept in mind in relation to the IC:

- a) The IC will be the same across all Foundation branches, with the exception of the fifth member who will be the Coordinator of the concerned branch.
- b) The constitution of the IC will be conveyed to employees from time to time.
- c) The current composition of the IC, which is formulated for a period of three (3) years, is given in Annexure **A**. The name of any additional nominee, as may be required, may be added at a later time.
- d) An IC member shall be removed / replaced in the event that the IC member:
  - contravenes any provisions of this Policy; or
  - has been convicted for an offence or an inquiry into an offence under any law for the time being in force is pending against him / her; or
  - has been found guilty in any disciplinary proceedings or a disciplinary proceeding is pending against him / her; or
  - has so abused his / her position as to render his / her continuance in office prejudicial to public interest.
- e) The members of the IC shall be nominated by the Board of Trustees.
- f) An IC member shall automatically vacate office upon ceasing to be an employee of the Mann Deshi Foundation or upon termination of their contract.
- g) Any vacancy created in the IC shall be filled by a fresh nomination by the Board of Trustees

The IC members can be contacted as per the details mentioned in **Annexure A**.

### **1.5 Complaints against third parties:**

If any employee of Mann Deshi Foundation is sexually harassed by any external party either within the Foundation's premises or within the external party's premises, then the IC can contact the internal committee of the external party, on the written complaint of such employee to the Foundation's IC, and address the matter to its satisfactory closure.

### **1.6 Responsibilities**

This Policy is made available to all employees and they will have an obligation to read and comply with this Policy.

## Responsibilities of Employees

- ✓ To read, understand and acknowledge the Policy.
- ✓ All employees of Mann Deshi Foundation have shared responsibility of creating and sustaining a healthy work environment.
- ✓ They should provide all necessary support during any inquiry of a complaint, including testifying as witness and providing the full and truthful disclosure of all factual information when asked by the IC, while ensuring that complete confidentiality is maintained throughout about any case of sexual harassment within the Mann Deshi Foundation.
- ✓ Employees should set an example of dignified workplace behaviour and ethical standards in line with Mann Deshi Foundation's values and Code of Conduct.
- ✓ Be aware that Mann Deshi Foundation will take allegations seriously and will ask for their cooperation in an investigation if they bring a complaint forward.
- ✓ Handle information related to known or suspected violations of this Policy in a discreet and confidential manner and not attempt to investigate/enquire into the information or suspected violations of this Policy on their own i.e. without involving the IC.
- ✓ To abide by the directions given by the IC.
- ✓ Not use this policy to make frivolous or malicious charges against fellow employees.

## Responsibilities of the IC

- ✓ Follow the procedure for redressal as outlined below by this Policy for all complaints reported.
- ✓ Keep the matter confidential and assist the Complainant in filing the complaint, in case the Complainant is unable to do so.
- ✓ To conduct independent investigations of all the cases of sexual harassment reported.
- ✓ Make efforts to ensure that the Complainants and the witnesses are not further victimised or discriminated against while the complaint is pending.
- ✓ Follow the principles of natural justice and treat the Complainant, Respondent, witnesses and related persons to the inquiry with dignity and respect and give both the Complainant and the Respondent a fair opportunity to make their submissions.
- ✓ To take all necessary actions after investigation of the cases of sexual harassment has been initiated.
- ✓ Submit to the Mann Deshi Foundation an annual report comprising the following details:
  - number of complaints of sexual harassment received in the year
  - number of complaints disposed of during the year
  - number of cases pending for more than ninety days

- number of workshops or awareness programmes carried out
- nature of action taken by Mann Deshi Foundation
- ✓ Review the status of all complaints received by the IC.
- ✓ Take action against anyone who threatens or intimidates the Complainant or members of the IC.

### 1.7 Reporting of Sexual Harassment Incident: Filing a Complaint

- A. The Complainant who believes that he/she has experienced sexual harassment shall, in writing, report the incident immediately but not later than three (3) months after the incident and, in the case of a series of incidents, within a period of three (3) months from the date of last incident, in the prescribed format (See Annexure **B**) to the of the concerned Internal Committee ("**IC**").
- B. The IC members can be contacted as per the details mentioned in **Annexure A and complaints can be filed with all or any one of them.**
- C. The IC can extend the time limit for receiving a complaint to another period of 3 (three) months if it is satisfied that the circumstances were such which prevented the Complainant from filing a complaint within the first 3 (three) months.
- D. IC will record the reasons for such extension of 3 (three) months in writing.
- E. IC shall assist the Complainant to give the complaint in writing, if the Complainant is unable to write the complaint.
- F. In case of any types of incapability to report the incident to IC, the below mentioned procedure shall be applicable for such reporting:

In case of the inability of the Complainant to report the incident in writing to IC on account of physical incapacity, the below stated person/s may make the complaint, in writing, to the IC.

- His/ Her relative or friend; or
- His/ Her co-worker; or
- An officer of the National Commission for Women or State's Women Commission; or
- Any person who has knowledge of the incident, with a written consent of the Complainant.

In case of inability of the Complainant to report the incident, in writing, to IC on account of his/ her mental capacity, a complaint may be filed by-

- His/ Her relative or friend; or
- A special educator; or
- A qualified psychiatrist or psychologist; or



- The guardian or authority under whose care the Complainant is receiving treatment or care; or
- Any person who has knowledge of the incident, jointly with his/ her relative or friend, or a qualified psychiatrist or psychologist, or a guardian or authority under whose care the Complainant is receiving treatment or care.

In case the Complainant for any other reason is unable to make a complaint in writing, a complaint may be filed in writing by any person who has knowledge of the incident, with the written consent of the Complainant.

In case the Complainant is dead, a complaint may be filed in writing by a legal heir or any person who has knowledge of the incident, with the written consent of legal heir.

- G. When lodging a complaint, the Complainant must provide precise and detailed information about the nature of behavior in question and furnish evidence or witness, if any.
- H. The IC will maintain a register to endorse the complaint received in writing. The IC is expected to handle all complaints in a strictly confidential manner and Mann Deshi Foundation will also keep all complaints, investigative records, and the results of the investigation strictly confidential.
- I. The Mann Deshi Foundation shall provide adequate assistance to the Complainant if they require any assistance to file a complaint with police.

## **1.8 Inquiry into the Complaint**

### ***Conciliation***

- ✓ The IC, before initiating an inquiry and at the request of the aggrieved, may take steps to settle the matter between the complainant and the respondent through conciliation, provided that no monetary settlement shall be made as a basis of the conciliation.
- ✓ Where a settlement has been arrived at, the IC shall record the settlement and forward the same to Mann Deshi Foundation's management within ten days of the settlement with the recommended actions required.
- ✓ The IC shall provide copies of the settlement to the aggrieved and the respondent. In the case where a settlement has been reached, no further inquiry shall be conducted by the IC.

## ***Inquiry***

- ✓ In case conciliation has not been opted for by the complainant, terms of settlement have not been agreed upon or terms of settlement have not been complied with, the IC shall, upon a written request from the Complainant to do so, conduct an inquiry into the complaint.
- ✓ The IC will conduct a thorough inquiry to determine whether sexual harassment has occurred and to eliminate any hostile or offensive working conditions and to decide actions against the offending individual(s).
- ✓ The IC shall make an inquiry into the complaint in accordance with the principles of natural justice and shall notify, in writing, the time and dates of its meetings to the Complainant and Respondent.
- ✓ At the time of filing the complaint, the complainant shall submit six (6) copies of the complaint (Annexure **B**) along with supporting documents and the names and addresses of the witnesses.
- ✓ The IC shall acknowledge receipt of the complaint within two (2) working days.
- ✓ On receipt of the Complaint, the IC shall send one of the copies received from the Complainant to the Respondent within a period of seven (7) working days. The Respondent shall file his/ her reply to the complaint along with a list of documents and names and addresses of the witnesses within a period of ten (10) working days from the date of receipt.
- ✓ The IC shall provide every reasonable opportunity to the Complainant and to the Respondent to put forward and defend their respective cases.
- ✓ The IC shall complete the inquiry within a reasonable period but not beyond three months and communicate its findings and its recommendations for action to the Foundation.
- ✓ The IC shall have the right to terminate the inquiry proceedings or to give an ex-parte decision if the Complainant or Respondent fails to present himself or herself for three (3) consecutive proceedings, after having received fifteen (15) days of written notice.
- ✓ The Complainant or Respondent shall not be allowed to bring in any legal practitioner to represent them in the proceedings before the IC.
- ✓ A minimum of three (3) members of the IC including the Presiding Officer are to be present for conducting an inquiry.
- ✓ The IC shall have the powers to summon and enforce the attendance of any person and conduct an examination, request the discovery and production of documents and / or any other matter which may be necessary for the inquiry process. Any refusal by any Employee of Mann Deshi Foundation to attend any hearing before the IC when summoned or to provide to the IC, any documents and / or information within his / her power or possession shall constitute gross misconduct, rendering such Employee for strict disciplinary action by the Mann Deshi Foundation.

### **1.9 Procedure for action during pendency of Inquiry**

During the pendency of an inquiry, on a written request made by the Complainant, the IC may recommend the following to the Mann Deshi Foundation:

- a) transfer the Complainant or Respondent to any other workplace
- b) grant leave to the Complainant up to a period of 3 (three) months (the leave granted shall be in addition to the leave the Complainant is otherwise entitled to)
- c) grant any other relief to the Complainant, which the IC thinks is appropriate
- d) restrain the Respondent from reporting on the work performance of the Complainant or writing his/her confidential report and assign the same to another head/officer.
- e) in case the complaint has been filed by an intern or an apprentice working under the Respondent, restrain the Respondent from supervising any official /academic activity of the Complainant and assign the same to another officer.

On receiving a recommendation from the IC, Mann Deshi Foundation shall implement the recommendations and send a report of such implementation to the IC.

#### **1.10 Procedure for preparing Inquiry Report and recommending actions**

On the completion of an inquiry, the IC shall provide a written report of its findings and recommendations to Mann Deshi Foundation within a period of 10 (ten) days from the date of completion of the inquiry and such report shall be made available to the parties.

The inquiry report shall specify details of the charges against the Respondent, the statements made and evidence presented by the parties and a statement giving reasons for the findings arrived at by the IC. In the event that the IC arrives at the conclusion that the allegation against the Respondent has not been proved, it shall recommend to Foundation that no action is required to be taken in the matter. A mere inability to substantiate a complaint or provide adequate proof need not attract action against the Complainant on the basis that the complaint was false or malicious.

Where the IC arrives at the conclusion that the allegation against the Respondent has been proved, it shall recommend in writing to Mann Deshi Foundation to take action against the Respondent, which may include:

- a) a written apology from the Respondent
- b) a letter of warning may be given to the Respondent
- c) reprimand or censure the Respondent
- d) withholding the promotion
- e) withholding of pay rise or increments
- f) immediate transfer or suspension without pay

- g) termination from service
- h) undergoing a counselling session
- i) carrying out community service
- j) deduction from the salary or wages of the Respondent such sum as it may consider appropriate to be paid to the Complainant or to his/ her legal heirs. In case Mann Deshi Foundation is unable to make deductions from the salary of the Respondent due to his being absent from duty or cessation of employment, it may direct the Respondent to pay such sum to the Complainant. In case the Respondent fails to pay the sum, the IC may forward the order for recovery of the sum as an arrear of land revenue to the concerned district officer.

### **1.11 Procedure for determining compensation**

IC may consider various factors as required under the Act for the purpose of determining the sums to be paid to the Complainant and may take the following into consideration:

- a) the mental trauma, pain, suffering and emotional distress caused to the Complainant
- b) the loss in the career opportunity due to the incident of sexual harassment
- c) medical expenses incurred by the victim for physical or psychiatric treatment
- d) the income and financial status of the Respondent
- e) the feasibility of such payment in lump sum or in instalments

### **1.12 Action by Mann Deshi Foundation**

Mann Deshi Foundation shall act upon the recommendation given by IC within 60 (sixty) days of receipt of the recommendation.

### **1.13 Procedure for action to be taken in case of malicious complaints**

a) If on inquiry it is revealed that the complaint was made with a malicious intent and with the motive of maligning the concerned individual / tarnishing their image in the organisation and to settle personal / professional scores, strict action will be taken against the Complainant.

b) In case IC arrives at a conclusion that allegations against the Respondent is malicious or Complainant has made the complaint knowing it to be false or has produced a forged or misleading document, IC may recommend to the organisation to take same action against the Complainant as it would have been applicable to Respondent if the complaint was genuine. In this regard, IC may recommend any of the actions specified from Clause \_\_\_\_ (a) to (i) above.

c) A mere inability to substantiate a complaint or provide adequate proof need

not attract action against the Complainant as the malicious intent on part of the Complainant will have to be established through the inquiry process before an action against such Complainant is recommended.

#### **1.14 Appeal**

In case the Complainant or Respondent is dissatisfied with the recommendations of the IC or non-implementation of such recommendations, he / she shall have the right to file an appeal within a period of 90 (ninety) of the recommendations to the court or tribunal in accordance with provisions of Law.

#### **1.15 Confidentiality**

All discussions / decisions pertaining to an incident of sexual harassment must be kept confidential. Therefore, the contents of the complaint made the identity and addresses of the Complainant, Respondent and witnesses, any information relating to conciliation and inquiry proceedings, inquiry report including the recommendations of the IC and the action taken on the Respondent shall not be published, communicated or made known to the public, press and media in any manner. However, information may be disseminated regarding the justice secured to any victim without disclosing the name, address, identity or any other particulars calculated to lead to the identification of the Complainant and witnesses.

#### **1.16 Retaliation**

This policy strictly prohibits any kind of intimidation or sexual harassment including reprisal or retaliation of individuals who have filed complaints, instituted proceedings, assisted in investigations, or formally or informally objected to discriminatory practices, irrespective of the final outcome. Any person who engages in such retaliation directly or indirectly, or encourages others to do so, may be subject to appropriate disciplinary action. While dealing with any complaint of sexual harassment, the IC shall ensure that the Complainant or the witness/es are not victimized or discriminated against by the Respondent. Any employee who feels he or she has been subjected to such adverse actions should report him/ her to his or her supervisor or Human Resources Department.

Mann Deshi Foundation will take strict action against those employees. The Foundation will provide adequate protection to IC members in case of threats and any retaliation.

### **1.17 Where Sexual Harassment Amounts To Criminal Offence**

Sexual Harassment amounts to a specific offence under the Indian Penal Code, 1860. It shall be the duty of Mann Deshi Foundation to immediately inform the Complainant of his / her right to initiate action in accordance with law with the appropriate authority and provide assistance if required.

The provisions of this Policy shall not restrict the powers of Mann Deshi Foundation or Complainant to proceed against the Respondent for any other misconduct, or pursue criminal or civil remedies, whether or not connected with the provisions within the purview of this Policy.

The proceedings under this Policy shall not, in any way, be affected by any other proceedings against the Respondent preferred by the Complainant under any other provision of civil or criminal law, except to the extent specifically ordered by a court of law. Any such action or proceeding initiated shall be in addition to proceedings initiated and / or any action taken under this Policy

### **1.18 Annexures**

- ✓ ANNEXURE A: Members of the Mann Deshi Foundation Internal Committee
- ✓ ANNEXURE B: Sexual Harassment Complaint Form

## ANNEXURES

### ANNEXURE A: Members of the Mann Deshi Foundation Internal Committee

*While the first four members of the IC will be the same across all branches, the 5<sup>th</sup> member will be the Branch Coordinator. Hence, the constitution of the IC will be slightly different and dependent on which center the complainant works.*

Sr. No	Name of the Internal Committee members	Designation	Contact Number	Email id
1				
2				
3				
4				
5				

The name of any additional nominee, as may be required, may be added at a later time.

## ANNEXURE B: Sexual Harassment Complaint Form

Details of the Complainant:	
Name:	
Employee ID:	
Complaint Details:	
1. Date and Venue of occurrence of the incidence:	
2. Name of the Accused:	
3. Witnesses, if any:	
Description of the Complaint:	
<b>Declaration:</b>	
I acknowledge that the above information provided by me is true. I am aware that any malicious, frivolous charges made by me will result in a strict disciplinary action leading up to but not limited to termination from service.	
<b>Employee</b>	
<b>Signature</b>	
<b>Date</b>	