

Policy for Prevention of Sexual Harassment of Women at Workplace

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1. Objective and Applicability

1. To ensure that GCPTCL implements the policy in letter and spirit by undertaking all necessary and reasonable steps to provide a safe environment free of discrimination and violence against women. GCPTCL is clearly outlining and actively discouraging the non-acceptable actions / behaviors which are intended to harass any women working (directly / indirectly) at GCPTCL.

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2. To fulfill the directives of the law "The sexual harassment of women at workplace" (Prevention, Prohibition and Redressal Act 2013) and the Supreme Court guidelines, mandating all employers and responsible persons to develop and implement a policy to protect against sexual harassment of women at the workplace.

3. To set up a mechanism for prevention of, protection from and punishment of sexual harassment of women at workplace.

4. GCPTCL will adopt a policy of non-tolerance against any such conduct that violates the guidelines set by the law.

5. The policy is non-negotiable.

2. Scope

2.1 Definitions

A. "**Sexual harassment**" at workplace is defined as: Such unwelcome sexually determined behavior (whether directly or by implication) as:

1. Physical contact and advances;
2. A demand or request for sexual favors;
3. Sexually colored remarks;
4. Showing pornography;
5. Any other unwelcome physical, verbal or non-verbal conduct of sexual nature.
6. Any action which may include:
 - a) Implied or overt promise of preferential treatment in employment; or
 - b) Implied or overt threat of detrimental treatment in employment; or
 - c) Implied or overt threat about the present or future employment status;
 - d) Conduct which interferes with work or creates an intimidating or offensive or hostile work environment;
 - e) Or humiliating conduct constituting health and safety problems.

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.

- I. Implied or explicit promise of preferential treatment in her employment; or
- II. Implied or explicit threat of detrimental treatment in her employment; or
- III. Implied or explicit threat about her present or future employment status; or

IV. Interference with her work or creating an intimidating or offensive or hostile work environment for her; or

V. Humiliating treatment likely to affect her health or safety.

The following acts or omissions would also be considered sexual harassment and come under the purview of this policy. (Illustrative and not exhaustive):

1. Eve-teasing
2. Sexually colored jokes, innuendos and taunts causing or likely to cause awkwardness or embarrassment
3. Gender based insults or sexist remarks
4. Unwelcome sexual overtone in any manner such as over telephone (obnoxious telephone calls), text messages, e-mails or on social media.
5. Touching or brushing against any part of the body
6. Displaying pornographic or other offensive or derogatory pictures, cartoons, pamphlets or sayings
7. Forcible physical touch or molestation
8. Physical confinement against one's will and any other act likely to violate one's privacy.

B. **"Employee"** means 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, contract worker, probationer, trainee, apprentice or called by any other name for such Policy for Prevention of Sexual Harassment of women at Workplace. It also includes any visitor in the Company premises or any person who is a temporary resident of any of the accommodations or premises allotted by GCPTCL.

This Policy shall be applicable to all permanent, temporary, casual, consultants, contract (either directly or through an agent including a contractor), probationers and apprentices including visitors if any.

C. **"Employer"** means any person responsible for the management, supervision and control of the work place. 'Management' includes the person or Board or Committee responsible for formulation and administration of policies for such organization

D. **"Workplace"** means any factory, plant, department or any other work premises, including township, where work connected with the affairs of company is being carried out. It also includes any place visited by employee arising out of or during the course of employment including transportation provided by the employer for undertaking such journey. It also includes any such location where employee visits to carry out Company's business or attend any seminar, training, conferences, etc. or attend a function including get-together and picnic organized by the Company.

E. **"Disciplinary Authority"** means the Head of the Department or equivalent, to inflict any punishment as indicated in the policy.

2.2 Coverage

This policy applies to all employees at all levels.

2.3 Version Control

The HOD Human Resources -GCPTCL shall be the custodian of this policy. The policy shall be reviewed on a need basis. Any revisions to the existing policy will require approval of the Executive Director.

3. Committee against Sexual Harassment

3.1 Apex Committee

3.1.1 Role and Responsibilities:

The Committee will work towards creating an atmosphere promoting equality, non-discrimination and gender justice. It will promote and facilitate measures to ensure there is no hostile environment towards women at workplace. It will also monitor and review the implementation and effectiveness of sexual harassment policy. The **first APEX committee** at GCPTCL who will guide the Diversity & Inclusion policy, specifically related to gender issues comprises of the following:

1. Arpita Mitra- Presiding Officer
2. Jatin Patel- Sr Manager (HR)
3. Jalpa Bhatt- Asst Manager (HR)
4. Ms Sonal ben Ashwin bhai Patel (NGO)

4. Redressal process

4.1 Procedure for Registering Complaint

1. Any aggrieved women may make a complaint in person or in writing to
 1. ED, HOO & HR –Head
 2. HR-Head will make a record of the same in the Complaint Register and provide an acknowledgement.
 3. The committee will ensure complete confidentiality of the complaint made.

5. Procedure to be followed by Committee

The committee shall enquire into the complaint of sexual harassment following procedures in conformity with the principles of natural justice and gender sensitivity.

1. The complaint should be made by an aggrieved woman within a period of three months from the date of occurrence of incident and in case of a series of incidents, within a period of three months from the date of last incident.
2. Within ten days of the receipt of a complaint, the committee must determine whether a prima facie case of sexual harassment is made out. It shall carefully consider the complaint and may hear the complainant and the defendant and/or any other relevant person to determine whether an inquiry by the Committee is to be instituted. The complainant can also submit any corroborative material with a documentary proof, oral or written material etc., to substantiate his/her complaint. If the complainant does not wish to depose personally due to embarrassment of narration of event, a lady officer for a lady employee involved shall meet and record the statement.
3. If the committee is in agreement regarding the complaint, an inquiry will be instituted and both parties will receive a notice regarding the same. The Committee will direct the Disciplinary Authority to issue a show cause notice followed by Charge-sheet against the defendant on establishment of the case with sufficient evidence on record.

4. If the Committee against Sexual Harassment decides not to conduct an enquiry into a complaint it shall record the reasons for the same in the minutes of the Committee meeting. The Committee shall make the same available to the complainant in writing.

5. In the event that complaint does not fall under purview of Sexual Harassment or the complaint does not mean an offence of sexual harassment, the same would be dropped after recording the reasons for the same in the minutes of committee meeting.

6. Enquiry Process

1. Within not more than five working days on the receipt of the charge-sheet and first intimation of the inquiry, the complainant and the defendant shall submit, to the Presiding Officer of the Committee in writing, a list of witnesses, together with their contact details, that she/he desires the Committee to examine.

2. The defendant and the complainant shall be intimated at least seventy-two hours in advance in writing of the date, time and venue of the enquiry proceedings. The responsibility of communicating with the witnesses lies with the complainant/defendant regarding the date, time and venue of the meeting.

3. The venue of the enquiry should take into consideration the convenience and security of the complainant.

4. The complainant will be allowed to be accompanied by one representative, who should also be a company employee, during the enquiry and no outsider shall ever be permitted so to be accompanied even after resignation of the complainant from the employment. A request regarding the same needs to be made to the Presiding Officer of the Committee.

5. The complainant and the defendant shall be responsible for presenting their witnesses before the Committee. However, if the Committee believes that the absence of either of the parties to the disputes is on valid grounds, the Committee shall adjourn that particular meeting of the Committee for a period not exceeding five days.

6. The Committee shall provide reasonable opportunity to the complainant and the defendant for presenting and defending her/his case.

7. The complainant and the defendant shall have the right of cross-examination of all witnesses. However such cross-examination may be conducted in the form of written questions and responses via the Committee only, if the complainant so desires. It is the duty of the Committee to inform the complainant of her right to do so.

8. The defendant/complainant may submit to the Committee, a written list of questions that he/she desires to pose to the complainant/witness. The Committee shall retain the right to disallow any questions that it has reason to believe to be irrelevant, mischievous, slanderous, derogatory or gender-insensitive.

9. The committee shall inform the complainant/s that she may give her answers to questions of a sensitive nature in writing at the enquiry proceedings during cross examination.

10. If the complainant desires to tender any documents by way of evidence, the Committee shall supply true copies of such documents to the defendant. Similarly, if the defendant desires to tender any documents in evidence, the Committee shall supply true copies of such documents to the complainant.

11. The committee shall be sensitive to the covert, private and insidious nature of Sexual Harassment and shall take into account that often the aggrieved woman may not be able to submit/ present direct or corroborative evidence.

12. The committee shall take note of the respective socio-economic positions of the parties, their hierarchy in the respective organization / workplace, the employer-employee equations and other power differences while appreciating the evidence.

13. The committee shall not permit any evidence or examination based on the aggrieved woman's character, personal life, conduct; personal and sexual history.

14. The Committee may call any person to appear as a witness if it is of the opinion that it shall be in the interest of justice.

15. The Committee shall have the power to summon any official papers or documents pertaining to the complaint under enquiry.

16. The Committee may consider as relevant any earlier complaints against the defendant. However, the past sexual history of the complainant shall not be probed into as such information shall be deemed irrelevant to a complaint of sexual harassment.

17. The Committee shall have the right to summon, as many times as required, the defendant, complainant and/or any witnesses for the purpose of supplementary testimony and/or clarifications.

18. All proceedings of the Committee shall be recorded in writing. The record of the proceedings and the statement of witnesses shall be endorsed by the persons concerned in token of authenticity thereof.

19. All persons heard by the Committee, as well as observers/nominees, shall take and observe an oath of secrecy about the proceedings to protect the dignity of the complainant and the defendant. Any violation of the oath of secrecy shall invite penalties.

20. The members of the Committee shall maintain confidentiality about the proceedings conducted by them.

21. The Enquiry Committee shall have the right to terminate the enquiry proceedings and to give an ex parte decision on the complaint, should the defendant fail, without valid ground, to present himself for three consecutive hearings convened by the Enquiry Committee.

22. Any behavior, verbal or otherwise, on the part of the defendant or his nominee, that is designed to intimidate or subject the complainant or her witnesses to mental and physical trauma, can lead the Committee to recommend disciplinary action against the defendant.

23. Nothing precludes the Committee from taking cognizance of any new fact or evidence which may arise or be brought before it during the pendency of the enquiry proceedings. If a new fact or evidence is brought to the notice of the Committee after submission of the Enquiry Report to the appropriate disciplinary authority, then in the event of the constitution of the reconvened Enquiry Committee, at least half of the members of the present Committee shall be those who originally enquired into the said complaint.

24. All information received in the course of the examination and enquiry into a complaint of sexual harassment shall be held in trust by the concerned Committee and the same shall not be made available pursuant to an application under the Right to Information Act, 2005. Such information shall constitute an exception under Section 8 (e) of the Right to Information Act, 2005, as the same is held by the Committee against Sexual Harassment in a fiduciary relationship and the non-disclosure of the same will not be against public interest. To the contrary disclosure of such information may endanger the life or physical

safety of the complainant or any of the witnesses. An exception to this Rule will be when the complainant herself applies for information under the Right to Information Act, 2005.

25. The ICC may before initiating an inquiry under section 11 and at the request of the aggrieved woman take steps to settle the matter between her defendants through conciliation.

26. During the pendency of an inquiry, on a written request made by the aggrieved woman, the ICC may recommend to the employer to-

- a) Transfer the aggrieved woman or the defendant to any other workplace; or
- b) Grant leave to the aggrieved woman up to a period of three months **with or without pay; or**
- c) Grant such other relief to the aggrieved woman as may be prescribed.

27. **Enquiry to be completed within 90 days:** - The Committee shall strive to complete the enquiry in the shortest possible time, not exceeding **three months** from the date on which the complaint is referred.

28. **Confiscation of any Computer/Mobile or Device:** - The Committee shall power to confiscate possess the computer/mobile or any other device complained of and alleged to be involved in the harassment as complained of and return only upon conclusion of the enquiry and final order of possible time, not exceeding **three months** from the date on which the complaint is referred. In case such property belongs to the company, no substitute shall be provided. But in case any personal property is repossessed, the committee may think of providing a substitute of similar or lower brand/nature as stop-gap arrangement after obtaining deposit amount equal to the cost of such device without any responsibility express or implied.

7. Submission of Findings of the Committee

1. On the completion of an inquiry, the Internal Committee shall provide a written report of its findings to the disciplinary authority/ employer, within a period of ten days from the date of completion of the inquiry and such report should also be made available to the concerned parties.

2. The inquiry report shall specify the details of the charge(s) against the defendant, the statements made and evidence presented in the enquiry and a discussion of the reasons upon which the findings arrived at by the Committee.

3. If the Committee finds no merit in the complaint, it shall write to the disciplinary authority giving reasons for its conclusions and recommend that no action is required to be taken in the matter.

4. In the event that the Committee finds the defendant guilty of sexual harassment, it shall recommend:

- a) To take action for sexual harassment as a misconduct in accordance with provisions of service rules or standing order, wherever applicable.
- b) In case where no service rules are available, it shall recommend the nature of disciplinary action to be taken taking into consideration the gravity of the offence of which he has been found guilty and the impact on the complainant.
- c) In case the defendant was any contract/ agency worker or vendor or consultant or some such person, the forfeiture of such contract and award of penalty, apart from any other legal remedy as the complainant may desire.

d) To deduct, notwithstanding anything in the service rules, from the salary or wages of the defendant, or direct him to pay, a compensation amount which can be determined by considering the following factors:

- the mental trauma, pain, suffering and emotional distress caused to the aggrieved woman;
- the loss in the career opportunity due to the incident of sexual harassment;
- medical expenses incurred by the victim for physical or psychiatric treatment;
- the income and financial status of the respondent;

5. If the Committee arrives at a conclusion that the allegation against the respondent is malicious or the complainant has made the complaint knowing it to be false or the complainant has produced any forged or misleading document, it may recommend to the disciplinary authority to take action against the complainant in accordance with the provisions of the service rules, or if no service rules are available, in consideration of the gravity of malicious intent. Malicious intent on part of the complainant can be established only after an inquiry. A mere inability to substantiate a complaint or provide adequate proof need not attract action against the complainant.

6. The final report must be examined and signed by all Committee members.

7. In case the committee find the degree of offence coverable under Indian Penal Code, then this fact shall be mentioned in the report and appropriate action shall be initiated by the Management, for making a Police Complaint

8. Disciplinary Action

8.1 Guidelines for Disciplinary Action

1) The Internal Complaints Committee will give recommendations on nature of disciplinary action to be taken in case the defendant is found guilty. The penalties listed below are indicative guidelines.

2) Minor Punishment

- a) Warning or censure in writing
- b) Withholding or stoppage of increments/promotion
- c) Fine
- d) Order to give a written apology to the aggrieved woman
- e) Sign a bond of good behavior
- f) Negative impact on performance appraisal

3) Major Punishment

- a) Debarring from supervisory duties
- b) Reverting, demotion
- c) Termination/ Discharge from services
- d) Dismissal without notice or any compensation in lieu of notice
- e) Compensation to the victim through deduction from the salary of the person found guilty.

4) In addition to above, the Internal Complaints Committee may also recommend providing gender sensitization counseling to the person found guilty.

5) **Penalty in Case of a Second Offence**

a) For a second or repeated offence, the Internal Complaints Committee against Sexual Harassment should recommend an enhanced penalty and take stricter disciplinary action.

8.2 Third Party Harassment

Where sexual harassment occurs as a result of an act or omission by any third party or outsider, the management will take all reasonable steps to assist the affected employee in terms of support and preventive action.