

POLICY ON PREVENTION OF SEXUAL HARASSMENT AT WORKPLACE

SAMHI HOTELS PRIVATE LIMITED



POLICY ON PREVENTION OF SEXUAL HARASSMENT AT WORKPLACE

1. COMMITMENT

SAMHI (hereafter referred to as “**SAMHI/Company**”) is committed to provide equal employment opportunities to applicants and Employees without regard to race, religion, colour, creed, national origin, citizenship status, sex, sexual orientation, age, ancestry, physical or mental disability, medical condition, marital status, gender (including gender identity, pregnancy, childbirth and related medical conditions), genetic characteristics, registered domestic partner status, or any other classification protected by applicable local, state or central laws. Therefore, in furtherance of this commitment, the Company has formulated this anti- Sexual Harassment policy (the “**Policy**”) to promote a work environment that is conducive to the professional growth of its Employees and encourages equality of opportunity. The Company believes that Sexual Harassment at the Workplace and/or other than Workplace is a grave offence and is, therefore, punishable.

The Company will not tolerate any form of Sexual Harassment and is committed to take all necessary steps to ensure that its Employees are not subjected to any form of harassment.

2. SCOPE

The Policy is applicable against Sexual Harassment which may have taken place at the Workplace or outside the Workplace of the Company and made by an Employee or any third party against another Employee.

3. DEFINITIONS

In this Policy a word or phrase to which a meaning has been assigned in this section has that meaning, unless the context is otherwise indicated:

3.1 Sexual Harassment

“Sexual Harassment” includes one or more of the following unwelcome acts or behaviour (whether directly or by implication) namely:

- (a) Physical contact and advances; or
- (b) A demand or request for sexual favours; or
- (c) Making sexually coloured remarks; or
- (d) Showing pornography; or
- (e) Any other unwelcome physical, verbal or non-verbal conduct of sexual nature.

Further, the following circumstances, among other circumstances, if they occur or are present in relation to or connected with any act or behavior of Sexual Harassment may amount to Sexual Harassment:

- (a) Implied or explicit promise of preferential treatment in the Employee’s employment; or
- (b) Implied or explicit threat of detrimental treatment in the Employee’s employment; or

- (c) Implied or explicit threat about the Employee’s present or future employment status; or
- (d) Interference with the Employee’s work or creating an intimidating or offensive or hostile work environment for the Employee; or
- (e) Humiliating treatment likely to affect the Employee’s health or safety.

In addition to and without foregoing the generality of the above mentioned, the following behaviour shall also be considered to be Sexual Harassment:

- (a) Verbal conduct such as epithets, derogatory jokes or comments, slurs or unwanted sexual advances, invitation, or comments;
- (b) Visual displays such as derogatory and/or sexually-oriented posters, photography, cartoons, drawings, or gestures;
- (c) Physical conduct including assault, unwanted touching, intentionally blocking normal movement or interfering with work because of sex, race, or any other protected basis;
- (d) Threats and demands to submit to sexual requests as a condition of continued employment, or to avoid some other loss, and offers of employment benefits in return for sexual favors;
- (e) Rude or aggressive conduct directed at one sex more frequently than the other; and,
- (f) Extensive sexual favouritism or favouring Employees who engage in sexual conduct with a Manager.

3.2 **Employee**

"Employee" means any person employed at the Workplace of the Company for any work on regular, temporary, *ad hoc* or daily wage basis, directly or through an agent including a contractor, with or without the knowledge of the Company, whether for remuneration or not, or working on voluntary basis or otherwise, whether the terms of employment are express or implied and includes a co-worker, contractor, probationer, trainee, apprentice or called by any other such name.

3.3 **Complainant**

“Complainant” means any female Employee, of any age, who alleges to have been subjected to any act of Sexual Harassment by the Respondent.

3.4 **Respondent or Alleged Accused**

“Respondent” or “Alleged Accused” means the Employee or third party against whom the Complaint has been made by the Complainant.

3.5 **Employer**

“Employer” means:

- (a) any organisation, undertaking, establishment, enterprise, institution, office, branch or unit of the Company, the head of that department, organisation, undertaking, establishment, enterprise, institution, office, branch or unit or such other officer as the Company may specify.
- (b) in any Workplace not covered in (a) above, any person responsible for the management, supervision and control of the Workplace. The term “management” includes the person or board or committee responsible for formulation and administration of policies for the Company.
- (c) in relation to Workplace covered under (a) and (b) above, any person discharging contractual obligations with respect to his or her Employees.

3.6 Complaint or Grievance

“Complaint” or “Grievance” means an official statement over something believed to be wrong or unfair- allegation or concerns raised by a Complainant or others about impact on ability to execute deliverables, feeling uncomfortable, and wanting to stop Sexual Harassment.

3.7 Internal Complaints Committee (ICC)

“ICC” means the committee constituted in terms of clause 4 of the Policy.

3.8 Local Complaints Committee (LCC)

“LCC” means the committee that works at the district level to govern the complaint mechanism of the ICC appropriately. It works as a redressal mechanism if the Employee is reluctant to lodge Complaint against the Employer despite the presence of independent member in the ICC.

3.9 Member

“Member” means a member of the ICC or LCC.

3.10 Presiding Officer or Chair Person

“Presiding Officer” means the presiding officer of the ICC who is a female Employee from the Workplace. The senior most female employee of SAMHI shall be the Presiding Officer under the Policy.

3.11 Workplace

“Workplace” means:

- (a) Any department, organization, undertaking, establishment, enterprise, institution, office, branch or unit which is established, owned, controlled by the Company;
- (b) Any place visited by the Employee arising out of or during the course of employment including transportation provided by the Employer for undertaking such journey; and
- (c) Any events (social or business) where the conduct or comments may have an adverse impact on the workplace or workplace relations.

3.12 **Disciplinary Authority**

“Disciplinary Authority” means the person(s) ensuring the execution of disciplinary action recommended by the ICC. The Director, Company Affairs, shall be the Disciplinary Authority under the Policy.

4. **INTERNAL COMPLAINTS COMMITTEE (ICC)**

The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 (the “Act”) requires the constitution a committee to be known as the “Internal Complaints Committee.”

Complying with the provisions of the Act, the Company has instituted an ICC for redressal of Complaints and for ensuring their time bound treatment.

The ICC will comprise of the following members:

- (a) Presiding Officer;
- (b) Not less than 2 (two) members from among employees preferably committed to the cause of women or who have had experience in social work or have legal knowledge; and
- (a) 1 (one) member from amongst non-governmental organisations or associations committed to the cause of women or a person familiar with the issues relating to Sexual Harassment.

The Presiding Officer and Members of the ICC will be rotated once a year and the details of new members will be notified to all Employees. In the event of a Complaint being brought against any ICC member, such Member shall not be allowed to be involved in any proceedings in relation to such Complaint and the same shall be handled by the remaining Members of the ICC together with alternate members meeting the criteria set out in the Act.

4.1 **Powers of ICC**

- (a) ICC shall be empowered to carry out the mandate of the Policy.
- (b) ICC has rights to summon a person from other organisations or not associated with the Company as well (if required for the inquiry).
- (c) ICC shall have both protective as well as corrective powers.

4.2 **Quorum**

A quorum of 2 (two) members is required to be present for the proceedings of the ICC to take place.

5. **EMPLOYEE RESPONSIBILITY**

- 5.1 All Employees have a personal responsibility to ensure that their behaviour is not contrary to this Policy.

- 5.2 All Employees are encouraged to maintain a work environment free from Sexual Harassment.
- 5.3 All Employees should report any form of discrimination and encourage harassment-free Workplace by taking immediate action if they:
- (a) Feel uncomfortable because of someone’s harassing, sexually suggestive, abusive, discriminatory or inappropriate behavior,
 - (b) Believe that another’s comments or actions are harassing, sexually suggestive, abusive, discriminatory or inappropriate in a work environment,
 - (c) Believe that their ability to do their job is impacted by another’s harassing, sexually suggestive, abusive, discriminatory or inappropriate behavior, or
 - (d) Want behavior they believe to be harassing, sexually suggestive, abusive or discriminatory to stop.
- 5.4 In addition to complying with the provisions of the Policy, all the Employees are required to adhere to the code of conduct as laid down in the “SAMHI Employee Handbook”.

6. GRIEVANCE PROCEDURE

A Complainant may lodge a Complaint against an Alleged Accused or vice versa.

6.1 Incident Reporting

6.1.1 A Complaint, in writing, by Complainant, manager, or any Employee or witness to the incident may be made to the ICC directly or by calling the contact numbers displayed at the display boards.

6.1.2 A Complainant may make a Complaint of Sexual Harassment at Workplace to ICC or the LCC or to the manager, human resources function or any other management-level Employee who will then forward the Complaint to the ICC or the LCC, within 3 (three) months from the date of incident and in case of a series of incidents, within 3 (three) months from the date of last incident.

ICC or LCC may at its sole discretion and for reasons to be recorded in writing extend the time period for Complainant by additional 3 (three) months if the Complainant is unable to make a Complaint in case of physical or mental incapacity, death or otherwise. In case of physical or mental incapacity, death or otherwise, the legal heirs of the Complainant may make the Complaint.

6.1.3 If the Complainant feels that she/he cannot disclose her/his identity for any particular reason with the panel members of ICC, she/he can address the Complaint to the LCC.

6.1.4 If the Complaint is oral, the same shall be put in writing by the Complainant and shall be signed on every page, at the footer of the page, by the Complainant. The Presiding Officer/Chair Person/ any member of the ICC/LCC, as the case may be, shall render all reasonable assistance to the Complainant for making the Complaint in writing.

6.2 Redressal

ICC shall immediately proceed with the first level of enquiry and communicate the same to the Complainant and the Alleged Accused. ICC shall record all the proceedings of the enquiry and the same shall be endorsed by all parties present at the meetings. ICC will keep such recordings confidential, if it is so desired, except to use the same for discreet investigation.

6.2.1 Redressal recording process

- (a) On receipt of a Complaint, the Presiding Officer of ICC will maintain a register to endorse the Complaint received by it and keep the contents confidential, if it is so desired, except to use the same for discreet investigation.
- (b) ICC will hold a meeting with the Complainant within 5 (five) days of the receipt of the Complaint, but no later than a week in any case and document the statements with date and signatures of all the people associated.
- (c) At the 1st (first) meeting, the ICC Members shall hear the Complainant. The Complainant may also submit any corroborative material with documentary proof, oral or written material, etc., to substantiate her Complaint. If the Complainant does not wish to depose personally due to embarrassment of narration of event, a female officer for female Employees involved and a male officer for male Employees, involved shall meet and record the statement.
- (d) Thereafter, the Respondent may be called for a deposition before the ICC and an opportunity will be given to him/her to give an explanation, where after, investigations shall be conducted and concluded.
- (e) If it is determined that Sexual Harassment has occurred, effective remedial action will be taken in accordance with the circumstances involved and in accordance with clause 6.4 of the Policy.
- (f) If the Complainant agrees for conciliation then the ICC will follow the conciliation process.

6.2.2 Conciliation process

- (a) Conciliation may be carried out in agreement with the Complainant. Provided that no monetary settlement shall be made as a basis of conciliation.
- (b) Conciliation may be carried out when the Alleged Accused admits the behaviour conducted. Such Complaints may be resolved through conciliation or counselling or disciplinary action, if required.
- (c) Conciliation proceedings will be recorded and documented, post which no investigation will take place.
- (d) The information mentioned in the written explanation submitted by the Alleged Accused will be shared with the Complainant.
- (e) Where the Complainant informs the ICC or LCC that any term or condition of the settlement arrived at has not been complied with by the Alleged Accused, the ICC or LCC shall proceed to make an inquiry into the Complaint. Where both the parties are Employees, the parties shall during the course of inquiry, be given an opportunity of

being heard and a copy of the findings shall be made available to both the parties enabling them to make representation against the findings before the ICC or LCC.

6.2.3 Inquiry

If the Complainant wants to continue with the investigation, the person against whom Complaint is made may be called for verification before the ICC and an opportunity will be given to him / her to give an explanation, where after, an inquiry shall be conducted and concluded.

- (a) ICC members shall hear the Complainant and record her/his allegations during the meeting.
- (b) ICC will provide every reasonable opportunity to the Complainant and to the Alleged Accused, for presenting and defending their respective case based on principles of natural justice.
- (c) ICC shall call upon all witnesses mentioned by both the parties.
- (d) Confidentiality will be maintained throughout the inquiry to the extent practical and appropriate under the circumstances. In pursuing the inquiry, the investigator will take the wishes of the Complainant under consideration, but will thoroughly investigate the matter, keeping the Complainant informed as to the status of the inquiry and the outcome of the inquiry. Every Employee involved in the operation of this Policy, whether making a Complaint or involved in any inquiry, is responsible for observing high level of confidentiality that is required. Breach of confidentiality may give rise to disciplinary action under the Company's disciplinary procedure.
- (e) ICC shall complete the inquiry within reasonable period but not beyond 3 (three) months and communicate its findings and its recommendations for action to the Disciplinary Authority. The report created by ICC shall be treated as an inquiry report on the basis of which an erring Employee can be given appropriate punishment straightaway.

6.3 Inquiry Closure

- 6.3.1 The ICC shall complete the inquiry and shall share a formal note with findings and suggest/recommend for further action (disciplinary/or otherwise) in the form of a written report to the Disciplinary Authority within 10 (ten) days of the completion of the investigation process.
- 6.3.2 In case the ICC finds the degree of offence coverable under the Indian Penal Code, 1860 then this fact shall be mentioned in its report and the Disciplinary Authority will ensure appropriate actions for making a police complaint through the Complainant.
- 6.3.3 In the event the Complaint does not fall under the purview of Sexual Harassment, ICC may recommend the Disciplinary Authority to take no actions.
- 6.3.4 In the event the ICC arrives at the conclusion that the allegation against the Alleged Accused has been proved, it shall recommend the Disciplinary Authority:

- (i) To take action for Sexual Harassment as misconduct in accordance with the provisions of the services rules applicable to the Respondent or in a manner prescribed under the Code of Conduct or otherwise;
 - (ii) To deduct, notwithstanding anything in the service rules, from salary or wages of the Respondent such sum as may be considered appropriate to be paid to the Complainant.
- 6.3.5 In case the Complaint registered by the Complainant is found to be false at any stage, the Complainant shall be liable for appropriate action as per the disciplinary policy governed by the Company from time to time.
- 6.3.6 If ICC concludes that the Complaint is false, it may recommend to Disciplinary Authority or the district officer (LCC) to take action against the Complainant who has made the Complaint. Provided that: the malicious intent or falsehood on part of the Complainant must be established after a proper enquiry before any action is recommended.
- 6.3.7 Any person aggrieved from the recommendation made herein may prefer an appeal to the court or tribunal as per the provisions contained in any other law for the time being in force within 90 (ninety) days of the recommendations.
- 6.3.8 Retaliation for reporting any incidents of Sexual Harassment or discrimination, or perceived harassment or discrimination for making any Complaints, or participating in any investigation of incidents of harassment or discrimination is strictly prohibited. Any report of retaliation by the one accused of harassment or discrimination, or by other Employees, Managers, will also be promptly and thoroughly investigated in accordance with the ICC's investigation procedures outlined above. If a complaint of retaliation is substantiated, appropriate disciplinary action, up to and including discharge, will be taken.

6.4 **Disciplinary Action**

The disciplinary action shall commensurate with nature of harassment or violation of human right where the ICC or the LCC as the case may be; arrives at a conclusion that the Alleged Accused is guilty of the Complaint registered against him/her. ICC can recommend any one or more of the following punishment depending upon the severity:

- (a) Warning letter; or
- (b) Written apology; or
- (c) Barring the entry of the Respondent from the Workplace premises, especially in case of the Alleged Accused being a third party; or
- (d) No increment for an entire fiscal year; or
- (e) Demotion; or
- (f) Stoppage of promotion for 1 (one) year or more depending upon the gravity of case; or
- (g) Reassignment of duties including debarring from supervisory duties; or

(h) Discharge /Dismissal

The decision of the Disciplinary Authority shall be communicated to the accused in writing.

Compensation to be determined on the basis of:

- (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 alleged accused and feasibility of such payment in lump sum or installments.
- (e) In case of a third party being the Alleged Accused, the Disciplinary Authority shall initiate action by making complaint with the appropriate authority and other remedies available under law and recommended by ICC.

7. OBLIGATION OF THE EMPLOYER

The Employer shall:

- 7.1 provide a safe working environment at the Workplace which shall include safety from the persons coming into contact at the Workplace;
- 7.2 display at any conspicuous place in the Workplace, the penal consequences of Sexual Harassments and the order constituting, the ICC;
- 7.3 organise workshops and awareness programmes at regular intervals for sensitising the Employees with the provisions of the Act and this Policy and orientation programmes for the members of the ICC in the manner as may be prescribed;
- 7.4 provide necessary facilities to the ICC or the LCC, as the case may be, for dealing with the Complaint and conducting an inquiry;
- 7.5 assist in securing the attendance of Respondent and witnesses before the ICC or the LCC, as the case may be;
- 7.6 make available such information to the ICC or the LCC, as the case may be, as it may require having regard to the Complaint;
- 7.7 provide assistance to the woman if she so chooses to file a complaint in relation to the offence under the Indian Penal Code, 1860 or any other law for the time being in force;
- 7.8 cause to initiate action, under the Indian Penal Code, 1860 or any other law for the being in force, against the perpetrator, or if the Complainant so desires, where the perpetrator is not an Employee, in the Workplace at which the incident of Sexual Harassment took place;
- 7.9 treat Sexual Harassment as a misconduct under the service rules and initiate action for such misconduct;

7.10 monitor the timely submission of reports by the ICC.

8. ANNUAL REPORT

ICC shall prepare an annual report at the end of the financial year of the Company. It is the responsibility of the Presiding Officer to ensure a full account of the committee's activities during the previous year is recorded and forward a copy thereof, to the Employer and / district officer of LCC.

9. CONFIDENTIALITY

The Company acknowledges the sensitivity of Complaints and will take steps to ensure that all matters including any Complaints made and investigations conducted, under this Policy are handled in the strictest of confidence and sensitivity as confidential to the extent possible or practical under the circumstances.

However, such information may be disseminated regarding the justice secured to any victim of Sexual Harassment under the Act without disclosing the name, address, identity or any other particulars calculated to lead to the identification of the Complainant and the witness/es. Every Employee involved in the operation of this Policy, whether making a complaint or involved in any investigation, shall be required to observe high level of confidentiality that is required.

10. DISCLAIMER

10.1 The ICC shall be governed by applicable law.

10.2 The Company reserves the right at any time to delete/add/change the Policy or any provisions of this Policy as recommended by the law whenever and wherever applicable.

10.3 This Policy can be modified unilaterally by the Company at any time without notice to accommodate organizational changes within the Company subject to adherence by the Company with the Act and any other applicable law.

10.4 Please contact human resources function if you have any questions about this Policy or the subject of Sexual Harassment.

Constitution of Internal Complaints Committee (“ICC”)

**revised w.e.f. 11th December, 2017*

Sr. No.	Name	Designation
1.	Tanya Mehra	Presiding Officer
2.	Bhavna Mishra	Member
3.	Ritika Diwan	Member
4.	Rajat Mehra	Member
5.	Amitabh Neehar (representing Aware Citizen Foundation)	External Member