



**NOBODY HAS TO PUT UP
WITH SEXUAL HARRASMENT**

Policy against Sexual Harassment at Work Place

for the employees of

Bal Sansar Sanstha

Bal Sansar

(September 2010)

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This is to acknowledge with sincere thanks that this 'Policy against Sexual Harassment at Work Place' belongs to the KHPT and IHAT and is adapted by Bal Sansar Sanstha; this will be translated in to Hindi and made explained to the employees

Policy against Sexual Harassment at Work Place

I. Introduction

Bal Sansar Sanstha acknowledges that it is our legal responsibility to provide safe working environment for all, especially women, free from sexual harassment and discrimination.

We understand that sexual harassment can have a devastating effect upon the health, confidence, morale and performance of those affected by it. The anxiety and stress produced by sexual harassment commonly leads to those subjected to it taking time off work due to sickness, being less efficient at work, or leaving their job to seek work elsewhere.

We also understand the reasons why some staff specially women remain silent about sexual harassment. An absence of complaints about sexual harassment does not necessarily mean an absence of sexual harassment. It may mean that the recipients of sexual harassment think that there is no point in complaining because:

- nothing will be done about it;
- it will be trivialized;
- the complainant will be subjected to ridicule, or
- they fear reprisals.

The best way to prevent sexual harassment is to adopt a comprehensive sexual harassment policy. The aim is to ensure that sexual harassment does not occur and, where it does occur, to ensure that adequate procedures are readily available to deal with the problem and prevent its recurrence.

II. What Is Sexual Harassment?

According to The Supreme Court definition, sexual harassment is any unwelcome sexually determined behaviour, such as:-

- Physical contact
- A demand or request for sexual favours
- Sexually coloured remarks
- Showing pornography
- Any other physical, verbal or non-verbal conduct of a sexual nature.

Sexual Harassment takes place if a person:

- Subjects another person to an unwelcome act of physical intimacy, like grabbing, brushing, touching, pinching etc.
- Makes an unwelcome demand or request (whether directly or by implication) for sexual favours from another person, and further makes it a condition for employment/payment of wages/increment/promotion etc.



- Makes an unwelcome remark with sexual connotations, like sexually explicit compliments/cracking loud jokes with sexual connotations/ making sexist remarks etc.
- Shows a person any sexually explicit visual material, in the form of pictures/cartoons/pin-ups/calendars/screen savers on computers/any offensive written material/pornographic e-mails, etc.
- Engages in any other unwelcome conduct of a sexual nature, which could be verbal, or even non-verbal, like staring to make the other person uncomfortable, making offensive gestures, kissing sounds, etc.
- Sending Email /SMS with malign intention to damage reputation of any person associated with BAL SANSAR SANSTHA
- Sending SMS with ulterior intentions to harass, subjugate or bring down moral of any person attached associated with BAL SANSAR SANSTHA

It is sexual harassment if a supervisor requests sexual favours from a junior in return for promotion or other benefits or threatens to sack for non-cooperation. It is also sexual harassment for a boss to make intrusive inquiries into the private lives of employees, or persistently ask them out. It is sexual harassment for a group of workers to joke and snigger amongst themselves about sexual conduct in an attempt to humiliate or embarrass another person.

Quid pro quo and hostile work environment are the two broad types of sexual harassment.

Sexual harassment at workplace is generally classified into two distinct types. 'Quid pro quo', means seeking sexual favours or advances in exchange for work benefits and it occurs when consent to sexually explicit behaviour or speech is made a condition for employment or refusal to comply with a 'request' is met with retaliatory action such as dismissal, demotion, difficult work conditions.

'Hostile working environment' is more pervasive form of sexual harassment involving work conditions or behaviour that make the work environment 'hostile' for the woman to be in. Certain sexist remarks, display of pornography or sexist/obscene graffiti, physical contact/brushing against female employees are some examples of hostile work environment, which are not made conditions for employment.

Unwelcome

UNWELCOME is the key in defining sexual harassment. It is the impact and effect the behaviour has on the recipient that will define the behaviour as sexual harassment.

III. Committee against Sexual Harassment

BAL SANSAR SANSTHA has set up a committee against sexual harassment. The committee should:

- Be headed by a woman
- Have half its members as women



- Include a third-party representative from an NGO or any other agency conversant with the issue of sexual harassment (to prevent undue pressure from within the organization with respect to any complaint)
- Include a Legal Representative.

The committee members for 2010-11 & 2011-12 are

1. Mrs. Prakha Kishore (Chairperson, BSS EC member)
2. Dr. Sanskriti Ojha (Convener)
3. Dr. Usha Madnawat (BSS EC member)
4. Dr. Jayshree Bhargava (BSS EC member)
5. Mrs. Manju Toshniwal, (Industrialist and Social worker)
6. Sh. Teja Ram (CSO Representative)
7. Sh. Lal Singh Chouhan (CSO Representative)
8. Dr. Manju Jain (Gynecologist)-Third party representative
9. Sh. Akhil Simlot (Lawyer) – Legal Representative

Membership criteria:

Members of this committee should have associated at least for a minimum period of 6 months with the BAL SANSAR SANSTHA. The criteria of membership should be based on individual member's clear outlook on gender issues and their social credibility.

Desired Qualities Of The Members Of Complaints Committee:

- Subjectivity: A sexual act when unwelcome is sexual harassment; the unwelcome is the woman's subjective reality. The Complaints Committee's first job is to believe in this reality. (unless something on record completely negates her complaint).
- Empathy: It is critical that the Complaints Committee empathizes with the complainant and does not judge her by their moral standards. The most important question to be answered in the affirmative that the committee and all functionaries must ask themselves while providing redress to a particular case is 'Do we believe her?'

Selection of the Complaint Committee members is extremely important as in most cases the committee members, if in sub-ordinate position of power at workplace to that of accused, find it very difficult to diligently carry out the responsibilities bestowed on them as heads or members of the Committee, against the superiors.

BAL SANSAR SANSTHA will organize orientation for the members of the Complaints Committee and others who are going to be instrumental in implementing the policy. Their training should include a component of gender sensitization, along with the procedures for taking complaints, and for enquiry, etc.



Tenure of Committee:

Normally this committee will have tenure of 02 years. However management reserves the right to reconstitute the committee either wholly or partially within its tenure mentioned above. This reconstitution process should be preceded by review of the activities of the committee.

Function:

The functional aspects of the committee are to review the existing policies & practices and suggest steps to align those to make BAL SANSAR SANSTHA a gender sensitive and safer place to work.

1. The committee **will** study existing organization policies pertaining to recruitment process, condition of service applicable to employees of the organization and suggest steps to make this gender sensitive
2. The committee will facilitate training for all staff members, men and women, to recognize sexual harassment, deal with it when it occurs and prevent it. Sexual harassment training for all employees should address perceptions and understanding of sexual harassment, impact of sexual harassment on individuals and workplace, understanding the policy and complaints mechanism
3. Conduct yearly meetings with management to review the sexual harassment policy, and to make sure that they understand that an employee does not need to suffer negative consequences in order to make a complaint of sexual harassment.
4. This committee will take initiative to address cases against any incidence of sexual harassment. Committee will appraise management on such cases and measures to deal with such cases. This committee will work in close coordination with the HR unit for smooth redressal of the complaints related to sexual harassment.
5. This committee shall also be accountable for proper documentation of all activities including meetings and processes of it so as to disseminate the information to all project locations biannually. It will also ensure that the activities of the committee are exhibited in the in-house journal at times.

Mechanism for operations of the committee:

1. The committee will meet at least thrice in a year. The chairperson within a short notice can convene emergency meetings.
2. Any member of committee who fails to attend the committee meeting consecutively for three times, without any specific reason s/he would be removed from the committee itself. New members would be replaced her/him within 15 days. The chairperson of the committee will take final decision in this regard. The meeting of committee will be carried on with presence of two-third members.



3. If the convener will be separated from the committee by any reasons, the chairperson would immediately take necessary step for appointing a new convener.
4. The committee should appraise the Chairperson of BSS on the activities of the committee.
5. The chairperson of the committee would discuss with members and finalise time members can afford for this. Each member will render required days as and when necessary to undertake the functions of committee. However, this should not clash with their primary responsibility. Basing on surplus working hour available to any member of the committee, the concerned member will allot her/his working hour for the proper functioning of committee in the organisation.

IV. Process of Complaint & Conducting Enquiry

Process of Complaint

BAL SANSAR SANSTHA employees have a right to expect a workplace free from sexual harassment. As per HR policy of BAL SANSAR SANSTHA, management is liable to prevent and stop sexual harassment of employees. HR policy has been circulated among employees. This policy applies equally to relations between superior and subordinates as well as between peers. Any incident of sexual harassment will be viewed as extremely serious. A complaint or report of sexual harassment will be immediately investigated and appropriate action would be taken against the offending employee(s). Procedure mentioned below clarifies how to make a complaint in case of sexual harassment:

- Reporting sexual harassment to line manager/ unit head or HR Unit /is important. Sometimes it is hard to report harassment because employee may feel embarrassed or think it was her/ his fault even though it is not. So reporting harassment is important as this may stop the behaviour and it makes your line manager / unit head responsible for stopping the behaviour. Every situation is different. There is no best thing to do. But, employee should always report the sexual harassment to the line manager/ unit head /CASH.
- Employee should tell the person (offender) that his/ her behaviour offend the employee. If the harassment does not end promptly, write a letter asking the harasser to stop and keep a copy. As soon as the employee experience the sexual harassment, should start writing it down. Employee should write down dates, time, place and possible witness what has happened. If possible, ask your co-worker to write down what they saw or heard.
- Usages of Grievance template- Grievance template have been circulated along with HR policy manual. Employee should make use to the template to register complain to line manager/ unit head or Committee Members. Employee should keep copy of all correspondences made to harasser, Line Manager/



Unit Head or Committee. Keep copy of their response from Line Manager/
Unit head or Committee.

To understand employment policy of BAL SANSAR SANSTHA, please refer to personnel policy manual.

Process of conducting enquiry

Any person aggrieved shall lodge a complaint before the Committee at the earliest point of time

The complaint shall contain all the material and relevant details concerning the alleged sexual harassment including the names of the contravener and the complaint shall be addressed to the Committee.

If the complainant feels that she cannot disclose her/his identity for any particular reason the complainant shall address the complaint to the Chairperson of BSS and hand over the same in person or in a sealed cover.

Upon receipt of such complaint the Chairperson of BSS shall retain the original complaint with him and send to the Committee a gist of the complaint containing all material and relevant details other than the name of the complainant and other details which might disclose the identity of the complainant.

On receipt of the complaint the Chairperson will call for a committee meeting to discuss the issue and shall take immediate necessary action to cause an enquiry to be made discreetly or hold an enquiry, if necessary. The enquiry should also give an opportunity to the person against whom the complaint has been lodge to present his/her side.

The Committee shall after examination of the complaint and completion of the enquiry submit its recommendations to the Chairperson of BSS recommending the penalty to be imposed.

The Chairperson of BSS, upon receipt of the report from the Committee shall submit the case with the Committee's recommendations to the management.

The Management of the Organization shall confirm with or without modification the penalty recommended after duly following the prescribed procedure.

Where the conduct of an employee amounts to misconduct in employment as defined in the relevant service rules the employer should initiate appropriate disciplinary action in accordance with the relevant rules as mentioned in the personnel Policy Manual.

Criminal proceedings / disciplinary action

Where such conduct amounts to a specific offence under the Indian Penal Code or under any other law, the employer shall initiate appropriate action in accordance with law by making a complaint with the appropriate authority.



In particular, it should ensure that victims, or witnesses are not victimized or discriminated against while dealing with complaints of sexual harassment. The victims of sexual harassment should have the option to seek transfer of the perpetrator or their own transfer.

Where such conduct amounts to misconduct in employment as defined by the relevant service rules by BAL SANSAR SANSTHA, appropriate disciplinary action should be initiated by the employer in accordance with those rules as mentioned in the BAL SANSAR SANSTHA personnel Policy Manual.

Confidentiality:

All sexual harassment complaints and procedures will be confidential and time bound and all the documents will be maintained by Committee /HR Department.

Penalties:

Anyone found guilty of harassment after investigation will be subject to immediate and appropriate disciplinary action including termination as mentioned in the BAL SANSAR SANSTHA /BAL SANSAR SANSTHA personnel Policy Manual.

Additional Resource:

BAL SANSAR SANSTHA will also organize special counseling services for staff who are victims of harassment. Any other support that the victim may require will be assessed by the committee and recommend to the management.

Enforcement of Policy:

All written complaints of sexual harassment against staff of BAL SANSAR SANSTHA will be taken seriously and investigated thoroughly and professionally. Accurate records of the investigation and the findings will be maintained. Employees who bring charges will not face retaliation.

The Committee must remember:

- It needs extensive orientation for effective functioning.
- It cannot function like a criminal court.
- The complainant, when she complains, has at stake her personal life and career.
- The impact sexual harassment has on a woman
- It is difficult for a woman to talk about anything sexual. Hence there can be long time interval between the harassment and the actual complaint.
- It needs to handle complaints in a confidential manner and within a time-bound framework
- It needs to submit an annual report on sexual harassment to the appropriate government authority.



V. CASH: Do's and Don'ts :

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Do's

- Formalise and publicise complaint procedures that are easy and non-threatening.
- Provide safety for friends and supporters of the complainant.
- Appoint complaints officers-one man and one woman- to serve as the first point of contact.
- Complaint officers should be members of the committee. One of them should be the outside expert.
- Authorize Complaint Officers to resolve the issue without the committee's intervention. If unresolved to the complainant's satisfaction, the complaint should go to the committee.
- Use a cheerful, comfortable, airy room for meeting the complainant.
- Ensure that your body language communicates complete attention to the complainant and the accused.
- Treat the complainant with respect.
- Discard pre-determined notions of how a victim or accused should look or behave. Beware of stereotypes.
- All sexual crimes are committed in private, so that there may not be any eyewitnesses. This is an important point that the committee would do well to remember at all the times.
- Consult the complainant for punitive action.
- If the management does not accept the recommended action, it should give three valid reasons.
- Help the complainant regain his/her self-respect.

Don'ts

- Do not, under any circumstance, get aggressive.
- Do not insist on a detailed description of harassment. This could increase the complainant's trauma.
- Do not allow for interruptions when talking to the complainant and/or accused.



- Do not try and determine the impact of the harassment on the complainant. Let the complainant determine it. Help the complainant, if necessary.
- Do not discuss the complaint among the presence of the complainant or the accused.
- Remember, this is a human rights issue, therefore, (a) do not give too much weightage to intention, focus on the impact, and (b) 'proof beyond reasonable doubt' is not required, a strong probability is sufficient.

Other things the Complaints Committee need to do

- Encourage the staff to note details of each incident of harassment and monitor any changes in work patterns or attitude on the part of the alleged harasser so as to avoid as far as possible attempts at victimisation or accusations of poor work performance, etc.
- Make discreet enquiries as to whether other workers have experienced similar problems and if so, ask them details of any harassment, which has occurred.
- If the problem should involve transfer of one of the people involved, try to ensure that the harasser-rather than the victim- is the person required to move.
- Always document the results of any sexual harassment complaint or investigation. Not only document the results, but also document any corrective action that you asked the employee or supervisor to take. Follow up on any corrective action so you can document if the employee fails to take advantage of your companies polices/procedures or any corrective action that your company takes to prevent the sexual harassment from occurring again in the future.
- Inform all employees that it is their obligation to report sexual harassment that they either experience or witness.

