



## **BACHPAN SAVE THE INNOCENCE**

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**BACHPAN SAVE THE INNOCENCE**

**Public Trust**

Panchkula, Haryana, 134112, India

Bachpanindia.org

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## **Bachpan Save The Innocence** **(Drafted in June, 2024)**

### **POLICY FOR PROHIBITION, PREVENTION AND REDRESSAL OF** **SEXUAL HARASSMENT AT WORKPLACE**

#### **1. Objective**

**Bachpan Save The Innocence** is committed to creating and maintaining a work environment where the dignity and privacy of employees/volunteers/interns are of utmost importance and respect. It aims to provide a workplace that enables employees to work without fear of prejudice, gender bias, and sexual harassment. To achieve this, all employees should professionally conduct themselves and refrain from committing any act of sexual harassment.

The said policy has been formulated by the provisions of the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 and rules (from now on referred to as the Act for the sake of brevity) made thereunder. This Policy is **gender neutral** and intends to promote a safe working environment for all where there is zero tolerance for any form of sexual harassment. Accordingly, while the said policy covers all the key aspects of the Act, for any further clarification, reference shall always be made to the Act and the provisions of the said Act shall prevail.

#### **2. Applicability**

This Policy shall be effective from 1<sup>st</sup> July 2024 and applicable to all Bachpan Save The Innocence **employees, volunteers, interns and any other staff covered by the Act** that may come on board at a later point in time and will include under its purview all office premises, zonal offices as well as any workplaces as defined under the Act, by whatever name called, where there are 10 or more employees.



### **3. Definitions**

#### **3.1 Sexual Harassment:**

Sexual harassment is a form of sex discrimination and is defined as “unwelcome verbal, visual, or physical conduct of a sexual nature that is severe or pervasive and affects working conditions or creates a hostile work environment.”

Sexual harassment does not have an exhaustive definition and as such the definition given below does not cover everything and the circumstances surrounding each case will be the deciding factor as to whether the said harassment has taken place or not. The reasonable person standard is used to determine whether or not the conduct would fall under sexual harassment in the workplace. Further, it is pertinent to note that whether said **harassment has occurred or not, does not depend on the intention of the people but on the experience of the one complaining.**

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

- (i) physical contact and advances; or
- (ii) a demand or request for sexual favours; or
- (iii) making sexually coloured remarks; or
- (iv) showing pornography; or
- (v) any other unwelcome physical, verbal or non-verbal conduct of a sexual nature.

The following circumstances, among other circumstances, if it occurs or is present about or connected with any act or behaviour of sexual harassment may amount to sexual harassment:



- (i) implied or explicit promise of preferential treatment in employment; or
- (ii) implied or explicit threat of detrimental treatment in employment; or
- (iii) implied or explicit threat about present or future employment status; or
- (iv) interference with work or creating an intimidating or offensive or hostile work environment; or
- (v) humiliating treatment likely to affect health or safety.

To better understand sexual harassment and what may constitute the same, below are a few forms in which sexual harassment may occur:

- (i) Verbal harassment: Verbal conduct that includes making or using derogatory comments, using obscene or vulgar language, epithets, slurs, or jokes, eve teasing, sexual advances or propositions, unsavoury, offensive or suggestive remarks, jesting, kidding, sounds, questioning, graphic verbal commentaries about an individual's body, using sexually degrading words to describe an individual.
- (ii) Nonverbal/gestural harassment: Non-verbal communication such as gestures of a sexual nature, removal of clothing to display parts of the body (flashing), leering or ogling with suggestive overtones, licking lips, holding, or eating food provocatively, hand signal or sign language denoting sexual activity, persistent flirting, giving gifts that are sexual.
- (iii) Visual harassment: Visual conduct that includes leering, displaying pornographic materials, drawing sex-based sketches, or writing sex-based letters, sexual exposure, making sexual gestures, or displaying sexually suggestive objects or pictures,



cartoons, or posters, suggestive or obscene letters, emails, texts, SMS, chat messages, notes, or invitations.

- (iv) Psychological: Following, stalking, persistent visiting, telephoning, sending of cell-phone messages, or other invasions of personal privacy, making intrusive inquiries into the private lives of employees, or persistently asking them out, repeated unwanted social invitations, relentless proposals for dates or physical intimacy, gender-based insults, sexist remarks, innuendo and taunts, jokes that are demeaning to the person and cause embarrassment, devaluation of person's work, comments on appearances, clothing and character of a person, comments about personal behaviour or a person's body either alone or in front of others in a group, and especially where there is a gender imbalance in the group such as a single woman in a group of men or vice versa, group of employees who joke and snigger amongst themselves about the sexual orientation of another employee in an attempt to humiliate or embarrass the other employee.
- (v) Physical harassment: Physical conduct that includes molestation, touching, assaulting, impeding, or blocking movements, patting, pinching, stroking, brushing up against any part of the body, hugging, kissing, fondling, sexual assault, holding onto a hand or arm longer than is necessary.

As technology advances, there are increased opportunities for the communication of sexually offensive verbal and visual images; therefore, this policy anticipates a range of communication, all of which will be regarded as offensive regardless of the format or style of the communication, or whether the technology exists at the time of the publication of this policy.

### **3.2 Workplace:**



Workplace means all offices or any other premises where the business of the organization is conducted and includes the places hired for any special events/functions organized by the organization as well as any place visited by the employee arising out of or during employment including transportation and/or \_\_\_\_ provided by the employer for undertaking such journey and residing respectively. The workplace will further include virtual places, platforms and meeting rooms and also cover under its ambit work from home.

### **3.3 Employer:**

Employer means any person responsible for the management, supervision and control of the workplace. Management includes the person or board or committee responsible for formulating, implementing and administrating policies.

### **3.4 Employee:**

Employee means a person employed at Bachpan Save The Innocence for any work on a 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 voluntarily or otherwise, whether the terms of employment are express or implied and includes a co-worker, a contract worker, probationer, trainee, apprentice or called by any other such name.

### **3.5 Complainant:**

Complainant means a person who files a complaint of sexual harassment at the workplace to the Internal Committee against another person.

### **3.6 Respondent:**

Respondent means a person against whom the complaint has been filed.



### **3.7 Internal Committee:**

Internal Committee (hereinafter referred to as the IC for the sake of brevity) means a committee constituted by the organization as per this policy and by the Act and includes all locations, where employees work on the ground, namely, Chandigarh, Panchkula, Mohali, Delhi and Mathura. It is pertinent to note that as the organization expands and new locations are added, the same will be covered and come under the said policy's purview as well.

The IC shall constitute of a presiding officer who shall be a woman employed at a senior level in the organization, at least two employees from the organization and an external member, while making sure that the quorum is such that at any given point in time, the IC has at least one-half of the total members as women.

*Any other term not defined herein shall have the same meaning as defined in the Act or any other applicable law.*

## **4. Prohibition & Prevention of Sexual Harassment at Workplace: Responsibilities**

No employee or any person visiting the Bachpan Save The Innocence workplace shall be subjected to sexual harassment and in furtherance of the same, the organization shall take all appropriate steps to prevent sexual harassment.

### **4.1 The responsibilities of the employer/management:**

- (i) Legal responsibility to provide a safe working environment for all employees free from sexual harassment and discrimination.
- (ii) A general responsibility to ensure that all allegations of sexual harassment are handled sensitively, concerning the dignity of the persons involved.
- (iii) Constitution of the Internal Committee by the Act.





- (iv) Display the IC member's names along with their contact numbers and/or email IDs in a conspicuous place.
- (v) Display of penal consequences of sexual harassment at a conspicuous place.
- (vi) Taking action as and when required after an inquiry process is conducted based on the IC's recommendations, within a timely manner.
- (vii) Provide legal and psychological assistance, to the team members even if they face sexual harassment from people who are not employed at the organisation.
- (viii) Provide legal and psychological assistance, to the team members if they face sexual harassment from other parties involved during collaborations with Bachpan Save The Innocence.
- (ix) Organization of workshops and awareness programmes at regular intervals for sensitising the employees.
- (x) Dissemination of this policy.

#### **4.2 The responsibilities of the ICC:**

- (i) The ICs can direct the cases to LCC, in case the complainant feels the need to do so.
- (ii) Ensure that the complaints of sexual harassment before it is dealt with timeously, with due seriousness and confidentiality.
- (iii) Investigate every formal written complaint of sexual harassment and maintain a record of the proceedings arising out of the said complaint.
- (iv) Inform the parties included, of their rights, and responsibilities and provide unambiguous information regarding the proceedings of the case.



- (v) Conduct timely quarterly meetings to discuss challenges faced, if any, any POSH-related activities to be conducted, etc.
- (vi) Discourage and prevent employment-related sexual harassment.
- (vii) Submit annual reports in the prescribed format on time.

#### **4.3 The responsibilities of the employees:**

- (i) All employees have a personal responsibility to ensure that their behaviour is not contrary to this policy.
- (ii) All employees are encouraged to reinforce the maintenance of a work environment free from sexual harassment.
- (iii) Participate in all awareness training sessions that are organized.
- (iv) Support the aggrieved person/complainant to reject any and all unwelcome behaviour and help with reporting, if need be.
- (v) Acting as a witness wherever applicable if the aggrieved person decides to complain.
- (vi) Advise to stop and refrain and not encourage any behaviour of other employees, if the same falls under sexual harassment at the workplace.

### **5. Lodging a Complaint**

**5.1** A complainant may file a complaint, in writing, at [bstiposhhelp@gmail.com](mailto:bstiposhhelp@gmail.com) or deliver by hand the complaint form to any member of the IC member if he or she believes to be subjected to sexual harassment.

**5.2** It is pertinent to note that such a complaint cannot be anonymous, however, confidentiality regarding the parties' identities, proceedings arising out of such a complaint, any evidence brought on record as well as the outcome, is strictly maintained. It is pertinent to note that the only



people who will be aware of the identity of the parties and the entire proceedings will be the parties themselves, IC, employer and to a certain extent, the witnesses directly involved in the complaint. Due care is taken to not revictimize the complainant and breach of such confidentiality by anyone aware, will be punished as per the Act.

**5.3** Such complaint shall be filed within a period of 3 months from the date of incident and in case of a series of incidents, within a period of 3 months from the date of last incident.

**5.4** The time limit of 3 months may be extended by another 3 months, with reasons to be recorded in writing, if the IC is satisfied that the circumstances were such which prevented the complainant from filing a complaint.

**5.5** If the complainant is unable to make a complaint on account of physical incapacity, a complaint may be filed by:

- (i) his or her legal heir; or
- (ii) his or her relative or friend; or
- (iii) his or her co-worker; or
- (iv) an officer of the National Commission for Women or State Women's Commission (applicable only when the complainant is a women); or
- (v) any person who knows about the incident, with the written consent of the aggrieved person.

If the Complainant is unable to make a complaint on account of mental incapacity, a complaint may be filed by:

- (i) his or her legal heir; or
- (ii) his or her relative or friend; or
- (iii) a special educator; or
- (iv) a qualified psychiatrist or psychologist; or
- (v) the guardian or authority under whose care he or she is receiving



treatment or care;

- (vi) any person who has knowledge of the incident jointly with his or her relative or friend or a special educator or qualified psychiatrist or psychologist or guardian or authority under whose care he or she is receiving treatment or care.

If the Complainant, for any other reason, is unable to make a complaint, a complaint may be filed by any person who knows about the incident, with his or her written consent.

If the aggrieved person is dead, a complaint may be filed by any person who has knowledge of the incident, with the written consent of his or her legal heir.

- 5.6** The complaint must have the date & time of the incident/s, description of the incident/s, respondent's name and contact number as well as the working relationship of the complainant with the respondent (please refer to Annexure B for the complaint form). This said complaint shall be filed with all the evidence such as message screenshots, email trails, etc. that the complainant has and wants to rely on during the proceedings. The complainant must also compile a list of witnesses, with their contact information and submit it along with the complaint.
- 5.7** If the complaint does not fall under the purview of 'sexual harassment', it may be taken up as per the organization's code of conduct.
- 5.8** On receipt of the complaint, the IC shall share a copy of the complaint with the respondent within 7 working days.
- 5.9** The respondent shall file his or her reply, along with the evidence he or she may want to rely on along with their list of witnesses and their names and contact information, within 10 working days from the date of receipt of the complaint.



**5.10** The IC will provide the option of conciliation, inquiry or of filing an F.I.R. with the police to the complainant. The IC will support whatever option the complainant chooses and provide their full support to the complainant.

## **6. Redressal Mechanism**

### **6.1 Conciliation:**

Before initiating an inquiry and at the request of the complainant, the IC may take steps to settle the matter through conciliation. However, no monetary settlement shall be made as a basis of conciliation.

Where a settlement is arrived at, the IC shall record it and convey the same to the employer and no further inquiry shall be conducted. Further, copies of such settlement shall be provided to the complainant and respondent.

If the complainant informs the IC that any term or condition of the settlement has not been complied with by the respondent, the IC shall proceed to conduct an inquiry or forward the same to the police if need be.

### **6.2 Process of Inquiry:**

6.2.1 The IC will proceed with inquiry if no conciliation is requested by the complainant, or the conciliation has not resulted in any settlement we well as if the complainant informs the IC that any terms or conditions of the settlement arrived through conciliation has not been complied with by the respondent.

6.2.2 While conducting the inquiry, the IC shall have the same powers as are vested in the Civil Court under the Code of Civil Procedure, 1908 while conducting an inquiry which includes but is not limited to summoning and enforcing the attendance of any person and



examining them on oath, requiring the discovery and production of documents, any other matter which may be prescribed.

6.2.3 In conducting the inquiry, a minimum of 3 members of the IC including the presiding officer shall be present.

6.2.4 Both the complainant and respondent shall 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 IC. The IC shall conduct the inquiry by the principles of natural justice.

6.2.5 The parties shall not be allowed to bring any legal practitioner to represent them in their case at any stage of the proceedings before the IC.

6.2.6 The entire inquiry process is documented. Detailed notes of the meetings are prepared which may be shared with the respondent and complainant upon request.

6.2.7 Any witnesses produced by the complainant, as well as the respondent, are also interviewed & statements are taken. If the complainant or respondent desires to cross-examine any witnesses, the IC facilitates the same and records the statements. In case a complainant or respondent seeks to ask questions to the other party, they may give them to the IC in writing and the IC will then ask the other party and record their statement. As mentioned herein, such notes are kept strictly confidential.

6.2.8 The IC shall have the right to terminate the inquiry proceedings or give an *ex-parte* decision, if the complainant or respondent fails, without sufficient cause, to present themselves for 3 consecutive hearings convened by the presiding officer. However, such termination or *ex-parte* order may not be passed without giving a notice, in writing, 15 days in advance to the party concerned.



6.2.9 The inquiry shall be completed within 90 days. On completion of an inquiry, the IC shall provide a report of its findings to the employer within 10 days from the date of the completion of the inquiry and such report shall be made available to the concerned parties.

6.2.10 The employer shall act upon the recommendation within 60 days of the receipt of the recommendation.

6.2.11 Where the IC arrives at a conclusion that the allegation against the respondent has not been proved, it shall recommend to the employer that no action is required to be taken in the matter.

6.2.12 Where the IC arrives at a conclusion that the allegation against the Respondent has been proved, it shall recommend to the employer to take the following actions:

\_\_\_\_\_.

## **7. Interim Relief**

During the pendency of the inquiry, on a written request made by the complainant, the IC may recommend to the employer to:

1. Transfer the complainant or the respondent to any other workplace,
2. Grant leave to the aggrieved employee of a maximum of 3 months (the same would be in addition to the leave she would be otherwise entitled to),
3. Grant such other relief as may be appropriate.

Once the recommendations of interim relief are implemented, the employer will inform the committee regarding the same.

## **8. False or Malicious Complaints**

Where the IC arrives at the conclusion that:

- (i) the allegation against the respondent is malicious; or



- (ii) the Complainant has made the complaint knowing it to be false; or
- (iii) the Complainant has produced any forged or misleading document; it may take appropriate action against the Complainant.

The action recommended should be similar to the ones proposed for the respondent in case of substantiated complaints.

However, a mere inability to substantiate a complaint or provide adequate proof need not attract action against the complainant. A malicious intent on the part of the complainant shall be clearly established during the inquiry and before any action is recommended.

## **9. Confidentiality**

The contents of the complaint along with the identity as well as contact information of the complainant, respondent, witnesses, statements and any other evidence obtained in the course of the inquiry process, other information relating to conciliation and/or inquiry proceedings, recommendations made by the IC, action taken by the employer is considered as confidential materials and shall not be published, communicated or made known to the public, press and media in any manner. Any person, who contravenes this provision, shall be liable for a penalty as may be prescribed under the Act.

However, the abovementioned information may be disseminated regarding the justice secured to any victim of sexual harassment under this Act without disclosing the name, address, identity or any other particulars calculated to lead to the identification of the complainant and witnesses.

## **10. Protection**

Bachpan Save The Innocence shall ensure that the parties to the complaint and their respective witnesses are not victimized and are protected against any form of retaliation. In case of any victimization, suitable disciplinary action shall be taken against the perpetrator.





## **11. Appeal**

Any party not satisfied or further aggrieved by the implementation or non-implementation of recommendations made may appeal to the appellate authority in accordance with the Act, within 90 days of the recommendations being communicated.

## **12. Review and Amendments**

This policy may be reviewed and amended by the Trustees as and when required. In the event of any such amendment, the organization must disseminate the amended policy to all its employees in a reasonable time.

In the event of any conflict between the provisions of this policy and the Act or any other statutory enactments, or rules, the provisions of such acts or statutory enactments or rules shall prevail over this policy. Further, any subsequent amendment/modification in the Act and/or other applicable laws in this regard shall automatically apply to this policy.



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**ANNEXURE A**

**List of IC Members**

<b>Sr.No.</b>	<b>Name</b>	<b>Designation</b>	<b>Mobile No.</b>	<b>Email ID</b>
<b>1</b>	<b>Tanmay Anand</b>	Presiding officer	7589305154	tanmay30anand@gmail.com
<b>2</b>	<b>Nikita Raje</b>	Member	7028905356	raje.nikita@gmail.com
<b>3</b>	<b>Deewanshu Juneja</b>	Member	9813790998	deewanshujuneja1904@gmail.com
<b>4</b>	<b>Atumita Modi</b>	Member	9371525738	atumitamodie@gmail.com
<b>5</b>	<b>Binty Mehta</b>	External member	9892402767	bintymehta@gmail.com



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## **ANNEXURE B**

### **Complaint Form**

Please find the template for the complaint form in the below Word document:

[https://drive.google.com/drive/folders/1214t438lim66l1XbaNzd5aOXl-I49QVd?usp=drive\\_link](https://drive.google.com/drive/folders/1214t438lim66l1XbaNzd5aOXl-I49QVd?usp=drive_link)

You can fill in the details mentioned in the above form and send it to us by mail at [bstiposhhelp@gmail.com](mailto:bstiposhhelp@gmail.com)