

Internal Complaints Committee

Yenepoya (Deemed to be University)

Standard Operating Procedures (SOP) - Internal Complaints Committee

Preamble

Sexual harassment at a workplace is considered violation of women right to equality, life and liberty. It creates an insecure and hostile work environment, which discourages women's participation in work, thereby adversely affecting their social and economic empowerment and the goal of inclusive growth.

With more and more women joining the workforce both in organized and unorganized sectors ensuring and enabling working environment for women through legislation is felt imperative by the government. The Supreme Court of India in the case of Vishaka v/s State of Rajasthan (1997) 7 SCC 323, also reaffirmed that sexual harassment at workplace is a form of discrimination against woman and recognised that it violates the constitutional right to equality and provided guidelines to address this issue pending the enactment of a suitable legislation.

It is, thus, proposed to enact a comprehensive legislation to provide for safe secure and enabling environment to every woman irrespective of her age or employment status (other than domestic worker working at home), free from all the forms of sexual harassment by fixing the responsibility on the employer as well as the district Magistrate or Additional District Magistrate or the Collector or Deputy Collector of every district in the state as a district officer and laying down a statutory redressal mechanism. In this context it is mandatory that every institution is required to constitute Internal Complaints Committees to ensure safe and secured working environment for the women employees.

1.0.Vision

To promote a safe, secured and harassment free working environment for every women employee and students working/studying in the constituent institutions of Yenepoya (Deemed to be University).

2.0.Objectives

1. To receive complaints related to sexual harassments experienced by women employees, conduct inquiries and recommend appropriate actions to be taken by the University.
2. To conduct educational activities for the various categories of employees of the constituent institutions to promote gender equality and gender equity.
3. To create gender sensitization among all categories of employees and students through posters, stickers and other audio visual media.

3.0.Composition of the Internal Complaint Committee (ICC)

The ICC shall consist of the following members to be nominated by the employer:

1. A Chairperson who shall be a woman a senior level at workplace from amongst the employees: Provided that in case a senior level woman employee is not available, the Chairperson shall be nominated from other offices or administrative units of the workplace referred to in sub-section (1) of the Act.

Provided further that in case the other offices or administrative units of the workplace do not have a senior level woman employee, the Chairperson shall be nominated from any other workplace of the same employer or other department or organization

2. Not less than two Members from amongst employees preferably committed to the cause of women or who have had experience in social work or have legal knowledge;
3. One member from amongst non-governmental organizations or associations committed to the cause of women or a person familiar with the issues relating to sexual harassment: provided that at least one-half of the total members so nominated shall be women.
4. The Chairperson and every Member of the Internal Committee shall hold office for such period, not exceeding three years, from the date of their nomination as may be specified by the employer.

5. The Member appointed from amongst the non-governmental organizations or 'associations shall be paid such fees or allowances for holding the proceedings of the Internal Committee, by the employer, as may be prescribed.

4.0 Termination of members

Where the Chairperson or any Member of the Internal Committee,

- (a) Contravenes the provisions of section 16; or
- (b) 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; or
- (c) He has been found guilty in any disciplinary proceedings or a disciplinary proceeding is pending against him; or
- (d) Has so abused his position as to render his continuance in office prejudicial to the public interest, such Chairperson or Member, as the case may be, shall be removed from the Committee and the vacancy so created or any casual vacancy shall be filled by fresh nomination in accordance with the provisions of this section.

5.0 Key responsibilities of Internal Complaints Committee

1. To ensure that each complaint is addressed responsibly and impartially facilitating just and fair inquiry process without retaliation (for complainants or the witnesses).
2. To deal with Sexual Harassment grievances.
3. To maintain confidentiality and an attitude of empathy at all times towards both the accused and the accuser.
4. To carry out capacity building interventions for members and staff focusing on building skills on identification and handling of grievances.
5. To document proceedings from the time of receipt of complaint until its conclusion.
6. To be aware of the national policies regarding sexual harassment and obtain legal opinion and procure the services of a lawyer specializing in the issue whenever necessary.
7. To counsel and maintain a sensitive attitude towards both accused and accuser at all times.
8. To investigate such complaints and take appropriate corrective action.
9. Vice Chancellor is the APPELLATE authority.

6.0.Meetings and Minutes

Internal Complaints Committee should meet as often as is deemed necessary to carry out its duties, but at least once in every six months. To establish a quorum at least one-half of the committee members must be present. A record of each meeting should be maintained and distributed to each appointed member, which includes the following:

1. The date of meeting
2. An indication of members present and absent
3. Points discussed
4. Decision taken, person responsible and target date
5. Proposed date and time of next meeting
6. Follow up of previous meeting decisions
7. Human resources and quality assurance department to co ordinate committee activities and maintain documentation.

7.0. Complaint procedure

Complaint of sexual harassment

(1) Any aggrieved woman may make, in writing, a complaint of sexual harassment at workplace to the Internal Committee within a period of three months from the date of incident and in case of a series of incidents, within a period of three months from the date of last incident: Provided that where such complaint cannot be made in writing, the Chairperson or any Member of the Internal Committee shall render all reasonable assistance to the woman for making the complaint in writing: Provided further that the Internal Committee for the reasons to be recorded in writing, extend the time limit not exceeding three months, if it is satisfied that the circumstances were such which prevented the woman from filing a complaint within the said period.

(2) Where the aggrieved woman is unable to make a complaint on account of her physical or mental incapacity or death or otherwise, her legal heir or such other person as may be prescribed may make a complaint under this section.

8.0. Inquiry into complaints

(1) Subject to the provisions of section 10, the Internal Committee, shall, where the respondent is an employee, proceed to make inquiry into the complaint in accordance with the provisions of the service rules applicable to the respondent and where no such rules exist, in such manner as may be prescribed if prima facie case exist, forward the complaint to the police, within a period of seven days for registering the case under section 509 of the Indian Penal Code (45 of 1860), and any other relevant provisions of the said Code where applicable: Provided that where the aggrieved woman informs the Internal Committee that any term or condition of the settlement arrived at under sub-section (2) of section 10 has not been complied with by the respondent, the Internal Committee shall proceed to make an inquiry into the complaint or, as the case may be, forward the complaint to the police:

Provided further that where 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 Committee.

Notwithstanding anything contained in section 509 of the Indian Penal Code (45 of 1860), the; it may, when the respondent is convicted of the offence, order payment of such sums as it may consider appropriate, to the aggrieved woman by the respondent, having regard to the provisions of section 15.

For the purpose of making an inquiry under sub-section (1), the Internal Committee shall have the same powers as are vested in a civil court under the-Code of Civil Procedure, 1908 (5 of 1908) when trying a suit in respect of the following matters, namely:

- a. Summoning and enforcing the attendance of any person and examining him on oath;
- b. Requiring the discovery and production of documents; and
- c. Any other matter which may be prescribed.

The inquiry under sub-section (1) shall be completed within a period of ninety days.

9.0 Action during pendency of inquiry

Action during pendency of inquiry

- 1) During the pendency of an inquiry, on a written request made by the aggrieved woman, the Internal Committee may recommend to
 - a. transfer the aggrieved woman or the respondent to any other workplace;
or
 - b. grant leave to the aggrieved woman up to a period of three months;
or
 - c. grant such other relief to the aggrieved woman as may be prescribed,

2. The leave granted to the aggrieved woman under this section shall be in addition to the leave she would be otherwise entitled.

3. On the recommendation of the Internal Committee under sub-section (1), the employer shall implement the recommendations made under sub-section (1) and send the report of such implementation to the Internal Committee.

10.0. Inquiry report

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

- 2) Where the Internal Committee arrives at the 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.

- 3). Where the Internal Committee arrives at the conclusion that the allegation against the respondent has been proved, it shall recommend to the employer to deduct, notwithstanding anything in the service rules applicable to the respondent, from the salary or wages of the respondent such sum as it may consider appropriate to be paid to the aggrieved woman or to her legal heirs, as it may determine, in accordance with the provisions of the section, provided that in case the employer is unable to make such deduction from the salary of the respondent due to his being absent from duty or cessation

of employment it may direct to the respondent to pay such sum to the aggrieved woman: provided further that in case the respondent fails to pay the sum referred to in clause (ii), the Internal Committee may forward the order for recovery of the sum as an arrear of land revenue to the concerned District Officer.

4).The employer or the District Officer shall act upon the recommendation within sixty days of its receipt by him.

11.0. Punishment for false or malicious complaint and false evidence.

(1)Where the Internal Committee arrives at a conclusion that the allegation against the respondent is malicious or the aggrieved woman or any other person making the complaint has made the complaint knowing it to be false or the aggrieved woman or any other person making the complaint has produced any forged or misleading document, it may recommend to the employer to take action against: the woman or the person who has made the complaint under sub-section (1) or sub-section (2) of section 9, as the case may be, in accordance with the provisions of the service rules applicable to her or him or where no such service rules exist, in such manner as may be prescribed:

Provided that a mere inability to substantiate a complaint or provide adequate proof need not attract action against the complainant under this section:

Provided further that the malicious intent on part of the complainant, shall be established after an inquiry in accordance with the procedure prescribed, before any action is recommended.

(2) Where the Internal Committee arrives at a conclusion that, during the inquiry any 'witness has given false evidence or produced any forged or misleading document, it may recommend to the employer of the witness to take action in accordance with the provisions of the service rules applicable to the said witness or where no such service rules exist, in such manner as may be prescribed.

12.0. Determination of compensation

For the purpose of determining the sums to be paid to the aggrieved woman under clause (ii) of sub-section (3) of section 13, the Internal Committee shall have regard to

(a) The mental trauma, pain, suffering anti-el-notional distress caused to the aggrieved woman;


(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, feasibility of such payment in lump sum or in installments.



Chairperson



Convener