

Policy on Prevention of Sexual Harassment of Women at Workplace

Biotechnology Industry Research Assistance Council

CIN: U73100DL2012NPL233152

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Lodhi Road, New Delhi – 110 003.

1. OBJECTIVE

The objective of this policy is to frame guidelines and define processes, in conformity with the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 and rules made thereunder (hereinafter referred to as the “Act”) and to provide protection to women against sexual harassment at workplace and for the prevention and redressal of complaints of sexual harassment and for matters connected therewith.

All concerned should take cognizance of the fact that Biotechnology Industry Research Assistance Council (BIRAC) strongly opposes sexual harassment, and that such behaviour against women is prohibited by the law as set down in the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 and rules made there under as well as the terms of employment. Commission of any act of sexual harassment as defined in the Act and in this Policy shall result in strict disciplinary action.

At BIRAC, we have zero tolerance for sexual harassment. We value each and every employee working with us and wish to protect their dignity and self-respect. In doing so, we are determined to promote an environment in which persons of both genders complement each other as equals in an environment that encourages maximum productivity and maintains personal dignity.

2. SCOPE

This policy applies to all employees of BIRAC including regular employees, contractual, part time, daily wage earners, either employed directly or through an agent or contractor, whether for remuneration or not, trainees, apprentices, those working on a voluntary basis, directors and experts on various committees.

This policy shall apply to all allegations against any person falling in the above category, irrespective of whether sexual harassment is alleged to have taken place within or outside BIRAC’s premises arising out of or during the course of employment, including work related business trips, off site conferences and training programs, work assignments outside the office premises, telephone calls, faxes or electronic mail or any other form of communication, social media and other similar social networking sites etc.

3. DEFINITIONS

“Aggrieved woman” means, in relation to a workplace, a woman, of any age whether employed or not, who alleges to have been subjected to any act of sexual harassment by the respondent.

“Complainant” means any aggrieved woman who makes a complaint alleging sexual harassment under this policy.

“Employer/ Competent Authority” means the Chairman & Managing Director (CMD) of BIRAC or any other person who is responsible for the management, supervision and control of the workplace

“Internal Complaints Committee (ICC)” means the committee constituted by BIRAC to investigate complaints of sexual harassment in the manner prescribed under the law.

“Respondent” means a person against whom a complaint of sexual harassment as set out in this policy has been made.

“Sexual Harassment” includes any 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) teasing, voyeurism, innuendos and taunts, physical confinement and/ or touching against one's will and likely to intrude upon one's privacy
- f) any one implicit or explicit unwelcome physical, verbal or non-verbal conduct of sexual nature

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

- A) implied or explicit promise of preferential treatment in their employment; or
- B) implied or explicit threat of detrimental treatment in their employment; or
- C) implied or explicit threat about their present or future employment status; or
- D) interferes with their work or creating an intimidating or offensive or hostile work environment for them; or
- E) humiliating treatment likely to affect their health or safety

Sexual harassment in workplace is generally of two distinct types:

➤ **Quid Pro Quo (Conditional) Sexual Harassment**

‘Quid Pro Quo’ sexual harassment means seeking sexual favours or advances in exchange for preferential treatment. This kind of sexual harassment occurs when consent to sexually explicit behaviour or speech is made a condition for employment or preferential treatment in employment. This kind of sexual harassment also occurs when refusal to comply with a ‘request for sexual favour’ is met with retaliatory action such as dismissal, demotion, difficult working conditions, etc.

➤ **Hostile working environment sexual harassment**

Hostile working environment sexual harassment occurs where employees in a workplace are subject to a pattern of exposure to unwanted and unwelcome sexual behaviour from the management or co-workers. This kind of behaviour makes the environment of a woman employee hostile. This is for the reason that such conduct creates an intimidating, offensive, oppressive, abusive or humiliating work environment and which is severe and pervasive enough to interfere with her ability to work and perform. Examples of this form of sexual harassment include pornography in public places, foul language or joking of a sexual nature.

“Workplace” means any place where the working relationship and/ or the employer-employee relationship between the company and the person exists. This includes BIRAC premises and any place visited by the employee arising out of or during the course of employment including transportation provided by the employer for undertaking such a journey.

4. RESPONSIBILITIES REGARDING SEXUAL HARASSMENT

All employees of the Company have a personal responsibility to ensure that their behaviour is not contrary to this policy. All employees are encouraged to reinforce the maintenance of a work environment free from sexual harassment.

5. COMPLAINT MECHANISM

Whether or not such conduct constitutes an offence under the law or breach of service rules, an appropriate complaint mechanism in the form of a “Complaints Committee” has been created in the Company for time-bound redressal of the complaint made by the aggrieved woman.

6. INTERNAL COMPLAINTS COMMITTEE

As mandated by the Act, BIRAC has reconstituted the ICC under the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 for ensuring time bound redressal of sexual harassment complaints. The Internal Complaints Committee shall consist of the following members:

Sr. No.	Name of the member	Status/ Designation
1.	Ms. Kavita Anandani, Chief Manager & CS	Presiding Officer
2.	Ms. Banusri Velpandian, Legal Advisor	Member
3.	Ms. Anju Sarkar ,Administrative officer ,NII	External Member
4.	Sh. K.M. Kutty, Consultant (HR & Establishment)	Member
5.	Ms. Jaya Sitaram, Senior Manager Corporate Affairs	Member Secretary

The ICC is responsible for:

- To investigate and examine the complaints of sexual harassment received and make suitable recommendations to the Competent Authority/ Employer;
- To ensure strict confidentiality in case of complaints;
- To ensure a fair, prompt and impartial inquiry process;
- To prepare an Annual Report and submit the same to the Competent Authority/ Employer and District officer
- Discouraging and preventing employment related sexual harassment
- Conducting Workshops/Awareness programmes for sensitising employees about the provisions of the Act.

The present members will be appointed for a period of three years from the date of their appointment. Changes in the constitution of the ICC, whenever necessary shall be made as expeditiously as possible, and in any case within 15 days of the date of vacancy of office by one of the members.

A quorum of three members is required to be present for the proceedings of the ICC to take place. The quorum shall include the Presiding officer and at least two members out of whom one shall be a woman.

Reporting by the ICC

The ICC shall prepare an annual report and file with the appropriate authority. The Annual report shall contain the following details:

- a) Number of complaints received in a year;
- b) Number of cases disposed off during the year;
- c) Number of cases pending for more than ninety (90) days;
- d) Number of workshops or awareness programmes conducted;
- e) Nature of action taken by the employer

6. PROCEDURE FOR RESOLUTION, SETTLEMENT OR PROSECUTION OF ACTS OF SEXUAL HARASSMENT

The Company is committed to providing a supportive environment to resolve concerns of sexual harassment as under:

When an incident of sexual harassment occurs, the victim of such conduct can communicate their disapproval and objections immediately to the harasser and request the harasser to behave decently. If the harassment does not stop or if the victim is not comfortable with addressing the harasser directly, the victim can bring their concern to the attention of the ICC for redressal of their grievances.

- A. The ICC may, before initiating an inquiry, at the request of the aggrieved woman take steps to settle the matter between her and the respondent. The conciliation may not be on monetary settlement basis. The settlement terms shall be recorded in writing and forwarded to the employer. Copies of the same shall be provided to the aggrieved woman and the respondent. Where a settlement has been arrived at, no further inquiry shall be conducted by the ICC.
- B. If the above mechanism fails or is not possible or the aggrieved woman does not wish to adopt it, the Internal Committee shall proceed to make an inquiry into the Complaint in such manner as prescribed hereunder:

Any aggrieved woman may make, in writing, a complaint of sexual harassment at workplace to the ICC within a period of three months from the date of the incident and in case of a series of incidents, within a period of three months from the date of the last incident.

Provided that where such complaint cannot be made in writing, the presiding officer or any member of the Committee shall render all reasonable assistance to the women for making the complaint in writing.

Provided further that the Committee, for the reasons to be recorded in writing, extend the time limit not exceeding three months, it is satisfied that the circumstances were such which prevented the aggrieved woman from filing a complaint within the said period.

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 may make a complaint.

The ICC will proceed to determine whether the allegations (assuming them to be true for the purpose of this determination) made in the complaint fall under the purview of Sexual Harassment. In the event, the allegation does not fall within the purview of sexual harassment or the allegation does not mean an offence of Sexual Harassment, the ICC will record the finding with reasons and communicate the same to the complainant.

If the allegation falls within the purview of sexual harassment, the ICC shall proceed with the inquiry in accordance with the provisions of the Act.

The complainant shall file the complaint along with the supporting documents and name and address of the witness, if any.

The ICC shall send a copy of the complaint along with supporting documents within a period of 7 working days to the respondent.

The respondent shall file his reply to the complaint along with his list of documents and names and addresses of witnesses within a period not exceeding 10 working days from the date of receipt of copy of complaint.

The ICC shall have the powers as are vested in a civil court under the Code of Civil Procedure, 1908 when trying a suit in respect of the following matters viz.

- a) Summoning and enforcing the attendance of any person and examining him on oath; and
- b) Requiring the discovery and production of documents;

The Committee shall make inquiry into the complaint in accordance with the principles of natural justice.

The Committee shall have the right to terminate the inquiry proceedings or to proceed ex-parte, if the complainant or respondent fails to be present without sufficient cause for three consecutive hearings of the Committee. However such termination or ex-parte order may not be passed without giving a written notice to the concerned party 15 days in advance.

The enquiry shall be completed within a period of 90 days.

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

- a) Grant leave to the aggrieved woman upto a period of three months;
- b) Restraine the respondent from reporting on the work performance of the complainant and assign the same to another officer

This leave shall be in addition to the leave she would be otherwise entitled

On completion of the inquiry, the ICC shall provide a copy of its findings to the employer within a period of 10 days from the date of completion of inquiry. A copy of the report shall also be made available to the concerned parties.

Where the ICC comes to a conclusion that the allegations against the respondent has not been proved, it shall recommend to the employer that no action is required to be taken in the matter.

Where the ICC arrives at the conclusion that the allegation against the respondent has been proved, it shall recommend to the employer as follows:

- a) To take action for sexual harassment as a misconduct which may include but is not restricted to the following or a combination of any of the below:
 - Written apology;
 - Warning;
 - Reprimand or censure;
 - Withholding of promotion;
 - Withholding of pay increase or increments;
 - Termination of employment;
 - Counselling session; or
 - Carrying out community service
- b) 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 Section 15 of the Act.

Provided that in case the employer is unable to deduct any such sum from the salary of the respondent employee due to the reason of being absent from duty or leaving service, the Committee may direct the respondent to pay such sum to the aggrieved woman and in case the respondent fails to comply with the orders of the Committee, the Committee may forward the order for recovery of the sum as an arrear of land revenue to the concerned District officer

The employer shall act upon such recommendation within thirty days of receipt of the same. The employer shall provide all necessary assistance to the Complaints Committee for the purpose of ensuring full, effective and speedy redressal of any complaint of sexual harassment at the workplace in accordance with this policy.

7. PUNISHMENT FOR FALSE OR MALICIOUS COMPLAINT AND FALSE EVIDENCE

Where the ICC comes to a conclusion that the allegations against the respondent are malicious or the aggrieved woman or any 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 aggrieved woman in accordance with the provisions of the service rules. Also, if the Committee finds that any witness has given false evidence or produced false documents, it may recommend to the employer to take action against such witness in accordance with the provisions of the Service rules.

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 the part of the complainant shall be established after an enquiry in accordance with the procedure prescribed, before any action is recommended.

8. CONFIDENTIALITY

The Company understands that it is difficult for the victim to come forward with a complaint of sexual harassment and recognises the victim's interest in keeping the matter confidential.

To protect the interests of the victim, the accused person and others who may report incidents of sexual harassment, confidentiality would be maintained throughout any investigatory process to the extent practicable and appropriate under the circumstances.

9. REPORTS AND DOCUMENTS

All records and complaints, including contents of meetings, results of investigations and other relevant material will be kept confidential by the Company except where disclosure is required under disciplinary or other remedial processes.

10. PROTECTION TO THE COMPLAINANT / VICTIM

The Company is committed to ensuring that no employee who brings forward a harassment concern is subject to any form of reprisal. Any reprisal will be subject to disciplinary action.

The Company will ensure that the victim or witnesses are not victimised or discriminated against while dealing with complaints of sexual harassment.

However, anyone who abuses the procedure (for example, by maliciously putting an allegation knowing it to be untrue) will be subject to disciplinary action.

11. MODIFICATION AND REVIEW OF THE POLICY

The Company reserves the right to modify and, or, review the provisions of this policy, so as to comply with the applicable legal requirements, internal policies, or otherwise with a view to revise the provisions of this Policy or the composition of the Complaints Committee to the extent deemed necessary by the Company from time to time. Any such changes or modifications may be notified by the Company to its employees in due course.

12. SAVINGS

- i. The proceedings under this policy shall be conducted analogously and shall be independent of any proceedings of law, if such a case arises
- ii. The provisions of this policy shall not restrict the power of the Employer or aggrieved woman or complainant to proceed against the respondent for any other misconduct or to pursue other criminal or civil remedies

Disclaimer: Though all the precautions have been taken while formulating this policy to incorporate the provisions of the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 and rules made therein, still all the concerned persons are advised to refer to the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 and rules.

**The Policy is effective from 6th April 2018*