



YOUTH FOR UNITY & VOLUNTARY ACTION (YUVA)

Prevention of Sexual Harassment at Workplace (PoSH) policy

For more details please visit our website at- www.yuvaindia.org

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Prevention of Sexual Harassment at Workplace (PoSH) Policy

Policy Number: YP01

1. Purpose

YUVA is committed to providing a safe workplace to every employee which is free of sexual harassment and offers to address concerns and complaints about it if it occurs. This Prevention of Sexual Harassment Policy has been implemented by YUVA according to The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 (“Act”).

Having said this, YUVA’s prevention of sexual harassment policy is gender-neutral. This means that the procedures outlined in this policy will apply to women, men and the third gender without any bias or prejudice. All statutory reporting will be as per The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 will be applicable only in case of a complaint from a women employee.

2. Applicability

Specifically, for this policy, “employee” means a person employed at YUVA for any work on a regular, temporary, ad hoc or daily wage basis, either directly or through an agent, including a contractor, 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.

This policy applies irrespective of seniority, and will also apply to future employees from the date of commencement of their employment.

3. Principles of YUVA

This Policy covers sexual harassment which occurs both in the workplace (including communities) and in settings outside the workplace, such as official trips, events or social functions organised for or on behalf of YUVA. Such trips, events or social functions may be held either on or off YUVA’s premises. The Policy also extends to any place visited by the employee arising out of or during the course of employment including transportation provided by YUVA for undertaking such journey.

All employees of YUVA are expected to comply with this Policy. Failure to comply with this Policy may result in disciplinary action being taken against such an employee. A serious breach of this Policy would also result in direct dismissal of the person found to violate it under the disciplinary procedures at YUVA.

We, at YUVA, have zero tolerance for any form of harassment of one employee by another employee irrespective of seniority.

4. Defining Sexual Harassment

Sexual harassment may take place in several forms. In the most facile terms, harassment may be said to be any unwanted physical, verbal or non-verbal conduct that has the potential to violate or violates the dignity of the person against whom it is done. Such behaviour humiliates and degrades the person, besides intimidating them and violating their dignity.

Employees of YUVA must refrain from making any joke which is likely to humiliate or degrade another person as words spoken in jest may also harass an individual. The employee should maintain professional decorum when communicating with a colleague, irrespective of gender, sexual orientation, marital status, race, nationality, colour, religion, caste, age or disability.

Sexual harassment doesn't need to be a series of incidents. Even a single incident of unwanted or offensive behavior to one individual can amount to sexual harassment. Creating an offensive environment using words or actions that have a sexual undertone around a person may also be considered to be sexual harassment.

Individual employees may in some cases be legally liable for sexual harassment of colleagues or third parties (including clients and vendors) and may be ordered to pay compensation by a court or employment tribunal. However, YUVA will not be made liable for any compensation or action for individual liabilities of such an employee.

Examples of sexual harassment include:

- unwanted physical conduct and advances including but not limited to touching, pinching, pushing or brushing past someone or invading their personal space, to grabbing, shoving, punching and more serious forms of physical assault.
- making sexually coloured remarks, unwelcome physical, verbal or non-verbal conduct of sexual nature including but not limited to inappropriate behaviour, offensive or intimidating comments or gestures or insensitive jokes or pranks.
- demand or request for sexual favours.
- the sending or displaying of material that is pornographic or obscene or that some individuals or groups may find offensive (including but not limited to electronic modes of communication that include emails, text messages, video clips and photographs taken or sent using mobile phones or via the internet) which may invite penalties under criminal law including but not limited to the Indian Penal Code, 1860 and the Information Technology Act, 2000.

Important legal terms used in this policy:

- **AGGRIEVED WOMEN/EMPLOYEE/PERSON** - Who alleges to have been subjected to any act of sexual harassment
- **CLAIMANT** - A person who files a written complaint about the incident
- **RESPONDENT** - A person against whom the aggrieved person has made a complaint

Behaviour resulting in Breach of the Policy

An aggrieved person who has been subject to sexual harassment is entitled to raise a formal written complaint at any time and under such circumstances approach any of the Internal Committee member(s) to file a complaint.

On receipt of a complaint, it will be investigated and if found valid, prompt action will be taken which shall be designed to stop the sexual harassment immediately and prevent its recurrence.

If the respondent is an employee, the matter will be dealt with in accordance with the Act and YUVA's code of conduct policy. If the respondent is a third party, you should notify your immediate senior or HR on hr@yuvaindia.org. YUVA will then look into what appropriate action can be taken and may advise the person on legal options available under the framework of applicable law.

In any case of sexual harassment, the same shall be dealt with in the manner set out under paragraph (8) of this Policy.

Whilst the aims of this Policy are clearly stated and are to be upheld, any employee who raises a sexual harassment complaint which upon investigation is proven to be deliberately vexatious or false, then such employees shall be subject to disciplinary action as mentioned in YUVA's code of conduct policy and, in serious cases, dismissal.

5. Maintaining Confidentiality

It must be noted that in case of any complaints related to sexual harassment, strict confidentiality about the complaint and any related matter about the complaint must be maintained at all times by all concerned parties. This includes not only by the aggrieved employee, respondent and witness(es) but also by any employee who may learn about the matter whether formally or casually.

All employees are expected to behave sensitively and not engage in any loose talk about matters related to sexual harassment.

Disciplinary proceedings may be initiated, as per employee policies of YUVA in case it is found that confidentiality is being breached about matters related to sexual harassment or if employees are found to be engaging in any loose talk about a matter related to sexual harassment.

6. Supporting those affected by Sexual Harassment

YUVA recognizes the rights of an employee affected by sexual harassment and complain against it. All complaints made in good faith, and participation in good faith in any investigation to ascertain breach of the Policy should not be reasons for victimisation of any such employee.

Any person found to have either victimised or retaliated against an employee for assisting in good faith with investigations seeking to ascertain breach of this Policy, or against any person complaining about a possible breach will result in disciplinary action as mentioned in YUVA's code of conduct.

YUVA believes that those who have been affected or those accused of sexual harassment may require counselling and recommends counselling sessions of a confidential nature for such employees.

If you believe you have suffered any form of victimisation or retaliation, you are advised to inform HR at hr@yuvaindia.org.

7. Fighting Sexual Harassment

Internal Committee

Internal Committee (“Committee”) will be responsible to handle complaints related to sexual harassment.

In accordance with statutory laws prevalent in India, YUVA has set up an Internal Committee (“**Committee**”) which has been entrusted with the duty of addressing any grievance of an aggrieved employee, or a person who has a feeling of being subject to some form of sexual harassment and provide adequate redressal to such employees. The Committee will consist of four members, of which at least 50% shall be women, and will be comprised of the following:

- a presiding officer being a woman employee occupying a senior position in YUVA
- 2 (two) members from amongst the employees of YUVA who are preferably committed to the cause of women or who have had experience in social work or have legal knowledge; and
- 1 (one) external 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.

Names of the aforesaid committee members are set out under Appendix 1 and these names may be changed by YUVA from time to time in accordance with applicable Indian law.

For the purpose of this Policy and in accordance with the statutory laws of India, the Committee shall have the same powers as are vested in a civil court under the Code of Civil Procedure, 1908.

The Presiding officer or any member of the Internal Committee may be removed from the Committee in case the member:

(a) contravene the provisions of section 16 mentioned in THE SEXUAL HARASSMENT OF WOMEN AT WORKPLACE (PREVENTION, PROHIBITION AND REDRESSAL) ACT, 2013; 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) has been found guilty in any disciplinary proceedings or a disciplinary proceeding is pending against him/her; or
- (d) has been found to have abused his/her position as a Committee Member

The vacancy so created or any casual vacancy shall be filled by fresh nomination in accordance with the prevailing law.

Conciliation

The Committee may, before initiating an inquiry, and only upon the request of the aggrieved person take steps to settle the matter between the aggrieved person and the respondent through conciliation.

It should be noted that no monetary settlements are permitted under the law during the process of conciliation.

Procedure for filing complaints

YUVA is sensitive to any employee facing any kind of sexual harassment, and those who suffer sexual harassment within YUVA's premises should give a written complaint to any Committee member(s) at the earliest. Please note that such a complaint must be made within 3 (three) months from the date of occurrence of the alleged incident, and if the harassment is of an ongoing nature, such complaint must be made within 3 (three) months of the date of the last incident.

In cases where the aggrieved employee is unable to submit such a complaint in writing, the members of the Committee may render an aggrieved employee reasonable assistance to enable making such a complaint.

Sexual harassment is a serious offence and YUVA takes such allegations seriously. In case an aggrieved employee is unable to make a complaint on account of physical incapacity, a complaint in this regard may be filed by (a) a relative of the employee; a co-worker; an officer of the National or State Commission for women; or (d) any person who has knowledge of the incident. However, such a complaint may only be made with the written consent of the aggrieved employee.

In instances where the aggrieved employee is unable to make a complaint on account of mental incapacity, a complaint may be filed by (a) a relative or friend; (b) a special educator; (c) a qualified psychiatrist or psychologist; (d) the guardian; or (e) any person who has knowledge of the incident jointly with any of the persons mentioned above.

If the aggrieved employee is unable to make a complaint on account of any reason other than physical or mental incapacity, a complaint may be filed by any person who has knowledge of the incident, with the written consent of the aggrieved employee.

If the aggrieved employee is deceased, a complaint may be filed by any person who has the knowledge of the incident, with the written consent of the aggrieved employee's legal heir.

A written complaint should contain descriptive details such as date or dates of occurrence or occurrences, type or types of the act of sexual harassment, place or places where the incident or series of incidences of sexual harassment, name of the person who has caused the sexual harassment, working relationship with the person who has caused the sexual harassment, names and details of any witness or witnesses and list/pieces of evidence or documents, if they are available and any other information which the aggrieved employee feels can support such a case.

Proceedings

A quorum of 3 (three) Committee members is required to be present for the proceedings to take place. The quorum shall include the Presiding Officer, at least two other Committee members; one of them shall be a woman.

The Committee will before be initiating an inquiry and at the request of the aggrieved employee take steps to settle the matter between the aggrieved employee and the person accused of committing the act or behavior of sexual harassment. However, it is expressly clarified that monetary settlement shall not be the basis of the conciliation. The Committee would provide copies of the settlement as recorded during the course of the settlement to the management of YUVA, the aggrieved employee and the respondent and no further inquiry shall be conducted by the Committee.

Inquiry of complaint

If conciliation is not an option, the Committee shall proceed to make an inquiry into the complaint by the aggrieved employee. The complaint should contain all the material and relevant details concerning the alleged harassment including supporting documents and the names and addresses of witnesses (if any). The Committee shall accept a complaint and extend the time limit for a period exceeding further 3 (three) months if the Committee is satisfied that the circumstances were such that it prevented the employee from filing a complaint within the same period.

On receipt of the complaint, the Committee will send 1 (one) copy of the complaint received from the aggrieved employee to the respondent within 7 (seven) working days.

The respondent will have to file a reply to the complaint along with a list of documents, names and addresses of witnesses within 10 (ten) working days from the date of receipt of such complaint. Failure to appear, by the respondent, for 3 (three) consecutive hearings convened by the presiding

officer of the Committee without a sufficient cause and subject to provision of 15 (fifteen) days' notice would entitle the Committee to give an ex-parte decision on the complaint.

The Committee will inquire into the matter on receiving a response from the respondent or hold a hearing or formal proceeding, if necessary. Failure to appear, by the complainant, for 3 (three) consecutive hearings convened by the presiding officer of the Internal Committee without a sufficient cause and subject to provision of 15 (fifteen) days' notice would entitle the Internal Committee to terminate the inquiry proceedings.

The Committee would be entitled to obtain and receive all forms of evidence in this regard and the concerned parties will have to cooperate. The Committee will endeavour to complete the entire process within 90 (ninety) days from the commencement of an inquiry.

Both parties will be given an opportunity to present their views to the Committee. However, the complainant and the respondent will not be allowed to bring legal practitioners during the proceedings.

Action during the pendency of inquiry of complaint

During the pendency of an inquiry or upon a written request made by the aggrieved employee, the Committee may recommend to YUVA to provide interim relief.

- transfer the aggrieved employee or the respondent to any other workplace.
- grant leave to the aggrieved employee up to a period of 3 (three) months; or
- restrain the respondent from reporting on the work performance of the aggrieved employee or writing such employee's confidential report and assign the same to another officer.

It is clarified that the 3 (three) months leave granted to an aggrieved employee will be over and above the leave, the employee is otherwise entitled to as an employee of YUVA.

Though the right to request for interim relief lies with the complainant, depending on the case, the Committee may provide such an interim relief even to the respondent.

Inquiry report

The report of the Committee's finding would be provided to YUVA within a period of 10 (ten) days from the date of completion of the inquiry, and such a report would be made available to the aggrieved employee and the respondent.

If, after the end of the inquiry, the Committee arrives at the conclusion that the allegation against the respondent has not been proved, it shall recommend to YUVA that no action is required to be taken in the matter.

If the Committee arrives at the conclusion that the allegation against the person accused of sexual harassment has been proven, it shall recommend to YUVA, either, any or all of the following:

- to take action for sexual harassment as a misconduct in accordance with the provisions of the service rules applicable to the person accused, i.e. YUVA's internal policies as mentioned in the code of conduct policy.
- subject to prescribed conditions under the applicable law, to deduct, notwithstanding anything in the service rules applicable to the person accused, from the salary or wages of the person accused such sum as it may consider appropriate to be paid to the aggrieved employee or to the legal heir, as it may determine, in accordance with the provisions set out in paragraph 7.7; and/ or
- to take any action including a withholding of pay rise or increments or terminating the services of the employee accused of sexual harassment from the employment of YUVA.

The Internal Committee at its sole discretion may make any other reasonable recommendations in the report as it deems fit.

For the purpose of determining the sums to be paid to the aggrieved employee under the preceding paragraph, the Committee shall have regard to:

- the mental trauma, pain, suffering and emotional distress caused to the aggrieved employee.
- the loss of the career opportunity due to the incident of sexual harassment.
- medical expenses incurred by the victim for physical or psychiatric treatment.
- the income and financial status of the person accused of sexual harassment; and
- feasibility of such payment in lump sum or in instalments.

YUVA will act upon the recommendation of the Committee within 60 (sixty) days of receipt of the said recommendation.

Liability for false or malicious complaints and providing false evidence

If the Committee arrives at a conclusion that the allegation against the respondent is malicious or the aggrieved employee or any other person making the complaint has made the complaint knowing it to be false or the aggrieved employee or any other person making the complaint has produced any forged or misleading document, the Committee shall recommend to YUVA to take any of the actions as per relevant service rules or as it deems fit against the said employee or any other person who made the false complaint.

However, mere inability to substantiate a complaint or provide adequate proof will not be considered to be a false or malicious complaint.

It is also clarified that malicious intent on part of the complainant shall only be established after an inquiry by the Committee.

Appeal

Any person aggrieved from the recommendations made under paragraph 7.7 or aggrieved from recommendations made in the Inquiry Report or by the non-implementation of the said recommendations may prefer an appeal within 90 (ninety) days from the date of the recommendation to the court/ tribunal.

Duties of the Committee

It shall be the duty of the Committee to prepare an annual report in accordance with the Act and to submit it to the District Officer under it on or before January 15th for the year gone by. This report would have to be prepared in each calendar year.

The Committee will meet twice a year to plan for awareness and training sessions for all employees and to take stock of any concerns or grievances that may have arisen.

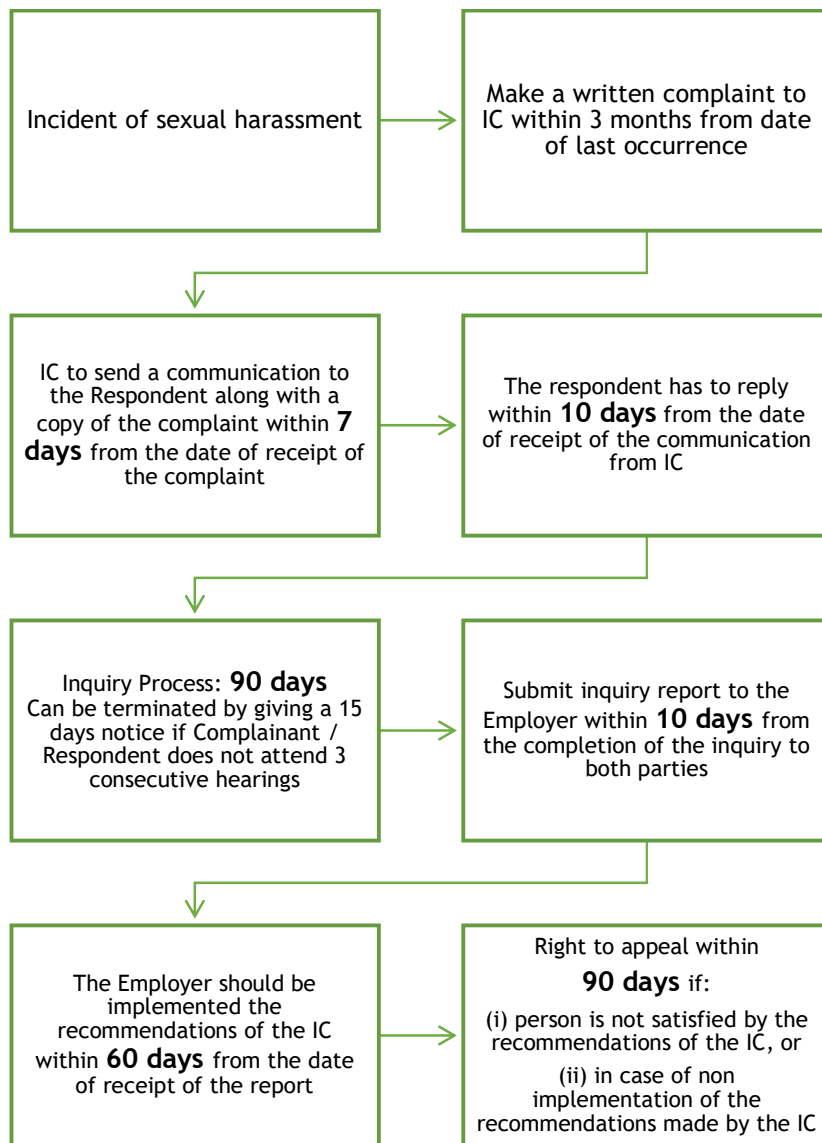
Implementing the Policy

- All staff must work to ensure a safe working environment.
- All managers have a specific responsibility to operate within the boundaries of this Policy and to ensure that all employees understand the standards of behaviour expected of them and to take action when behaviour falls below its requirements.
- Employees are requested to disclose any instances of sexual harassment of which they become aware to HR on hr@yuvaindia.org
- If an employee gets a feeling of being sexually harassed, such an employee should file a written complaint to the Committee in accordance with this policy.
- All questions about this Policy and requests for training or information on dealing with sexual harassment should be directed to hr@yuvaindia.org

Monitoring the Policy

YUVA will continue to review the effectiveness of this Policy to ensure that the Policy achieves its aim. It is hereby clarified that YUVA may choose to amend this Policy at any time in accordance with provisions of the law then in force. YUVA shall inform the employees in writing of any such amendments.

Important timelines for this policy:



Appendix-1
Members of the Internal Committee (IC)

Sr. no	Name	Role	Contact no	Email-Id
1	Ms. Doel Jaikishen	Presiding Officer	9830795695	doel.j@yuvaindia.org
2	Mr. Anil Ingle	IC Member	9322894328	anil.i@yuvaindia.org
3	Ms Syeda Mehzebin Rehman	IC Member	9864876272	hr@yuvaindia.org
4	Adv Ms. Mini Mathew	External Member	9820391912	mathewmini@rediffmail.com